

REPORT ON PROCEEDINGS BEFORE

**PORTFOLIO COMMITTEE NO. 2 – HEALTH AND
COMMUNITY SERVICES**

BUDGET ESTIMATES 2018-2019

FAMILY AND COMMUNITY SERVICES

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Monday 5 November 2018

The Committee met at 2:00 pm

PRESENT

The Hon. Greg Donnelly (Chair)
The Hon. David Clarke
The Hon. Paul Green (Deputy Chair)
The Hon. Courtney Houssos
The Hon. Taylor Martin
The Hon. Dr Peter Phelps
Mr David Shoebridge

The CHAIR: I welcome everybody to the supplementary hearing for the inquiry into budget estimates for 2018-2019. 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 respect to elders past and present of the Eora nation and extend that respect to other Aboriginals present and any who may be watching this on the internet. Today the Committee will examine the proposed expenditure for the portfolios of Family and Community Services [FACS], and Disability Services. Before we commence I will make some brief comments about procedures for today's hearing.

Today's hearing is open to the public and is being broadcast via the Parliament's website. A transcript of today's hearing will be placed on the 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 that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing. I urge witnesses to be careful about any comments they make to the media or to others after they complete their evidence, as such comments would not be protected by parliamentary privilege if another person decided to take an action of defamation. The guidelines for 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 with certain documents to hand. In these circumstances, witnesses are advised that they can take questions on notice and provide an answer within 14 days. Any messages from advisers or members of staff seated in the public gallery should be delivered through the Committee secretariat. I remind the witnesses that you are free to pass notes and refer directly to your advisers seated at the table behind you. To aid the audibility of the hearing, may I remind Committee members and witnesses to speak into the microphones. In addition, several seats have been reserved near the loudspeakers for persons in the public gallery who may have hearing difficulties. Finally, could everyone please turn off their mobile phones for the duration of the hearing.

MICHAEL COUTTS-TROTTER, Secretary, Department of Family and Community Services, on former oath
DEIDRE MULKERIN, Deputy Secretary, Commissioning, Department of Family and Community Services, on former affirmation

The Hon. COURTNEY HOUSSOS: Welcome back. I want to ask you about the *Daily Telegraph* article that appeared on 23 October. The Minister blamed a technical glitch for dropping face-to-face assessments. Can you explain where the figure of 1,600 fewer children came from?

Mr COUTTS-TROTTER: Certainly. We published a department media release that week that provided a summary of a couple of key measures of child protection performance, including the number of children that we had seen in the 2017-18 financial year. We reported that we saw 26,196 children, which was higher than any other year of the previous seven except for the 2016-17 financial year. The figure the Minister was referring to was the difference between the number of children seen in 2016-17 and the number of children that we saw in 2017-18. She has asked me to provide her with a review about the factors that may have contributed to that change.

The Hon. COURTNEY HOUSSOS: We will get to that in a moment. I will get back to the data. Can you tell me where the comparison data was being used? Is this the September 2017 data that is the most recent public data or was it from the June 2017 quarter?

Mr COUTTS-TROTTER: It is the June 2017 quarter, and when we released that quarterly data we released full year data for 2017-18.

The Hon. COURTNEY HOUSSOS: For 2017-18?

Mr COUTTS-TROTTER: Yes.

The Hon. COURTNEY HOUSSOS: You released the risk of serious harm data?

Mr COUTTS-TROTTER: We released the number of children we saw. We released information about the funded casework positions and annual vacancy rate. We released information about the number of entries and exits into care for Aboriginal and non-Aboriginal children in 2017-18 and the previous two years to provide a point of comparison and, as I say, we contrasted the number of children we saw in 2017-18 with the number of children we had seen in 2016-17.

The Hon. COURTNEY HOUSSOS: In budget estimates, you said that you would have the data for the 2017-18 period within a matter of weeks. Is this the data that you were talking about?

Mr COUTTS-TROTTER: Yes.

The Hon. COURTNEY HOUSSOS: Did that include the children at risk of serious harm?

Mr COUTTS-TROTTER: No. I can give you the number of children who were reported at risk of significant harm in that period. In 2016-17 the number of children in at risk of significant harm reports was 86,426. In 2017-18 it was 92,007, which is an increase of around 6 per cent.

The Hon. COURTNEY HOUSSOS: Was that published as part of this data that was released?

Mr COUTTS-TROTTER: No, because that information was not confirmed at the time but it will be published formally in our September quarter dashboard.

The Hon. COURTNEY HOUSSOS: When will that go up? In December?

Mr COUTTS-TROTTER: That is due to go up, as is usually the case, a couple of months after the end of the quarter. We will publish it on or before 30 November.

The Hon. COURTNEY HOUSSOS: Will you provide me with the breakdown for the different districts? How many for the Central Coast?

Mr COUTTS-TROTTER: I need to take that on notice. It is a very difficult thing to do. In fact, we decided we could not do it for the 2017-18 year because of the way we counted and allocated work between so-called statewide services, such as the Investigative Response Team. The out-of-hours response through the Helpline changed during the year, so allocating to a district for the 2017-18 period, my data colleagues told me they were not able to do it with a sufficient degree of accuracy. We have been looking to publish "children seen" data as well as "children reported at risk of serious harm" data by districts on a more rapid and regular cycle as part of our reporting from here on out. But I am yet to get confirmed advice on what will be available for the

September quarter report. That is a very long-winded way of saying I would need to take that on notice and confirm it for you.

The Hon. COURTNEY HOUSSOS: You will take on notice the specific regions: Central Coast, Far West, Hunter New England, Illawarra, Shoalhaven, Mid North Coast, Murrumbidgee, Nepean Blue Mountains, Northern New South Wales, Northern Sydney, South Eastern Sydney, South Western Sydney, Southern New South Wales, Sydney, Western New South Wales and Western Sydney?

Mr COUTTS-TROTTER: Yes, they are our districts.

The Hon. COURTNEY HOUSSOS: A large amount of information was released in the lead-up to the 23 October article. Is that correct?

Mr COUTTS-TROTTER: It is available on our website, yes.

The Hon. COURTNEY HOUSSOS: In the dashboard?

Mr COUTTS-TROTTER: There is a June quarter dashboard and there is an accompanying media release and table of information.

The Hon. COURTNEY HOUSSOS: The information that was released on the dashboard and in the accompanying table, the figures that were not released were the "children at risk of significant harm". Is that correct?

Mr COUTTS-TROTTER: That is right.

The Hon. COURTNEY HOUSSOS: Do you have any other information that you have not yet released?

Mr COUTTS-TROTTER: In respect of 2017-18? There is quite a lot of detailed information that we provide to the Australian Institute of health and wellbeing and the Productivity Commission for reports that appear either later this year or early next. So there is quite a depth of child protection information of one kind or another that is still to be released. But that is following the usual pattern of confirmation and provision to those independent organisations.

The Hon. COURTNEY HOUSSOS: In terms of the information that is usually provided that has been provided since 2009, I think "children at risk of significant harm" has been released. You did not release that in October; you have now released that. Do you have any other data, apart from this reporting data, that has not yet been publicly released?

Mr COUTTS-TROTTER: That is usually contained in a dashboard, no. What we want to do is build a much broader picture of the whole of the child protection system. This data is really important but, of course, there is an increasing emphasis on earlier intervention and diversion and we would want to be building our dashboard so that we are reporting more regularly on other investments the taxpayers are making and other initiatives that are being delivered by Government and non-government organisations that serve to keep kids safe.

The Hon. COURTNEY HOUSSOS: You said in your testimony in September that part of the problem was the transition from the Kids systems to the ChildStory system.

Mr COUTTS-TROTTER: Yes.

The Hon. COURTNEY HOUSSOS: And the need to ensure that the data is comparable over time. How much has now been spent on the ChildStory system?

Mr COUTTS-TROTTER: The interim budget for ChildStory some years ago was \$99 million over four years. The final budget, after a process of design within the organisation, with children with carers, with non-government organisations, was a bit over \$128 million for those four years ending 30 June 2018. In preparing our accounts for the 2017-18 financial year I have confirmed that the total four-year spend will be \$131 million over those four years. So a difference between a bit over \$128 and \$131 million.

The Hon. COURTNEY HOUSSOS: Do you consider that the ChildStory system is up and running? It has been completed. Is there any more expenditure on top of that \$131 million?

Mr COUTTS-TROTTER: The ChildStory system is so-called software as a service system. In other words, we are buying a service from a range of providers. We do not own boxes and applications and hire people. It is a different delivery model. There is an ongoing cost to ChildStory. There is an ongoing cost to a range of other ICT platforms that we get delivered in that way. The four-year budget for ChildStory for the coming four years is still being framed at a level of detail. So there are some things we know about licensing costs and standard

service fees. It is going to be below the four-year start-up budget because that contained a whole range of things that were unique to starting it up. But there is an ongoing cost to ICT and there is an ongoing cost to ChildStory.

The Hon. COURTNEY HOUSSOS: Why after spending \$131 million on a new ongoing system are you not able to compare the data with the previous system? Have taxpayers paid \$131 million for a new system that is actually giving them less information than before?

Mr COUTTS-TROTTER: In the 2017-18 year, that is true. It will not be true in the 2018-19 year and ongoing. In fact, the kind of information we will progressively be able to draw out of ChildStory and report, for taxpayers and critically for children, for families, for government and for non-government child protection workers, will be extraordinary. It facilitates a much better understanding of whether or not children are thriving and will enable us to be held to account for a much broader range of performance, both inside FACS and through the agencies we fund.

The Hon. COURTNEY HOUSSOS: I appreciate that that might be the way going forward, but the fact that we cannot compare across districts why there has been a 6 per cent increase and it is a one-off seems a little bit fishy.

Mr COUTTS-TROTTER: I acknowledge your terminology, but we have moved from one way of caseworkers recording and counting when they complete a face-to-face risk assessment to a slightly different and a slightly simpler way of doing that, which means that there is an unavoidable break in what is otherwise a longitudinal dataset. The way we count it changed, and ChildStory has enabled us to better ascribe to the Joint Investigation Response Team [JIRT], to Helpline and particularly to the crisis response team at Helpline more accurately the work that they do and the work that happens in the districts. ChildStory was introduced during the course of the year, so you have two factors that mean you cannot compare over that period. But prospectively we will be able to report children reported at risk of harm at a district level and children seen at a district level.

The Hon. COURTNEY HOUSSOS: Will you be able to give comparisons of years going forward with the previous longitudinal data, or would it be a totally new set of comparisons?

Mr COUTTS-TROTTER: It is not perfectly comparable, but the reason we drew the comparison between slightly more than 26,000 children seen in 2017-18 and slightly more than 27,000 seen the year before was because we think those figures can broadly be compared—they cannot be exactly compared, but we think they can be broadly compared. The Minister has asked for advice to explain that difference, and there are the things that we have just described plus we undertook the implementation of a brand-new child protection practice framework inside the agency in 2017-18, which is a brilliant thing. It is fundamentally improving the quality of our work, but it took 30,000 hours of face-to-face training. There are a range of factors.

The Hon. COURTNEY HOUSSOS: I have a question on the review you referred to earlier of the reduction in the number of children seen. Will this review require additional funding?

Mr COUTTS-TROTTER: No, I have asked one of our external contractors that provides audit services to the department to undertake that review. That would be funded within our existing audit and assurance budget.

The Hon. COURTNEY HOUSSOS: Will any external auditing be missed as a result of that?

Mr COUTTS-TROTTER: You could conceptually make that argument, but I am absolutely confident that there is nothing that is not being done in our internal audit program in 2018-19 that needs to be done. We have had a look at the 2018-19 risk and audit program, and I am entirely comfortable with that.

The Hon. COURTNEY HOUSSOS: Who will be undertaking the review?

Mr COUTTS-TROTTER: I would need to confirm that and come back to.

The Hon. COURTNEY HOUSSOS: The Minister also ordered an independent review of the drop in face-to-face assessments. Who will be paying for that consultation?

Mr COUTTS-TROTTER: This is the review we are describing. We want to make sure that it is managed and done by people who have no direct involvement in the history of designing for and implementing ChildStory inside the organisation, so that it has independence. The Minister also stressed that she wanted a review report before Christmas, and that is what we will deliver.

The Hon. COURTNEY HOUSSOS: There is one review, not an internal and an independent review. Is that right?

Mr COUTTS-TROTTER: This is provided to me by an organisation that is external and independent of the department.

The Hon. COURTNEY HOUSSOS: There was a reference to an internal review and to an external review, but you say there will be just one review. Is that correct?

Mr COUTTS-TROTTER: It is just one.

The Hon. COURTNEY HOUSSOS: Let me confirm this: There were 92,007 children reported at risk of significant harm, but only 26,196 children were seen by a caseworker. Is that correct?

Mr COUTTS-TROTTER: Yes, that is the data. That is correct.

The Hon. COURTNEY HOUSSOS: Do you have reflection upon that? A very, very small proportion of the number of children who are being reported are being seen by a caseworker.

Mr COUTTS-TROTTER: My reflection on it is that, firstly, the number of children seen by our caseworkers has increased by about 112 per cent over the last seven years. That is an extraordinary achievement by our frontline leadership.

The Hon. COURTNEY HOUSSOS: What was that figure?

Mr COUTTS-TROTTER: We have seen an increase of more than 112 per cent in the number of children seen in the last seven years. We have also been funded for more caseworkers, but our casework numbers have increased by about 13 or 14 per cent. The number of children seen has increased by nine times that number, which is an extraordinary achievement. It is also true that, on that measure of performance, some districts perform significantly stronger than others. It is really important for us to understand why that is and spread that good practice. But it is also true that the number of children reported at risk of significant harm in New South Wales has been rising inexorably year on year.

As David Tune found, and as anyone who has looked closely at the issues concludes, there are a range of opportunities to prevent and mitigate and divert children from the statutory child protection system that we have to pay attention to. It is really important that we provide a fantastic crisis response; but it is equally important that time, attention and investment are directed to those places, those opportunities, in the lives of children and families, where they can be helped to de-escalate from crisis.

The Hon. COURTNEY HOUSSOS: I very much appreciate that and obviously we are very concerned, particularly about children reported at risk of significance self-harm. However, there is a drop in the number of children who were seen from 32 per cent to 28 per cent—

Mr COUTTS-TROTTER: It was 28½ per cent.

The Hon. COURTNEY HOUSSOS: —28½ per cent, and that is very, very concerning. I have a final question before my time runs out. Will the review be made public before Christmas?

Mr COUTTS-TROTTER: The Minister has committed to making it public once she has considered it.

The Hon. COURTNEY HOUSSOS: Will it be received before Christmas? Do you have a specific deadline?

Mr COUTTS-TROTTER: She asked me to make sure it is provided to her before Christmas.

The Hon. COURTNEY HOUSSOS: Before 25 December it will be provided to the Minister?

Mr COUTTS-TROTTER: Yes.

The CHAIR: Circling back to preceding hearings and supplementary questions, in response to supplementary questions during the budget estimates, it was advised that the department had implemented additional security protocols for courier services responsible for documents. Could you supply us with details of those new protocols?

Mr COUTTS-TROTTER: The major remedial actions were to install four additional closed circuit television cameras at one of our major sites in Ashfield, provide a designated courier car space in that site and establish some predetermined times for mail collection. I can also report that we have moved the courier services related to ministerial functions to a new provider.

The Hon. PAUL GREEN: Mr Coutts-Trotter, do you have the statistics for the number of Aboriginal and Torres Strait Islander kids as part of the at-risk kids?

Mr COUTTS-TROTTER: I can get you a breakdown for the 2017-18 statistics for the number of children reported at risk of significant harm. I am more than happy to do that. I do not have those numbers to hand, unless my colleague does.

The Hon. PAUL GREEN: Given the pressures of the system, do you also have the statistics for how many of the children not being attended to are at risk of significant harm?

Mr COUTTS-TROTTER: The challenge for us, not only in Family and Community Services but also in a range of government agencies, is to better understand the points of contact that children and families have with a variety of community supports and funded or directly delivered government services. We talk a lot, as we should, about children reported at risk of significant harm who get a face-to-face response from us, but a further one-third of those children are referred by us to either other State Government services, particularly Health and Education, or funded non-government services, and they in turn get a response from those organisations. Then we fund a range of community organisations that a couple of years ago, for example, had contact with more than 85,000 families.

So getting a really clear picture of how children and families move through all of that and what responses they get at particular times is a major piece of work that is going on at the moment—a major piece of analysis to try to better understand that. In an ideal world, in the first 2,000 days of life everyone would get support. We all need it. Many of us are able to draw on family or community to get that support. Some people cannot; they need to have it provided by a service or by someone else in the community. Many people have elevated levels of risk and stress and they need an appropriate response. But we know for sure in New South Wales, and everywhere else in Australia, that not everybody gets it at the right time and that can escalate to crisis. That is terrible for kids and it is also a terrible waste of money.

The Hon. PAUL GREEN: How much funding is allocated for the employment and training of new caseworkers to ensure that the sector is not overstretched?

Mr COUTTS-TROTTER: I will get the dollar figure for you. The big trend in the past five years is to be accountable for our caseworker vacancy numbers.

The Hon. PAUL GREEN: Have they increased?

Mr COUTTS-TROTTER: No, they have continued to fall. The average caseworker vacancy rate over the past year was 3 per cent; in the last or June quarter it was actually zero. What we are seeing is a big increase in the number of Aboriginal applicants for child protection roles—it has gone from 15 a month to 90 a month on average. Indeed, in the last three months half of all the caseworkers and child protection staff we employed identified as Aboriginal, and the turnover rate among new starters—new caseworkers—has fallen from a pretty confronting 48 per cent attrition in the first year some four years ago to 13 per cent in the most recent year.

The Hon. PAUL GREEN: So what has changed to make those figures so promising because I do not think the level of stress in the job has reduced?

Mr COUTTS-TROTTER: A couple of things. I think our processes of assessment keep getting better. We are beginning to better understand not just what you need to know and be able to do it, but in a sense the psychological profile that is likely to enable you to succeed in the job. The new child protection practice framework emphasizes close, shared supervision as well as individual supervision. We now have so-called group supervision where child protection practitioners essentially bring the thing that worries them most to a group where they have more senior colleagues—they might have a clinical specialist or a child protection team—and they will talk through the issues and concerns. It enables people to share risk and decision-making with one another, and to get professional support and development. That is making a difference.

We are also beginning to roll out a range of wellbeing initiatives for people who are dealing with particularly confronting work, starting with our joint investigative response teams that work on matters of serious physical abuse and child sexual abuse with police and Health colleagues. I think all of that taken together is helping us find the right people for the work and better support them in that work.

The Hon. PAUL GREEN: Those statistics seem too good to be believed.

Mr COUTTS-TROTTER: I am happy to provide them on notice.

The Hon. PAUL GREEN: They are pretty incredible.

Mr COUTTS-TROTTER: They are accurate.

The Hon. PAUL GREEN: I am not doubting you in those terms. I am merely commenting on how impressive they are compared with 7½ years ago when I started as a member of Parliament.

Mr COUTTS-TROTTER: Yes.

The Hon. PAUL GREEN: Where are the increased number of Aboriginal and Torres Strait Islander caseworkers coming from? University or TAFE colleges?

Mr COUTTS-TROTTER: Two big things have happened, and in a sense it sounds too simple. Aboriginal people already working in the agency have started to talk about what that means and to do that on social media—Facebook. There is a place you can go if you are a bit curious about what working in the organisation might be like and you can hear from Aboriginal people talking about it. We have got a particular and distinct recruitment pathway for Aboriginal people that will connect them early with an authoritative Aboriginal figures outside the organisation, who will help them think and talk through what it might be like to come and work here. Then we have got a process of assessment that is distinct and better recognises some of the historical and cultural factors around Aboriginal people's experience with our organisation and, indeed, their experience generally.

So I think we have been a bit smarter about how we approach people, the supports we give them, what they hear about the truth of the work, and then the kind of support they get once they get here. I know from going out in the field that there will be plenty of Aboriginal colleagues who will say, "Yes, but what about this? There is more to be done." And that is absolutely true, but the numbers are the numbers. There has been a massive increase in the number of Aboriginal people who are prepared to give us a go as a place where they can contribute to the broader community, and indeed their own communities.

The Hon. PAUL GREEN: I have recently been talking to the Waminda women's centre about the National Disability Insurance Scheme [NDIS]. They do an amazing job in the Shoalhaven.

Mr COUTTS-TROTTER: Yes, they do.

The Hon. PAUL GREEN: They wrote to me about their key areas of concern and recommendations about the NDIS. They said, "The NDIS local area coordinators and early childhood intervention partners are not culturally safe or accessible for Aboriginal people." Would you like to comment on that?

Mr COUTTS-TROTTER: I could not pass comment on that position, suffice to say I have been to Waminda, and I have the highest regard for the people who work and lead there, so I would take very seriously any reflections they had on it. If there is something we can do to follow that up and feed it back to the National Disability Insurance Agency I would be more than happy to do so. We want the NDIS to work well for everybody, including Aboriginal families.

The Hon. PAUL GREEN: They also talked about the non-implementation of NDIS plans within Aboriginal communities. Has it been your experience across New South Wales that there has been less implementation for Aboriginal communities?

Mr COUTTS-TROTTER: We have known for a long time that the prevalence of disability in Aboriginal communities is higher than in the general population, but the proportion of Aboriginal people accessing disability services in the old world, the State-funded world, was low. We have known for a long time that getting people to understand and to access available services has been a challenge. So quite a lot of work was done to prepare Aboriginal organisations to provide disability services through the NDIS within New South Wales. There was also work done to try to equip Aboriginal communities and families to exercise choice and control in the new world, but the data that I see in the NDIS' actuary report, and its own reflections on it, tells us that there is much more work to do.

The Hon. PAUL GREEN: They also talk about the reducibility of incarcerated persons to access the NDIS. What is your comment on that?

Mr COUTTS-TROTTER: We have tried to work quite hard with colleagues in Justice.

The Hon. PAUL GREEN: Health?

Mr COUTTS-TROTTER: And Health, and Justice Health, to make sure that that is not the case and that planning processes and transition processes in and out of the justice system work well. But I read the submissions to the parliamentary inquiry. We know there is still work to do on that.

The Hon. PAUL GREEN: Would you be happy if I forward this email to you?

Mr COUTTS-TROTTER: No, of course.

The Hon. PAUL GREEN: Because it puts some recommendations with those questions that I think you might find very helpful.

Mr COUTTS-TROTTER: Thank you.

The Hon. PAUL GREEN: If you can get back to me on that, that would be fantastic.

Mr COUTTS-TROTTER: Yes.

The Hon. PAUL GREEN: I note that \$39.2 million has been allocated for evidence-based models for future matters of the child protection reforms. Could you outline the model reforms you intend to adopt for this purpose and how does your department ensure the effectiveness of these models?

Mr COUTTS-TROTTER: The major models being funded by the Their Futures Matter team are: Functional Family Therapy, which is an evidence-based set of programs, I think initiated in the United States [US] but now delivered in a range of places around the world, including New Zealand; the multisystemic therapy, child abuse and neglect, which is a more intense, more clinical intervention, again strongly based on evidence elsewhere in the world; and we are commissioning Treatment Foster Care Oregon, which is an alternative to what in the old world would be called residential care. It provides therapeutic response in a more home-like environment for very traumatised young people in care.

We have got trauma treatment; we have got a range of psychologists working with kids in care to try to reduce the risk of a pattern we see where, particularly when children move into adolescence and questions of identity arise for them, care placements are at risk of breaking down. It is to try to prevent that. The Their Futures Matter team is in the process of commissioning further intensive therapeutic resources for children under 15 living in statutory care or foster care who have had two or more placements in the last six months, in other words their placements are not stable; and there is also support for around 1,500 carers each year of different levels of intensity based on their needs, to try and help equip carers to deal with the behaviours that traumatised children and young people can exhibit.

Mr DAVID SHOEBRIDGE: As to the proposed amendments to the Children and Young Persons (Care and Protection) Amendment Bill, why was the decision made not to put out a draft exposure bill so that the sector could look at the changes before they were presented to Parliament?

Mr COUTTS-TROTTER: To be honest, I have not had a discussion with the Minister or her staff about that, so I do not know. The consultation process was initiated in 2017.

Mr DAVID SHOEBRIDGE: It is a very specific question about a draft exposure bill.

Mr COUTTS-TROTTER: I genuinely do not know.

The Hon. Dr PETER PHELPS: Point of order: The decision not to issue a draft bill for public exposure is something which would reside in the authority of the Minister.

Mr COUTTS-TROTTER: No. That is a good point. Sorry.

The Hon. Dr PETER PHELPS: It is inappropriate to ask the witnesses why it was not done. It is a question that should be directed to the Minister, surely.

Mr DAVID SHOEBRIDGE: I am asking in their capacity as secretary and senior officer if they had any role in determining not to have an exposure draft bill. You say it was a matter determined by the Minister, is that right?

The CHAIR: If you want to put the question in those terms, they can answer in those terms. On the point of order, the member is correct, it is ultimately the Minister's call.

Mr COUTTS-TROTTER: Perhaps we can take that question on notice and ask for a response from the Minister.

Mr DAVID SHOEBRIDGE: In putting a mandated period of 24 months as the maximum reasonable period for the purpose of these amendments, what consultation did you and the department take with Aboriginal organisations, such as AbSec, before putting that requirement on Aboriginal children?

Mr COUTTS-TROTTER: The consultation report I think provides at the back a reasonably detailed summary of the various mechanisms of consultation between October 2017 and the present.

Ms MULKERIN: That is right.

Mr COUTTS-TROTTER: I ask my colleague—

Mr DAVID SHOEBRIDGE: I ask that question noting the extremely strong opposition that pretty much every Aboriginal NGO, starting from the peak body AbSec and others, has had to those changes for Aboriginal children. That is the context in which I ask the question.

Mr COUTTS-TROTTER: Sure. I do not know if there is anything my colleague can add.

Ms MULKERIN: As the Secretary has said, there was consultation with a wide range of NGO partners and colleagues and other government agencies in the lead-up to the finalisation of the consultation report. As you would have read, there were a whole range of questions that were posed and asked in the consultation paper, and of course not all of those have gone as the amendments. The advice that went to the Minister and to the Government reflected the wide range of views that were expressed through the consultation process.

Mr DAVID SHOEBRIDGE: When I look at the consultation paper, the changes that have been proposed to dispensing with the parents' consent for adoption in circumstances where guardianship orders have previously been made, pretty much every submission opposed that but you still went ahead and did it. What was the rationale for ignoring the stakeholders in proceedings after that?

Mr COUTTS-TROTTER: Ultimately, this is the Government's policy, and I think, again, that is appropriately a question I take on notice and seek the Minister's response, should she provide it.

Mr DAVID SHOEBRIDGE: How many Aboriginal children who have been in out-of-home care have been adopted in the last 12 months?

Mr COUTTS-TROTTER: In the last five years ending 30 June 2017, 13 Aboriginal children in care have been adopted, and six of those adoptions happened in the 2017-18 financial year.

Mr DAVID SHOEBRIDGE: You gave me five years to the end of 30 June 2017?

Mr COUTTS-TROTTER: Yes. Thirteen children in the five years to 30 June 2018; six of those adoptions of Aboriginal children from care happened in the 2017-18 financial year.

Mr DAVID SHOEBRIDGE: In the five years to the end of 2017-18 there were 13?

Mr COUTTS-TROTTER: Yes.

Mr DAVID SHOEBRIDGE: And six of those were in the last financial year. Is that right?

Mr COUTTS-TROTTER: Yes.

Mr DAVID SHOEBRIDGE: Why the very significant increase, I would describe it as, in the number of Aboriginal children being adopted out?

Mr COUTTS-TROTTER: I would have to go to the detail of that, but every one of those, as you would know, Mr Shoebridge, before it goes to consideration in the Supreme Court needs to receive my endorsement. Many of those matters were seven, eight, nine years old. I need to get for you, if you like, of the six children adopted in 2017-18 I think you will find, and from my recollection, many of those were longstanding matters.

Mr DAVID SHOEBRIDGE: Are you planning for an increase in the number of Aboriginal children being adopted as a result of the proposed legislative changes?

Mr COUTTS-TROTTER: We have no estimates or target for Aboriginal adoptions. It is really important to make that clear.

Mr DAVID SHOEBRIDGE: That was not my question. My question was whether or not you are planning for an increase? Were you expecting an increase?

Mr COUTTS-TROTTER: On the 13 that were adopted in the past five years, genuinely I do not know. I think there are 14 Aboriginal children at inquiry stage for open adoption. But inquiry stage often does not lead to an adoption process.

Mr DAVID SHOEBRIDGE: Given the proposed removal of consent to the parents once a guardianship order has been made, do you expect that that pathway will be being used in relation to Aboriginal children, or is there a special protection you are proposing for Aboriginal children and their parents?

Mr COUTTS-TROTTER: The approach for Aboriginal children and parents is profoundly different, where open adoption is considered as the least preferred permanency option.

Mr DAVID SHOEBRIDGE: I am asking if there are any special protections for Aboriginal children from those facilitative changes to adoption?

Mr COUTTS-TROTTER: In relation to the care Act amendments, I think I should take that on notice and respond to you.

The Hon. COURTNEY HOUSSOS: I note the Hon. Dr Peter Phelps' point of order. There was a meeting that occurred in the Ombudsman's office on, I think, 23 August regarding the draft exposure bill. Did you give an undertaking to stakeholders that you would circulate an exposure bill?

Mr COUTTS-TROTTER: There was a discussion. I think you are probably referring to the regular so-called yarning circle where the ombo hosts Grandmas Against Removal and a range of other Aboriginal organisations and colleagues. I certainly have never given anyone a commitment about circulating an exposure draft. But I think that is the meeting you are referring to.

Mr DAVID SHOEBRIDGE: If you were not there, did anybody from the department give that undertaking?

The Hon. COURTNEY HOUSSOS: No, it was the Secretary who was there and the information that I am given is that it was a reference group and stakeholders were led to believe that they would see a draft of the bill before it was circulated, from your comments on the day. What do you say to that?

Mr COUTTS-TROTTER: I do not have that recollection, and if that was communicated in any way I can only apologise./

The Hon. COURTNEY HOUSSOS: It is your testimony today that you did not give an undertaking to provide a copy of the draft exposure bill. Is that right?

Mr COUTTS-TROTTER: It is not within my power to do that. I have been around long enough, I think, to not make commitments that I could not possibly deliver on.

The Hon. COURTNEY HOUSSOS: Are you able to give the number of children who are currently in out-of-home care in New South Wales?

Mr COUTTS-TROTTER: Yes. We have—and I think this was reported in the data we released a couple of weeks ago—a total of 17,387 children as at 30 June 2018, which is a reduction of around 400 children on the year before, and the data we released showed that there has been a 44 per cent reduction in the number of children assumed into care in the past two years ending 30 June 2018.

The Hon. COURTNEY HOUSSOS: What were the lengths of the placements?

Mr COUTTS-TROTTER: I do not have that information to hand, but generally what we have seen over the recent period is the average period of time in particularly foster care placements has risen steadily.

The Hon. COURTNEY HOUSSOS: If you can provide on notice the lengths of the placements and how many children have had one, two or three or more placements? How much money has been spent in the last 12 months across the State in each district to place children in motels, hotels, caravans and cabins?

Mr COUTTS-TROTTER: Really what you are asking is what has been the cost in the last year of so-called alternative care placements. I am happy to take that question on notice. Most of those placements—and they are an inadequate form of placement—80 per cent of them are now in rented accommodation or serviced apartments.

Mr DAVID SHOEBRIDGE: But I already asked this question on notice and you failed to answer it on notice before. I expressly asked the question and you expressly failed to answer it. Why do we expect you can answer it now?

Mr COUTTS-TROTTER: The questions on notice that are provided to the Committee are provided by Ministers.

The Hon. COURTNEY HOUSSOS: So you are telling me that 20 per cent of funding is that 80 per cent are in serviced accommodation or long-term rentals. You are saying that 20 per cent of the money that is spent is spent on motels, hotels, caravans and cabins for alternative accommodation?

Mr COUTTS-TROTTER: As at 15 October, 17 children were placed in hotels and motels, but the more important point here is this is an inadequate placement for these children.

The Hon. COURTNEY HOUSSOS: I would absolutely agree with you, Mr Coutts-Trotter.

Mr COUTTS-TROTTER: These children need and deserve—

The Hon. COURTNEY HOUSSOS: How many caseworker staff across the State are doing extra shift work to staff the motels, hotels, caravans and cabins after hours?

Mr COUTTS-TROTTER: Most of the care provided and support provided to children is provided by staff authorised by us but provided by other agencies. We retain case management responsibility for those children. Our caseworkers are visiting them at least once a week, but the often 24-hour care and support is provided by agency staff, who are authorised by us to perform that role.

The Hon. COURTNEY HOUSSOS: I think you misunderstood my question. My question is how many caseworkers are taking extra shift work to staff the motels as authorised persons?

Mr COUTTS-TROTTER: I would need to seek information on that. I do not know.

The Hon. COURTNEY HOUSSOS: So you are going to take that on notice as well?

Mr COUTTS-TROTTER: Yes.

The Hon. COURTNEY HOUSSOS: But you are aware of some caseworker staff doing this?

Mr COUTTS-TROTTER: Yes, but very rarely.

The Hon. COURTNEY HOUSSOS: Do they require your permission to do this?

Mr COUTTS-TROTTER: Any placement in an alternative care placement requires authorisation by one of our deputy secretaries. So the decision-making happens at a very high level because we are concerned about this care type.

The Hon. COURTNEY HOUSSOS: Is a caseworker considered to be taking on a secondary employment if they do, outside of their regular hours of work, staff these motels, hotels, caravans, cabins and serviced apartments?

Mr COUTTS-TROTTER: If they were employed by somebody else, yes, I think that would be considered secondary employment.

The Hon. COURTNEY HOUSSOS: In other departments the secretary is required to authorise that. Is that the case in—

Mr COUTTS-TROTTER: No, I authorise the policy that is then adhered to within the agency. I would authorise those kinds of decisions for my direct reports but not for reports to my reports.

The Hon. COURTNEY HOUSSOS: But you are aware that there are cases of staff who are doing this perhaps regularly?

Mr COUTTS-TROTTER: No. Your question was in two parts: one was is some of the support for these children being provided by FACS staff. I said yes, I think that happens but rarely and I will check on that. Two, you are asking are there FACS staff who are providing this support as a second job for another organisation. I have no knowledge of that whatsoever, but the scenario you put to me suggested that if that was the scenario, that would be secondary employment.

The Hon. COURTNEY HOUSSOS: Can you take on notice to see whether there are any caseworkers who are currently doing that?

Mr COUTTS-TROTTER: Yes.

The Hon. COURTNEY HOUSSOS: In the answers to supplementary questions Minister Goward referenced that there were 800 new claims received by FACS from persons seeking compensation for abuse in care. What is the time frame for dealing with them?

Mr COUTTS-TROTTER: To quantify it I can get that information to you. But averages obscure what we hope is a sympathetic and compassionate response. Where someone is seriously unwell, dying—and we have had people approach us in those circumstances—we have dealt with claims within four weeks.

The Hon. COURTNEY HOUSSOS: There were five new claims for the 2013-14 financial year. How many of those have been finalised?

Mr COUTTS-TROTTER: I am happy to find out for you. From memory, the policy's aim is that we finalise all these claims within two years. My experience of this process, and it is one of the things of which I am most proud inside our organisation, is that this happens sensitively and within the bounds of giving people time to consider and make decisions very quickly.

The Hon. COURTNEY HOUSSOS: Are you able to also then, of those five new claims, tell me how many of those claims the claimant was awarded compensation, how many were withdrawn and how many were not substantiated?

Mr COUTTS-TROTTER: Yes.

The Hon. COURTNEY HOUSSOS: Would you be able to provide the total compensation amount awarded for claims from persons seeking compensation for abuse for the period of 2013-14?

Mr COUTTS-TROTTER: That would be persons who made a claim in 2013-14 but not necessarily in respect of 2013-14, just to be clear?

The Hon. COURTNEY HOUSSOS: That is correct.

Mr COUTTS-TROTTER: Yes, I think we can provide that.

The Hon. COURTNEY HOUSSOS: Of the 78 new claims for the 2014-15 financial year, can you provide how many of those have been finalised?

Mr COUTTS-TROTTER: Yes, we track this very closely. We have that information.

The Hon. COURTNEY HOUSSOS: Sorry, you have the information or you will have to provide that on notice?

Mr COUTTS-TROTTER: I would have to provide it.

The Hon. COURTNEY HOUSSOS: Again, if you can tell me in those claims how many of the claimants were awarded compensation, how many were withdrawn, how many were not substantiated and what was the total compensation for 2014-15? Again, there are 179 new claims for the 2015-16 years, and if you can give me—

Mr COUTTS-TROTTER: Of course, the majority of these claims in recent years have been victims and survivors of Parramatta girls, and other historic and abhorrent care settings.

Ms MULKERIN: For Parramatta girls, as the Secretary said, we have around 200 claims and we have settled close to 160 or 170 of those. I know the numbers because I am the instructing officer for the whole set. All of those claims are managed through our legal services; they come to the instructing officer on behalf of the department who makes some determinations about settlements. But, as importantly, how the apologies will be delivered in concert with legal representatives, a senior executive from the department delivers the apologies in person to the claimants.

The Hon. COURTNEY HOUSSOS: Could you provide that on notice. I come back again to the question of caseworker staff providing supervision in motels, hotels, caravans, cabins and, as you mentioned, serviced apartments as well. Are you able to say whether any of those staff are doing overtime in order to provide that supervision?

Mr COUTTS-TROTTER: I would need to check for you.

The Hon. COURTNEY HOUSSOS: You will take that on notice?

Mr COUTTS-TROTTER: Yes.

The Hon. COURTNEY HOUSSOS: Are you able to provide the number of children currently on guardianship orders?

Mr COUTTS-TROTTER: Yes, I might be able to. I saw that. I have read an awful lot. It is around two and a half thousand children on guardianship orders. Of that number I think around 810 or 815 were Aboriginal children.

The Hon. COURTNEY HOUSSOS: Are you aware of any additional funding that has been allocated to accommodate the proposed amendments in the Children and Young Persons (Care and Protection) Amendment Bill 2018?

Mr COUTTS-TROTTER: No, I do not think so.

The Hon. COURTNEY HOUSSOS: There is no additional funding allocated at this point?

Mr COUTTS-TROTTER: No.

Ms MULKERIN: No. If I might, the most impact in terms of FACS impacts is the requirement to offer alternative dispute resolution [ADR] early in the process. Over the last couple of years FACS has been working hard to increase the number of family group conferences that are offered early on in the child protection process. Family group conferencing is a technique to get all of the key players and family around the table to help share some of the questions about how families can best be supported. In increasing the expectation about alternative dispute resolution, we did some modelling for the Minister about whether or not we had the capacity to respond to the volume within our current resources and the advice was that we did.

The Hon. COURTNEY HOUSSOS: This is a slightly different version of the question my colleague Mr Shoebridge asked: How do you intend to ensure that the restoration potential is not destroyed by placing a 24-month timeframe on adoption, particularly in circumstances where external variables impact the parents' ability to regain custody, such as housing wait lists?

Mr DAVID SHOEBRIDGE: Or rehab.

Mr COUTTS-TROTTER: Okay. I think the fact that the proposed changes allowed the court to consider a 24-month time frame rather than possibly a point in time frame about the possibility of restoration opens that up a little bit.

Mr DAVID SHOEBRIDGE: It is no more than 24 months. You are limiting it. The legislation limits it, it does not open it up.

Mr COUTTS-TROTTER: It says 24 months.

Mr DAVID SHOEBRIDGE: No more than.

Mr COUTTS-TROTTER: Yes.

Mr DAVID SHOEBRIDGE: No, it does not say 24 months, it says "no more than". It could be a week.

Mr COUTTS-TROTTER: It is clearly not point in time. It does allow for up to 24 months as a period of consideration as to whether restoration is feasible.

Ms MULKERIN: The intent of the amendment is clearly to put a sense of urgency about the work that needs to happen, predominantly from FACS, with families about what support they need in order to safely care for their children. The 24-month period, two years, is quite a long time in a child's life and it really is intended to flag that it is not okay for children to drift in care with no clear plan about where they will permanently belong. The focus is really about saying that we need to get in there early and work with families and help them access supports, which is also why the Government invested—

The Hon. COURTNEY HOUSSOS: Can I stop you there. You are saying that a sense of urgency needs to be injected, that FACS workers do not have that currently?

Ms MULKERIN: I am saying that the Act is clearly articulating that the policy intent from the Government is that the 24 months signals that two years is a long time in a child's life and families need support. The earlier that we can get in and offer them support the more likely it is they will be open to change.

The Hon. COURTNEY HOUSSOS: Surely then you will need more caseworkers if you are looking to shorten the time frame?

Mr DAVID SHOEBRIDGE: More housing and rehab. If you have a two-year wait list to get a house and the reason you have had your child taken is because you do not have stable housing, that is it, no discretion in the court, child gone.

Mr COUTTS-TROTTER: Number one, we recognise the importance of stable housing and I would challenge the criticism of co-location of housing and child protection staff. I think that embeds that understanding of how important stable housing is to facilitate family preservation or make possible family reunification. The permanency support program that funded \$600 million to \$700 million a year, spent now through non-government

organisations for the first time, contains 190 family preservation packages and around 900 family reunification packages. There is actually an increase in resources behind the objects of the legislation; preservation, reunification.

The Hon. COURTNEY HOUSSOS: How many additional caseworkers are going to be employed? How many additional resources for housing? How many other additional support services will be in place in order to meet the two-year timeframe? There is no judicial discretion. It is a two-year timeframe that is there in concrete. There is no ability to go beyond that.

Mr COUTTS-TROTTER: There is a requirement for the court to examine the quality of the work we do before we come before the court and there is the ability of the court to relist.

Mr DAVID SHOEBRIDGE: Up to two years.

The Hon. COURTNEY HOUSSOS: What is the average period that it takes for an adoption to occur now?

Mr COUTTS-TROTTER: The average period is longer than two years.

The Hon. COURTNEY HOUSSOS: You would acknowledge that there would need to be more resources in place to allow this to happen within an expedited time frame? Ms Mulkerin just said there needs to be a sense of urgency that clearly does not exist at the moment.

Ms MULKERIN: I am not sure that is exactly what I said.

The Hon. COURTNEY HOUSSOS: You said there is a need for a sense of urgency.

Ms MULKERIN: Definitely. I will not walk away from that. The focus of the work is not exclusively on the adoption work. Our work mostly is about working with families so they can safely care for their children and a focus on family preservation. As the Secretary outlined, there is considerable new funding in the family preservation area. The evidence based programs, 900 places. It is a significant investment. Most of our work is about family preservation and if that is not possible then focussing on what is the best possible long-term placement for a child with a focus on stability. All of the research available in this area says that one of the best ways for children to overcome the trauma they have experienced, which is the reason for their coming to care in the first place, is for there to be a sense of connectedness and belonging, which is about permanency and stability.

The Hon. COURTNEY HOUSSOS: Nobody on this Committee would dispute the need for stability for children in this particular instance, or in any instance. What we are concerned about is the lack of associated resources and that these timeframes will be expedited without the appropriate supports. Where are the caseworkers to provide the assessments? Where are the additional resources for housing? How are we going to ensure that this process is not just rushed as a result of this arbitrary timeframe? We want to see children taken care of, absolutely. We want to see them in a longer or permanent home because we know the benefits that come from that. Where are the additional resources to make sure this happens and previous mistakes are not repeated?

Mr COUTTS-TROTTER: We have been funded for, I think, 131 additional casework positions. We have got more casework support workers. We have got increased investment, both through the Permanency Support Program, through to Their Futures Matter and family preservation and reunification, and we have seen a 44 per cent reduction in the number of children coming into care, taking pressure off both the court system and the people around it. I would simply make those points.

Mr DAVID SHOEBRIDGE: As I understand from your evidence, there are between 810 and 815 Aboriginal children who are currently under guardianship orders, who, if the proposed legislative changes happen, will be able to be adopted without their parents' consent. Is that right?

Ms MULKERIN: The amendments allow for the court to dispense with the consent.

Mr DAVID SHOEBRIDGE: So the answer is yes?

Ms MULKERIN: Although the parents, if the Guardian—

Mr DAVID SHOEBRIDGE: If there are guardianship orders in place, adoptions can happen without parents' consent and there are between 810 and 815 Aboriginal children currently under guardianship orders. Is that right?

Mr COUTTS-TROTTER: Nearly all of them are placed with kin. You are asking a question of fact, but behind that question of fact is an assumption that—

Mr DAVID SHOEBRIDGE: So can I have a factual answer?

Mr COUTTS-TROTTER: I think my colleague Ms Mulkerin has provided the factual answer.

Mr DAVID SHOEBRIDGE: The answer is yes, is it not, that all of those 810 to 815 can be adopted without their parents' consent if the court chooses?

Mr COUTTS-TROTTER: The court can choose.

Mr DAVID SHOEBRIDGE: How many of those 810 to 815 Aboriginal children do you expect to be adopted as a result of the changes?

Mr COUTTS-TROTTER: I have no expectations about that at all.

Mr DAVID SHOEBRIDGE: What particular measures are you putting in place to ensure that we do not have a sweep of Aboriginal children picked up for adoption as a result of these changes?

Mr COUTTS-TROTTER: We have various frameworks: the Aboriginal placement principle, the view that adoption for Aboriginal children is the least preferred permanency option; the fact that it can only be considered for movement to the Supreme Court for its independent consideration if it is clearly the best legal alternative for the interests of the child; and the fact that that operates as you would expect it to, as evidenced by the tiny number of Aboriginal children who have been adopted from care.

Mr DAVID SHOEBRIDGE: Yes, but you are now changing the law to get rid of one of the key constraints—

The Hon. Dr PETER PHELPS: Point of order—

The CHAIR: A point of order has been taken.

Mr DAVID SHOEBRIDGE: —which was the parents' consent. If they get rid of the need for parents' consent, the history is—

The Hon. Dr PETER PHELPS: They are members of the public service; they are not changing the law. If Mr Shoebridge wants to direct his criticism towards someone, then he could direct it towards the Minister. He can even point towards the side of the table, seeing we voted for it. But it is unfair to badger public servants on a matter of, clearly, policy.

Mr DAVID SHOEBRIDGE: I will move on to the next question.

The Hon. GREG DONNELLY: I think the way it works is that we place the question and allow the question to be answered.

Mr COUTTS-TROTTER: Thank you very much.

Mr DAVID SHOEBRIDGE: I asked a very simple, factual question on notice: What proportion of FACS' \$2 billion budget was spent on early intervention? How much was spent on early intervention? I do not know what advice you gave the Minister but the answer I got did not answer the question. I got an answer that there is a 66 per cent increase in our investment in child protection and out-of-home care since we came to government. I will ask it again. Given how crucial early intervention is, what proportion of the FACS budget and how many dollars of the FACS budget are spent on early intervention?

Mr COUTTS-TROTTER: Well, I do not have the figure to hand, but the last time I had a serious look at it, it was around one-sixth or one-seventh of our effort. But I think what we are starting to see, which confounds that a little bit, is the fact that now within so-called "care providers", we are funding organisations to provide family preservation or family reunification. We have seen a complete collapse from a so-called removal rate of about 30 per cent to a removal rate of 10 per cent among the statutory child protection work we do. So I think it is a—

Mr DAVID SHOEBRIDGE: Can you give me an answer—

The CHAIR: Just let the Secretary answer the question.

Mr COUTTS-TROTTER: It is a slightly confounded picture to determine what is meant by early intervention, but on strict and generally understood definitions, about one-sixth or one-seventh of our effort in FACS.

Mr DAVID SHOEBRIDGE: Could you, on notice, give me the answers and could you go back over the last three years so we get a sense of where that is going?

Mr COUTTS-TROTTER: Okay. It has definitely risen over the last three years.

Mr DAVID SHOEBRIDGE: Is it true that the Hunter district has failed its accreditation again?

Mr COUTTS-TROTTER: No, the Hunter district is accredited but it is being assessed at the moment by the Children's Guardian.

Mr DAVID SHOEBRIDGE: Is it still on interim accreditation and did it have its interim accreditation extended because it could not get permanent accreditation?

Mr COUTTS-TROTTER: It is accredited. I would need to double-check the definitional question, but the Office of the Children's Guardian is in the Hunter and indeed in New England at the moment.

Mr DAVID SHOEBRIDGE: Is that because they do not have permanent accreditation and they continue to fail to get permanent accreditation because of failures and inadequacies?

Mr COUTTS-TROTTER: Nobody has permanent accreditation; everybody has time-limited accreditation. They are accredited and they are currently under assessment.

Mr DAVID SHOEBRIDGE: Is it interim accreditation because they have not met the standards necessary?

Mr COUTTS-TROTTER: They are yet to achieve a five-year accreditation.

Mr DAVID SHOEBRIDGE: Given the process for accreditation has been going for, I think, over a decade, how possibly can it be that the Hunter district still cannot get its five-year accreditation? What is going so horribly wrong?

Mr COUTTS-TROTTER: You have framed that—

Mr DAVID SHOEBRIDGE: As I see it.

Mr COUTTS-TROTTER: —as you see it, okay. What I see in the Hunter is demonstrable improvements in quality of the work we do with children and their families, birth families and caring and kin. I am hoping that our independent regulator will see those improvements, too, but there is an absolute transformation in the way that my colleagues from the Hunter can and do talk about the work we do in out of home care.

Mr DAVID SHOEBRIDGE: Could it be true that FACS does not have a set of standard criteria or standards for foster carers, which are applied across the board to the non-government sector? Could that possibly be true, that there is not a set of standard, accepted criteria standards that apply to all foster carers?

Mr COUTTS-TROTTER: In terms of their authorisation?

Mr DAVID SHOEBRIDGE: Correct.

Mr COUTTS-TROTTER: The expectations are laid out within the regulatory framework and it is the responsibility of each accredited provider to authorise carers.

Mr DAVID SHOEBRIDGE: So one carer may have one set of standards, another carer another set of standards, but there is no actual statewide minimum standard for foster carers that you apply?

Mr COUTTS-TROTTER: There are a range of ways of assessing the suitability of carers. Many of those are clear and mandated. For example, our Community Services Check would be conducted in relation to everybody, and then the judgements are made within clear minimum standards articulated by the Children's Guardian.

Mr DAVID SHOEBRIDGE: But do you check those standards? Are you checking? Is that part of the tender that they have minimum standards that you sign off on?

Mr COUTTS-TROTTER: The governance framework sees them being responsible to maintain accreditation by demonstrating the quality of their work, which includes the authorisation, support, training and development of carers and demonstrating that to an independent statutory regulator, the Children's Guardian.

Mr DAVID SHOEBRIDGE: How many different private organisations are providing out-of-home care in New South Wales and, in doing that, identifying and obtaining foster parents?

Mr COUTTS-TROTTER: I can get that question for you but it is available on the Children's Guardian website, of course. From the last time I looked, around 50 organisations were accredited.

Mr DAVID SHOEBRIDGE: So, as best as you can say, there are 50 different standards and 50 different sets of criteria being applied across New South Wales for foster carers?

Mr COUTTS-TROTTER: No, sorry, you are suggesting that there is some great inconsistency between this when, in fact, I would say that the Children's Guardian does a rigorous and very careful job of assuring itself that the organisations it accredits and quality assures on a regular and pretty continuous basis are satisfying the minimum standards.

Ms MULKERIN: Sorry, if I could just clarify, there are 46 foster care providers.

Mr DAVID SHOEBRIDGE: I said 50; make it 46.

Ms MULKERIN: Forty-six across the State.

Mr DAVID SHOEBRIDGE: Thanks for that. I asked on notice whether or not FACS was concerned about the reported levels of self-harm in New South Wales juvenile justice facilities and the figures were that there are a dozen children who had in the order of 150 incidents of self-harm. I thought it was a very real concern, but the answer I got on notice was: "I am advised that FACS is concerned about the welfare and safety of all children and young people". Can I ask you again? Is FACS concerned about the reported levels of self-harm in New South Wales juvenile justice centres?

Mr COUTTS-TROTTER: The Minister has provided a response.

Mr DAVID SHOEBRIDGE: St Patrick's Orphanage closed in 1983 in Armidale and your department had been sending children there for over a century. What, if any, checks were made between the end of the official stolen generations policy in the late 1960s and 1983 to ensure that children were not subjected to repeated physical and emotional abuse at that St Patrick's facility?

Mr COUTTS-TROTTER: Of course, I do not have an answer for that.

Mr DAVID SHOEBRIDGE: I thought you might want to take that on notice.

Mr COUTTS-TROTTER: Sure. We may well be dealing with the victims and survivors of that experience at the moment, so I need to take advice on that.

Mr DAVID SHOEBRIDGE: Given the compensation scheme for the stolen generation ends at the end of the official policy, which was, I think, 1968, there are 15 years of that institution operating, largely with Aboriginal children, in a brutal manner and those children are denied access to the compensation scheme. What is the department's position in relation to claims from that cohort?

Mr COUTTS-TROTTER: I will take that on advice and respond to you.

Mr DAVID SHOEBRIDGE: Acknowledging that is just one of many facilities that although the official stolen generation policy ended in the 1960s, the practical operation changed very little on the ground until, in many cases, the mid- to late-1970s. Is the department considering some kind of statewide policy that will provide redress for that—I will call them transitional generation?

Mr COUTTS-TROTTER: Can you help me understand why it is they would lack the opportunity for redress either by making a civil claim to us or indeed through the National Redress Scheme?

Mr DAVID SHOEBRIDGE: They are excluded from the stolen generations redress scheme because that closes at the end of the official policy, even though the practical difference in their lives was minimal. It is an arbitrary date and it is not having access to the statutory scheme that puts them at a very substantial disadvantage.

Mr COUTTS-TROTTER: I would need to take advice to understand the nature of the disadvantage.

Mr DAVID SHOEBRIDGE: It is a difficult issue. I am not expecting a glib answer from you, and I am glad I have not got one. It is a complicated policy issue.

Mr COUTTS-TROTTER: Yes.

Mr DAVID SHOEBRIDGE: If you talk to family members where their eldest brother was taken, he may have certain rights because it was prior to the end of the scheme. But then the rest of the family who were taken in identical circumstances do not have rights. The sense of injustice, and I think very real injustice, is what drives this question.

Mr COUTTS-TROTTER: Thank you.

Mr DAVID SHOEBRIDGE: I asked on notice: What accreditation do people caring for children in motels require? The answer I got was: I am advised FACS must meet relevant legislative requirements. Could I ask again what accreditation do people caring for children in motels require, that is, is children who are subject to out-of-home care?

Mr COUTTS-TROTTER: We have to authorise someone to do that, which would involve a Working With Children Check, a child protection data check, which of course is looking into our and other interstate records that may suggest someone while not being convicted of something was identified as someone who might be causing harm to a child. We would undertake a national criminal record check, a 100 point ID check, and then we would need to make a decision about whether they are a suitable carer, and they would need to sign a carer code of conduct.

Mr DAVID SHOEBRIDGE: All those determinations would be made by FACS?

Ms MULKERIN: Yes.

Mr COUTTS-TROTTER: Yes.

Mr DAVID SHOEBRIDGE: And none of that part of the process is being done by a non-government organisation at this point, is that right?

Mr COUTTS-TROTTER: In respect of the children we have been talking about, no, that is done by us.

Mr DAVID SHOEBRIDGE: The children in motels?

Mr COUTTS-TROTTER: In alternative care placements that are alternative care placements. So I think there are a small number of non-government providers who have children in alternative care placements, and I mean a handful, that they would be responsible in the same way we are as a provider for authorising those placements.

Ms MULKERIN: That is correct.

Mr DAVID SHOEBRIDGE: I did also ask: What is the average length of stay that children have in motels? I got a non-answer to that. I also asked: What was the longest stay in 2017-18? I am asking those questions again now because I got a non-answer to each.

Mr COUTTS-TROTTER: I think the average, and I turn to my colleague who is close to the alternative care task force work, but I think it was about 114 days.

Ms MULKERIN: The average is about five months.

Mr DAVID SHOEBRIDGE: Five months in a motel?

Ms MULKERIN: In a serviced apartment. As the Secretary said, most of these children are in serviced apartments. The average, of course, is skewed. We have a large number of children who are coming in and out of the arrangements relatively quickly. It is often between a planned placement breakdown and the next planned placement. Then we have a small group of children who have been in these arrangements for longer periods of time. The average skews both ends of the numbers.

Mr DAVID SHOEBRIDGE: Maybe I am not allowed to say this in budget estimates, but I find that deeply distressing that the average period is five months in motels and other supported care.

Ms MULKERIN: We do too.

Mr COUTTS-TROTTER: We find it deeply distressing too.

Mr DAVID SHOEBRIDGE: That a child is not in a family of any sorts for that period of time is obviously a failure.

Mr COUTTS-TROTTER: Yes.

Mr DAVID SHOEBRIDGE: Could you perhaps give me on notice the median, if you say the average is skewed by a small number?

Ms MULKERIN: Sure. Yes.

Mr DAVID SHOEBRIDGE: Can you also give me the longest?

Ms MULKERIN: Yes, we can give you that on notice.

Mr DAVID SHOEBRIDGE: The answers did say that there is work going on to try to end this. When will it end?

Mr COUTTS-TROTTER: It has reduced year on year for the last four years. The number of children who have moved through these types of placements has reduced year on year. The work is focusing on two or three key things. Number one are much more targeted carer recruitment programs because there are plenty of places where we have a funded placement but no carer who is able to take a child on. That is number one.

Mr DAVID SHOEBRIDGE: Stopping you there, is this a cohort of—I am trying to think of a way of describing unwanted children, children that are hard to place? I am not putting that pejorative on the children. I am putting it on how society looks upon them.

Mr COUTTS-TROTTER: The primary reason that children end up with this, for the present, as the only option is because other placements break down and we think that the primary cause of that is unrecognised and ineffectively responded to trauma. Hence the investments in trauma treatment and support both for children and for their carers. The single most important thing we need to do to eliminate this and prevent it reoccurring is to provide that immediate support and anticipate the likely points in a child's life where this kind of trauma can overwhelm them and prevent that happening.

Mr DAVID SHOEBRIDGE: Are all of these children getting the trauma counselling and treatment needed?

Mr COUTTS-TROTTER: We are prioritising the trauma treatment services for these children.

Mr DAVID SHOEBRIDGE: With due respect, that is not answering my question.

Mr COUTTS-TROTTER: I think the answer is there are a lot of traumatised children who do not have an adequate response, including some of these children, and we are trying to get it.

Mr DAVID SHOEBRIDGE: Again, I go back to that question about early intervention. If only between one-sixth and one-seventh of the funding is on early intervention, you are not getting there to deal with children in the first stages of trauma, are you? It is escalating and becoming more resource intensive and harder to deal with.

Mr COUTTS-TROTTER: Of course. But early intervention takes—

Mr DAVID SHOEBRIDGE: Hopefully between trauma.

Mr COUTTS-TROTTER: Between conception and the first two years.

Mr DAVID SHOEBRIDGE: I asked on notice of the 60 per cent of women in prison who have dependent children how many of those have children in care. The answer I got was: FACS does not collect data relating to entries into care as a result of parental incarceration, together with three lines of generalised non-answers. Given the very, very substantial increase in the number of women going into incarceration, and we know from Corrective Services that 60 per cent of them have dependent children, is there any policy or program that FACS is doing targeting that very vulnerable population?

Mr COUTTS-TROTTER: When we spoke about this at the previous estimates hearing my colleague Simone Walker outlined some of the things that we are involved with that do try to support mothers to either be diverted from the justice system or to remain attached to allow their children to maintain an emotional attachment to them while they are incarcerated and then try to re-establish those relationships when they leave.

(Short Adjournment)

MICHAEL COUTTS-TROTTER, Director-General of the New South Wales Department of Family and Community Services, on former affirmation

PAUL O'REILLY, Executive Director, New South Wales Department of Family and Community Services, on former affirmation

The CHAIR: We will now deal with the portfolio of Disability Services. I remind Mr Coutts-Trotter and Mr Paul O'Reilly that they gave an affirmation at the previous budget estimates hearing of this committee. They are free to pass notes and refer directly to their advisers seated at the table behind them.

The Hon. COURTNEY HOUSSOS: I refer to the Summerhill Group Home which we covered extensively during the budget estimates hearing. What is the department doing to oversee the current level of service at the Summerhill centre following its transition to a private provider to ensure that the current level of service is maintained?

Mr COUTTS-TROTTER: The information I have on that is that the National Disability Insurance Agency [NDIA] has confirmed the plans for the residents of Summerhill which contain all of the services that are currently being provided and received by them.

The Hon. COURTNEY HOUSSOS: The National Disability Insurance Scheme [NDIS] Quality and Safeguards Commission clearly stated that it is not responsible for monitoring the transition to the private sector and, therefore, it is not responsible for ensuring the levels of service are maintained through the transition process.

Mr COUTTS-TROTTER: Sorry, yes, explicitly you are talking about the transition, indeed. We have done two things in recent days to try to assure people of a successful transition. One is we funded the Ombudsman to provide critique and challenge us to make sure that we were seeing and responding to issues that a genuinely independent perspective brings to it.

The Hon. COURTNEY HOUSSOS: Will you repeat that? Funded the Ombudsman to critique and challenge?

Mr COUTTS-TROTTER: Yes, critique and challenge us. I think we have been doing that, from memory, for about 24 months. Then we have a process of planning for transition based on the experience, successful and unsuccessful, of the previous few years underpinned by a so-called quality improvement reporting tool which is a way to look at, from the evidence, the kind of things within the operations of supported accommodation settings that indicate good quality in a range of dimensions—from healthcare planning, swallowing management, wellbeing, supervision of staff and the like. We have that process independently audited and assured to try to ensure that people's wellbeing and safety is top of mind while staff are going through a period of transition.

The Hon. COURTNEY HOUSSOS: To ensure the same thing that happened to the Stockton residents does not happen again?

Mr COUTTS-TROTTER: That is right.

The Hon. COURTNEY HOUSSOS: The Minister said that arrangements are in place to ensure continuity of service. What are those arrangements? How long will they remain in place.

Mr COUTTS-TROTTER: I will have to take that on notice.

The Hon. COURTNEY HOUSSOS: I note your answer around funding the Ombudsman. I note that the NDIA has confirmed that the plans are in place. I know that you are familiar with the testimony the Committee has had into the inquiry into the implementation of the NDIS. How can we be certain that if the NDIA does not accept responsibility for the provision of medical care related to a disability that that service will continue to be provided to those individuals?

Mr COUTTS-TROTTER: The NDIA currently funds a range of individualised packages for people who have been transferred from our operations to non-government providers quite some time ago. They funded those packages when we were providing services. They have continued to fund those packages following people's transition to a non-government operator. There is nothing that we have seen from history that suggests that that is a significant risk. That said, once someone is in the NDIS then we are no longer involved in direct service provision. You are seeking an absolute guarantee about what might happen in the future and, of course, I cannot provide it other than to say our experience to date has been hugely positive.

The Hon. COURTNEY HOUSSOS: I appreciate that the New South Wales Government is no longer in service provision, and I would say that that is not appropriate but that is for another day. I am asking whether you can guarantee that these patients are going to have their oxygen tanks and the like continue to be provided by the NDIS. Has that issue now been resolved?

Mr COUTTS-TROTTER: Oxygen and other services have been included in endorsed NDIS plans.

The Hon. COURTNEY HOUSSOS: Does that mean that everything that they were receiving prior to—

Mr COUTTS-TROTTER: This is the advice that I got two days ago and I have double-checked because I anticipated that this question would come up: yes, everything.

The Hon. COURTNEY HOUSSOS: Given that the Government was previously responsible for providing the care, do you have any responsibilities in terms of managing the transition if it does not occur?

Mr COUTTS-TROTTER: There is the transition to a new operator and then there are people's experiences in the NDIS over time. We absolutely accept responsibility and accountability for the transition to a new operator, but the design of the NDIS is that there is a single point of accountability for the delivery of the scheme. What we have to pin down with the Commonwealth and other jurisdictions are those areas of still unclear responsibility on some of the key health and medical issues that we heard about through the inquiry. We are still seeking clarity on things like catheter management and insulin provision. We have an agreed position on all of the issues between jurisdictions other than the Commonwealth. We have an agreement on most of these issues with all jurisdictions including the Commonwealth, but there remain some issues that are the subject of costing and other consideration by the NDIA for consideration by the Commonwealth that we would hope would be dealt with no later than the Disability Reform Council meeting in December.

The Hon. COURTNEY HOUSSOS: Do you know who the new provider is at the Summer Hill centre?

Mr COUTTS-TROTTER: Achieve.

The Hon. COURTNEY HOUSSOS: I am interested to know because the NDIS has written to someone—and I do not wish to disclose who—who raised concerns about the transition, and in the reply it said the Benevolent Society instead of Achieve Australia. I raise some concerns. You said that there is one point of accountability for the system, and that is with the Quality and Safeguards Commission. If they cannot even get the name of the provider correct then I worry about their ability to continue to provide that scrutiny.

Mr COUTTS-TROTTER: I will provide that feedback. My colleague reminded me that there is some subtlety to this because some of the clinical support services provided to NDIS participants living in Summer Hill are and have been provided by the Benevolent Society.

The Hon. COURTNEY HOUSSOS: You are probably aware that during our recent upper House inquiry into the NDIS, Uniting's head of disability, Ms Anita Le Lay, remarkably admitted that Uniting was reassessing its ability to operate in the current market. Uniting is one of the largest providers, and this admission underscores the current and worsening incidences of market failure. Are you currently undertaking any work to address the issue of market failure in disability services?

Mr COUTTS-TROTTER: There is a whole heap of work that the State Government and State agencies have done to prepare the market for the NDIS and there is considerable investment from the Commonwealth in market development activities. There are areas where market development is a risk and an issue, but I do not think the views of one non-government provider can be read as indicative of widespread market failure. Organisations will make decisions based on the strategy of their own organisation, and there could be good reasons why Uniting is deciding—if that is the case—that it does not want to continue in the market.

The Hon. COURTNEY HOUSSOS: I do not think it is the case that they do not want to continue in the market; it is the case that they were reassessing their ability to operate in the current market. This reinforces the testimony that we have received from many providers, particularly smaller providers, who talked about their inability to continue to operate. You said that some work was being done to be a provider of last resort, but I think you were cut short in the provision of that information. Has any more work been done on that?

Mr COUTTS-TROTTER: In terms of sector development, nationally there is a \$110 million sector development fund to prepare citizens and providers to transition. This is Commonwealth money, with \$64 million to support growth of the NDIS market and workforce through the NDIS Jobs and Market Fund and \$33 million to build capacity of existing providers and new providers. The Commonwealth and the NDIA understand how critical that work is. They have put together a graduated response including contracting a number of specialised

disability support providers who are available should a person's package not be able to be delivered by their existing provider or something else happens that creates a crisis that needs to be responded to. Since we last spoke, I understand that that mechanism has been activated on the advice of two local health districts on two occasions. It is in place and it has been used twice in New South Wales.

The Hon. COURTNEY HOUSSOS: On those two occasions effectively what happened was that the Government became the provider of last resort.

Mr COUTTS-TROTTER: No. The NDIA performed its function as a provider of last resort through the contracting and deployment of specialist non-government disability service providers.

The Hon. COURTNEY HOUSSOS: Can you tell me which local health districts [LHDs] they were in?

Mr COUTTS-TROTTER: I can take that on notice.

The Hon. COURTNEY HOUSSOS: Obviously, I would not want you to give identifying information, but I would appreciate some idea of where those incidents occurred and whether they were in some kind of State institution such as a hospital or a jail.

Mr COUTTS-TROTTER: Yes, I can see what information we can provide. The challenge we have is that this information is private information about participants in the scheme and it is held by the NDIA. We would know about which local health district triggered the mechanism, but the details of what then happened may not be available to us.

The Hon. COURTNEY HOUSSOS: What liability will the Government have if large-scale providers pull out of the market?

Mr COUTTS-TROTTER: The market is the responsibility of the National Disability Insurance Agency [NDIA] and there has been a massive increase in the number of providers registered in New South Wales—it is now 8,500. That said, around 80 per cent of resources used by people with funded packages are used through 25 per cent of providers. So while providers are registering, the distribution of supports is still concentrated with those providers that have a history in the market, and that is not unexpected. But the design feature here is a single point of accountability—that is, the NDIA. It is co-funded, co-governed through jurisdictions but, rather than a world in which no-one really had clear accountability for some really important things, the NDIA now does.

The Hon. COURTNEY HOUSSOS: Has the State Government prepared for large providers like Uniting or someone else going bankrupt or pulling out of the market because they are unable to provide services?

Mr COUTTS-TROTTER: The NDIA shares its market readiness, market development and market response plans with us. We understand that and think about ways in which we can complement it with supporting long-term workforce development strategies. We are here as a supportive partner but the NDIA is accountable for developing the markets that make it possible for people to experience choice and control through the NDIS.

The Hon. COURTNEY HOUSSOS: I understand that is the case, but in reality if a provider like Uniting or someone else were to pull out of the NDIS because they were not able to operate in the current market—they are their words, not mine—then we know from our inquiry, and from anecdotal evidence, that the State's hospitals and jails will be the first to take the excess of people who are unable to access disability services. I am interested to know if the State Government is doing any preparation in case that should occur?

Mr COUTTS-TROTTER: I would frame it in the positive and say we are massively invested in the success of the NDIS because of its history in New South Wales over a great many years. We see the extraordinary potential of the reform, both economically and socially, and we will do everything that we can to help that be a success, including challenging the NDIA to identify and manage risks that we can see.

The Hon. COURTNEY HOUSSOS: It has been said frequently in this inquiry that we all want to see it succeed, but when large providers are indicating there are issues ahead we should be preparing for every possible outcome. That is why I asked you about this.

Mr COUTTS-TROTTER: Sure.

The Hon. PAUL GREEN: The NDIS has been a target for unscrupulous operators taking advantage of limited checks and balances in the system to ensure that Corrective Services were being claimed and prices were not being overinflated. The latest figures from the Commonwealth Ombudsman show that more than 500 allegations of potential fraudulent payments and financial anomalies are already being assessed. Given that each

State and Territory has responsibility for oversight of regulation, quality and performance of providers under the NDIS scheme, has the New South Wales Government allocated any funding towards the prevention, detection and prosecution of fraudulent providers against the NDIS or is that only a Commonwealth responsibility?

Mr COUTTS-TROTTER: The moment someone is a registered NDIS provider, or whatever they do in that role, oversight is the responsibility of the Commonwealth through its oversight mechanisms. Obviously if we had information that we thought was relevant to that we can, and would, share it. The oversight and regulation of providers is now pretty much completely the responsibility of the NDIS Quality and Safeguards Commission, and particularly the Complaints Commissioner, with the exception of some residual functions held by the NSW Ombudsman. While we are still operating the large residential centres in the Hunter, while we are still funding and providing services, they have an oversight role with us, but when those services move to the NDIS it will become the sole oversight responsibility of the Commonwealth.

The Hon. PAUL GREEN: So we are not going to have anyone prosecuting cases?

Mr COUTTS-TROTTER: No, but part of the work in preparing for this is making sure that there is good information exchange between us and the Commonwealth agencies. So if we know something, we share it.

The Hon. PAUL GREEN: How many non-government service providers do you fund to deliver services on our behalf? How much funding has been allocated in this budget for non-government organisations to deliver services?

Mr COUTTS-TROTTER: I will need to check to get you the exact number but, from memory, we fund at least 1,100 or 1,200 non-government organisations and we would spend roughly 54 per cent or 55 per cent of our total budget through non-government organisations. So a very significant part of what we do.

The Hon. PAUL GREEN: What processes do you have in place to assess compliance and financial reporting or to target benchmark performance of the non-government organisations that are acting on your behalf?

Mr COUTTS-TROTTER: We have some well-established contract management risk assessment, risk response frameworks, and we are getting better and better as we are able to gather more information about the outcomes that non-government partners achieve, rather than just the inputs or outputs they produce. We are better able to hold people to account for, I suppose, a broader sense of performance. But a lot of the high profile issues we have seen pop up in the media in recent months have been concerns that our teams have identified and raised with relevant authorities. No system is ever perfect but I think that the contract management, risk assessment and quality assurance processes that we have done with non-government organisations are really getting quite good now.

The Hon. PAUL GREEN: What happens if a non-government organisation does not comply or reach satisfactory performance?

Mr COUTTS-TROTTER: A graduated response. Obviously our first aim is the safety and wellbeing of whoever that non-government organisation is serving. So if there are vulnerable kids and families and the issue is a serious one, obviously our response will be strong and immediate. Our aim is to build the capability of non-government organisations, and often that means we will identify a range of things about their performance that we want to see improve. We will then agree on a plan for performance improvement and we will track progress on that plan with the aim of maintaining the non-government organisation as a partner for a whole bunch of reasons, but particularly because often the people they serve, in turn, do not want to have them fall over, disappear and then be left in the lurch. There are judgements depending on the nature of the issues, but the aim is to identify as early as possible issues with performance and then to work collaboratively to improve that performance.

The Hon. PAUL GREEN: Is that judgement on performance monthly or quarterly? I can see there would be a constant issue with paperwork?

Mr COUTTS-TROTTER: It needs to be proportionate to the amount of money that is being spent and the risks involved. What we would do with a neighbourhood centre that might receive \$10,000 a year from us is very different to what we would do with an out-of-home care provider receiving \$70 million a year from us. For the larger providers we are dealing on a monthly basis at least, if not more regularly.

The Hon. PAUL GREEN: While technical design specifically for people with disabilities, collectively termed "assistive technology", is improving their everyday lives, the ubiquity of the other innovations often has the opposite affect. This is a growing problem. Close to 40 per cent of all complaints made to the Australian Human Rights Commission in 2016-17 were lodged under the Disability Discrimination Act. One-third of those complaints related to goods and services, and many of them to new technologies. Can you comment on the social

impact of emerging technologies for people with disabilities and how the Government is ensuring disabled people are involved in technologies and not excluded in the planning processes?

Mr COUTTS-TROTTER: I will not be glib or purport to have expertise or insight that is completely beyond me. I would say of that, within our own experience as increasingly more of how you deal with government is provided to you as the option of using a digital channel, then we have to be really careful that making that shift does not deny access to some people. And we know across government that the levels of accessibility from our digital channels are not consistent or consistently meet the expectations of the appropriate standards. There are investments in place and every agency under disability inclusion action plans to try to amend that, change that. But I think the question you are asking is more profound than just that transactional element, it is about how you think about genuinely including people in both the design and the delivery and feedback about the quality of government services, and there are a range of disability types where we do not do that very well.

The Hon. PAUL GREEN: Given that more than 4.3 million Australians have a disability and the violence against people receiving support from institutions is a significant policy issue, can you comment on the prevalence of violence in the disability sector and how the Government is doing something to either promote awareness or education to have increased reporting on the violence?

Mr COUTTS-TROTTER: Within the supported accommodation service system, New South Wales, since 2014 of course, has had the reportable incidents scheme that gave the Ombudsman, and now the NDIS commission, a very clear oversight role. And what we have seen over time is certainly an increase in the prevalence of reporting, a much greater transparency and a greater accountability to both prevent, respond to, investigate abuse and ill-treatment of people with disability. Within that sector a lot of very positive things have changed. Of course, the Ombudsman's recent report identified the problems of abuse and exploitation among vulnerable people, people with disability in community settings. There have been recommendations from the Parliament's elder abuse inquiry, there have been recommendations from the NSW Law Reform Commission that I know the Government is considering at present, that grapple with some responses to precisely those sorts of issues.

The Hon. PAUL GREEN: The royal commission into elder abuse should be slash disability, violence, as well, because a lot of those people are in institutions or aged care facilities, as you know. What programs and funding is directed towards equality safeguarding and oversight mechanisms for the types of things you just referred to about the reportable schemes?

Mr COUTTS-TROTTER: I am happy to provide some information about investments we make through FACS, through the things the Deputy Chair would know, the Elder Abuse Helpline and the frameworks around the work that we do with other agencies on a response there, but really you would be looking across government at both Justice and Health, and now increasingly of course the NDIS commission itself. I could seek to try to get information about the level of investment that is made there if you like.

The Hon. PAUL GREEN: Thank you. We have been advised by the New South Wales Government that they will continue to provide \$26 million in transitional advocacy funding supplements for existing disability advocacy.

Mr COUTTS-TROTTER: Yes.

The Hon. PAUL GREEN: How much of this funding goes towards regional disability advocacy providers, and how do you ensure that those areas get a fair slice of the pie?

Mr O'REILLY: There are 39 agencies funded under that fund. But I do not have a break up of regional and metro in my head. We will need to come back to you on notice with that.

The Hon. PAUL GREEN: You are not aware off the top of your head how we ensure that the further we go out from Sydney central advocacy groups are getting the funds that they need?

Mr O'REILLY: It is certainly a consideration, but I do not have the results of that in terms of how much is in metro and how much is in non-metro. The other factor there of course is that the administration of that funding was connected to the relevant round of the Commonwealth Information, Linkages and Capacity [ILC] building fund. Where an advocacy provider did not receive enough funding to provide its current service through ILC, this up to \$13 million per year fund was available to help make up the difference for that period. That is another factor that influenced the administration of that fund. We will bring the slick back to you.

The Hon. PAUL GREEN: The specialist disability accommodation funding stream within the NDIS specifically targeted young disabled persons in nursing homes. Is this currently the case, and how many young

persons with a disability remain in inappropriate nursing homes? How much funding has been allocated to the specialist accommodation through the NDIS system?

Mr COUTTS-TROTTER: I do not have it to hand. We did provide clarification on the numbers of young people in nursing homes because they were numbers offered in the inquiry and in estimates. We do know from the Summer Foundation, that tracks this very closely, there has been for the first time a reduction in the number of young people moving into those inappropriate settings, which is a good thing. We also know from our own experience in commissioning non-government organisations to build supported accommodation to enable people from large residential centres in the Hunter to move into the community, that it has taken some time for the market to understand, get confident with and be prepared to lend for or invest based on the supported disability accommodation framework the NDIS has set up. But that is beginning to happen now, so we would hope that there is such a net demand for appropriate supported disability accommodation for young people currently in aged care facilities that we would hope the non-government market would respond really quickly by creating those placements for people. I do think finally there is sufficient clarity and certainty in the supported disability accommodation pricing framework, the way it operates, for people to put their money into it.

The Hon. COURTNEY HOUSSOS: I will continue on the topic of young people in nursing homes. In budget estimates you said—or perhaps it was the Minister—that there were 2,220. Has that number reduced at all?

Mr COUTTS-TROTTER: I do not know, but I can find out whether there have been any young people who have managed to transition from nursing homes to more appropriate accommodation.

The Hon. COURTNEY HOUSSOS: You said that the rate was slowing. Could you provide us with the—

Mr COUTTS-TROTTER: That was the observation of the Summer Foundation, which is a Victorian-based non-government organisation that has long advocated to move young people out of nursing homes and to create far more individualised and innovative accommodation options, rather than just five-person congregate care.

The Hon. COURTNEY HOUSSOS: In the NDIS inquiry the Committee discovered that there were 312 young people in nursing homes in New South Wales who, it seemed, were not eligible for the NDIS. That was right at the end of your questioning on the very first day. Has anything been done to progress the access of those 312 people?

Mr COUTTS-TROTTER: Thank you. I will double check.

The Hon. COURTNEY HOUSSOS: The National Disability Insurance Agency [NDIA] seemed to say to us that they knew that they were there, they just could not get access to them. To be frank, that seems like a poor excuse. Is there anything that FACS can do to facilitate that access?

Mr COUTTS-TROTTER: I will check for you because we did come out of that hearing and people spoke to colleagues at the Commonwealth level, so let me come back to you.

The Hon. COURTNEY HOUSSOS: There was a recent report from the New South Wales Ombudsman's office, "Abuse and neglect of vulnerable adults in NSW—the need for action". That was a special report to Parliament under section 31 of the Ombudsman Act 1974. This confirms that from next year the Ombudsman will no longer investigate abuse and neglect of adults with a disability in the community. As many of these adults are not NDIS participants, or if they are and the allegations do not involve service providers, the new NDIS oversight body, the quality and safeguards commission, does not have jurisdiction on the issue. Given that the New South Wales Ombudsman will no longer be able to investigate this abuse and neglect and will no longer carry out its standing inquiry into abuse and neglect of adults with disability in the community, what is the department doing to ensure abuse of people with a disability does not continue behind closed doors?

Mr COUTTS-TROTTER: I go back to my earlier, hopefully factual, observation that the Government is considering the Ombudsman's report, the inquiry into elder abuse, and the recommendations of the NSW Law Reform Commission, all of which go to recommendations to better prevent and respond to the types of abuse that you are describing.

The Hon. COURTNEY HOUSSOS: You would acknowledge that the NDIS Quality and Safeguards Commission does not have the same jurisdiction as the New South Wales Ombudsman formerly used to have?

Mr COUTTS-TROTTER: Absolutely.

The Hon. COURTNEY HOUSSOS: And that it can only carry out issues relating to NDIS participants?

Mr COUTTS-TROTTER: Yes.

The Hon. COURTNEY HOUSSOS: And where the alleged abuse or neglect is carried out by a service provider? Is that the case?

Mr COUTTS-TROTTER: Yes. There is a trailing oversight role that I touched on earlier for the Ombudsman with FACS-funded or delivered disability services, but that is just in a transitional period. In one of the clearest editorials the *Herald* has produced in a very long period of time, it summarised the issues and pointed to the areas for consideration.

The Hon. COURTNEY HOUSSOS: Where can victims of abuse and neglect go if the NDIS Quality and Safeguards Commission does not have jurisdiction as it currently stands from 1 July next year?

Mr COUTTS-TROTTER: As I say, the Government is considering the recommendations of the series of inquiries.

The Hon. COURTNEY HOUSSOS: Have they been consulting with you in that consideration?

Mr COUTTS-TROTTER: Hopefully we are a useful public sector agency that provides advice.

The Hon. COURTNEY HOUSSOS: Are you familiar with the Human Rights Watch Australia report that was recently released about prisoners with disabilities?

Mr COUTTS-TROTTER: No, I confess I have not read it.

The Hon. COURTNEY HOUSSOS: Interestingly enough, they were not granted access to New South Wales prisons, it was based on Queensland and Western Australia, but it made a range of recommendations around the way that prisoners with disabilities should be treated. Have you or anyone in your agency undertaken to provide advice to the Department of Corrections on this report or is there any work being done in consultation with your department?

Mr COUTTS-TROTTER: I would need to take advice on that, but there are a range of transitional residual functions that were funded in the most recent budget, including an expansion of an existing program funded by Justice to link people, particularly with cognitive disability at high risk of either being victims or perpetrators of crime, with supports through the justice and court process. There is the cognitive disability diversionary trial that is taking place, again auspiced by Justice in Western Sydney, and there are a range of things that we are doing through the services around the Community Justice Program to try and tackle some of these issues. But the Justice agency, of course, has responsibility under the Disability Inclusion Act to articulate and then deliver on its own disability inclusion action plan, which may go to some of the issues in the report, but having not read the report I am not sure.

The Hon. COURTNEY HOUSSOS: And, like I said, it does not deal specifically with New South Wales prisons. But surely there will be lessons to be learnt from the Queensland and Western Australia experience and the recent article—

Mr COUTTS-TROTTER: I am sure that there is someone in our team that is looking at it, but I must confess, as I say, I have not read it myself.

The Hon. COURTNEY HOUSSOS: There was also an article in the *Monthly* that then talked specifically about the experience of New South Wales prisons or gave some case studies of some experiences and the increasing number of prisoners with disabilities such as intellectual disabilities and the lack of support that is provided to prisoners. Do the Disability Inclusion Action Plans have any ability to report back to this new department? Is that what you are running, Mr O'Reilly, the new inclusion unit?

Mr O'REILLY: It is part of my work, yes. The Disability Actions Plans are a requirement for all government clusters and local governments, as you know, and they do need to report. Our role in FACS is to collect reports. They all send a report to their cluster, annual reports as well, and we are currently undertaking a review of Disability Inclusion Plans across the sector.

The Hon. COURTNEY HOUSSOS: What does that review entail?

Mr O'REILLY: We have engaged the Sax Institute to work with us and a few other stakeholders. The Disability Council NSW is advising as well, and also the implementation committee across government.

The Hon. COURTNEY HOUSSOS: When is that due to report back?

Mr O'REILLY: We ought to see a draft of that report in early December and we will take that to the implementation committee across government to get some feedback.

The Hon. COURTNEY HOUSSOS: Will it be released publicly?

Mr O'REILLY: Yes, something will be released.

The Hon. COURTNEY HOUSSOS: Early in the new year?

Mr O'REILLY: I do not know when in the new year, but that is our hope.

The Hon. COURTNEY HOUSSOS: Give us a date.

Mr O'REILLY: I cannot give you a date, but we are keen to get the information out.

The Hon. COURTNEY HOUSSOS: Those Disability Inclusion Action Plans, are all of the government departments and clusters currently up to date? Are there any agencies that are outstanding?

Mr O'REILLY: No, they are all in place. They all start at slightly different times but they were all in place in the middle of 2016, I believe, and from 2017 local governments have had all their plans in place. So we have full coverage across local and State government.

The Hon. COURTNEY HOUSSOS: But you said they need to have an annual report to you.

Mr O'REILLY: Yes.

The Hon. COURTNEY HOUSSOS: Or it is part of the annual report of the department.

Mr O'REILLY: Each cluster needs to report on its inclusion activity in its annual report and they also report to us through our implementation committee as well, and the Minister for Disability tables a report in Parliament annually on the progress of those plans.

Mr COUTTS-TROTTER: And the Disability Council is now making a habit of inviting people like me along to come and talk and to be held to account for progress on our Disability Inclusion Action Plans.

The Hon. COURTNEY HOUSSOS: I am just going to come back to the Ombudsman's annual report. The annual report showed that complaints regarding disability services had increased 250 per cent since 2013-14 and reportable incidents had increased from 39 in 2014-15 to 1,150 in 2017-18. The Ombudsman struggled to keep up with these complaints—it is a dramatic surge in complaints. Eighty-five per cent of the complaints in other areas are assessed within 10 days, disability services complaints are only 55 per cent assessed in 10 days, and complaints take an average of over 80 weeks to finalise compared to 27 weeks for complaints about community services. Is this being considered as part of the response or is this being considered separately?

Mr COUTTS-TROTTER: The scope of the reportable incidents scheme now becomes the responsibility of the NDIS commission. I think, talking to the Deputy Ombudsman and getting his reflections on what we have seen in New South Wales since the legislation established it in 2015, his view was while there has been awareness, there has been disability rights training and support, there is a trusted mechanism by which people can make reports of concern, and a rise in the number of reported incidents is probably a function of that, quite what the first few years of experience of this new oversight and reporting framework means for the future and for the NDIS commission is something important that they will have to grapple with.

I know that there has been a lot of discussion around it between the commission and the Ombudsman. As to the time taken to deal with complaints, there could be qualitative elements to that that might explain why that is. Previous Ombudsman's reports have made reference to the need for a range of government agencies to develop capability in responding effectively to complaints and concerns from some people with disability, particularly intellectual disability, but it is really for the Ombudsman to provide more insight into that, I think.

The Hon. COURTNEY HOUSSOS: I wanted to just finally ask you about respite care, and this is something that has been raised with us consistently, that there has been a decrease in the amount of respite care that is available under the NDIS. Can you briefly outline what were the respite care arrangements prior to the introduction of the NDIS in New South Wales?

Mr COUTTS-TROTTER: I would need to take that on notice. We all read submissions and listened to testimony before the inquiry suggesting that there were occasions where families were able to get more out of home support for their person with disability, or the support coordination function was not as it needed to be to enable them to step back a little bit as a carer. I can provide a response on notice about how it used to work and I

can see what information we can gather at a high level from the NDIS about the features of some of the packages of support and the extent to which they plan for, fund and allow a period of so-called respite.

The Hon. COURTNEY HOUSSOS: This is a key issue and the change in the burden on carers is one identified consistently throughout the inquiry.

Mr COUTTS-TROTTER: Yes.

The Hon. COURTNEY HOUSSOS: The idea that parents were told that this is your child and you need to care for them and that is the expectation. It is inappropriate when these are parents who are caring for children with special needs who require a higher level of care, and the desperation they are driven to by that somewhat small level of respite being attacked even more.

Mr COUTTS-TROTTER: As you will recall the Government has invested to enable us to have the ability to work alongside the NDIA and help families receive and use more of their funded supports in their home and minimise the time they feel they need for their child to be out of the home; to work alongside and complement what is funded and provided for through NDIS packages. On occasions we have performed something of an advocacy role for a very small number of quite high needs kids and their families.

The Hon. COURTNEY HOUSSOS: It is welcoming to hear that someone is advocating on their behalf because we are hearing desperate stories about people in desperate situations who are told that their plan will not allow them to have care until the new year or it is running out. The small amount of respite they already had is running out. If you could provide that information that would be useful.

The CHAIR: The Hon. Paul Green has absented himself and surrendered his time. The Opposition has completed its questions. It is an early mark for us all, not because this is a unimportant area. The Hon. Dr Peter Phelps had a range of questions.

The Hon. Dr PETER PHELPS: I will put them on notice.

The CHAIR: Thank you for coming along. It is much appreciated. thank you for the great work you do.

(The witnesses withdrew)

(The Committee proceeded to deliberate.)