

REPORT ON PROCEEDINGS BEFORE

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

BUDGET ESTIMATES 2018-2019

DISABILITY SERVICES

CORRECTED

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

The Committee met at 3:30pm

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

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, 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 split 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 2014, 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.)