

SPECIAL COMMISSION OF INQUIRY
INTO
CHILD PROTECTION SERVICES IN NEW SOUTH WALES
Before The Hon James Wood AO, QC, Commissioner

At Courtroom 8A, John Maddison Tower
88 Goulburn Street, Sydney

On Friday, 29 February at 10.06am

Counsel Assisting: Ms Gail Furness
Also present: Ms Barbara Alvos
Solicitor to the Inquiry
Ms Pru Sawyer, Solicitor

PUBLIC FORUM
OUT-OF-HOME CARE

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ORDERS

1 THE COMMISSIONER: Welcome again to one of our public
2 forums. This clearly is a very important public forum, and
3 we are grateful for the number of people who are here
4 representing the various agencies.

5
6 Just in broad terms, we have so far as government
7 agencies are concerned representatives from DoCS, Health,
8 DADHC and the Children's Guardian.

9
10 So far as the NGOs are concerned, we have
11 representatives from Barnardos, Burnside, Wesley Community
12 Services, Centacare, Life Without Barriers and the AbSec
13 peak body for Aboriginal agencies.

14
15 So far as representatives groups, if I can use that
16 expression, we have representatives from the Association of
17 Children's Welfare Agencies, the Foster Care Association,
18 CREATE Foundation and the Foster Parents Support Network.

19
20 Clearly, we have a number of people who may want to
21 speak. What I'll try to do I think is to get those
22 representing the individual groups, so the three groupings,
23 to perhaps speak at the one time - not together, but in the
24 one sequence. Clearly, because of the number of issues
25 which are going to arise, some of you may have the same
26 views, and can I ask you please not to repeat what someone
27 else has said. Anyway, we will take it also in the form of
28 the issues as on the agenda.

29
30 Finally, could I say that the DoCS submission, which
31 is fairly lengthy, is available on our website and does
32 identify some of the issues. There are areas clearly where
33 it needs to be perhaps more focused on directions for
34 reform, but it does provide a general oversight of the
35 system as well as initiatives that are under way.

36
37 So perhaps we could start with the question of
38 placements, which is the first item on the agenda.
39 Research has found that multiple placements of out-of-home
40 care do harm a child's full potential for emotional,
41 physiological, intellectual and social development and can
42 adversely impact on children, leading to disadvantaged and
43 isolated young people with low self-esteem and mental
44 health issues.

45
46 The literature suggests that finding permanent stable
47 homes for children and young people contributes to

1 maintaining and developing lasting relationships and a
2 sense of belonging. The current statistics set out in the
3 facts sheet which is on our website show that about half
4 the 12,712 children and young people currently in care have
5 two or more placements, with nearly 16 per cent having four
6 or more placements. An important question therefore arises
7 as to a way or ways in which greater stability in placement
8 can be delivered and breakdowns in placement minimised.

9
10 In this respect, the Children and Young Persons (Care
11 and Protection) Act requires case planning to actively
12 consider whether or not there is a realistic possibility of
13 restoration to the child's birth parents - a matter we will
14 address as a later topic agenda - and, if not, a permanent
15 plan is to be prepared and implemented. Permanency
16 planning is therefore one way of seeking to place children
17 and young persons in environments which are more likely to
18 be stable and permanent.

19
20 Essential for its implementation therefore is an
21 examination of the way in which those that care for
22 children in out-of-home care are assessed, approved and
23 then have a child placed in their care. Proper assessments
24 include working with children checks and ensuring the
25 general suitability of those who offer themselves as
26 carers.

27
28 Additionally, there is a need for an exercise of sound
29 judgment in allocating a carer who can form a compatible
30 relationship with the child. The extent to which this can
31 be done in a timely manner and the possibility of adoption
32 considered, with the aim of finding a permanent carer as
33 soon as possible in order to minimise the number of
34 placements and to enable the child to form meaningful and
35 long-lasting attachments, needs to be addressed. The
36 permanency planning project that is being trialled by DoCS
37 accordingly merits assessment, and any views on its results
38 so far would be welcomed.

39
40 What we would like to do therefore is to address this
41 area of placements and perhaps get some views from those
42 who are concerned as to the strategies for reducing the
43 number of placements that children and young persons are
44 currently experiencing after being removed from their
45 families.

46
47 So we might go to the NGOs first and see whether they

1 have any views on this topic. If we could start maybe with
2 Barnardos. Again, can we get you for the record and for
3 the public to place your name on the record.
4

5 MS VOIGT: My name is Louise Voigt. I'm the CEO of
6 Barnardos. We are very concerned about permanency, and
7 I would suggest that permanency starts with a whole set of
8 standards. It doesn't stand alone isolated in an
9 organisation. So accreditation and the role of the
10 guardian, which I see as being fundamental to ensuring
11 greater levels of stability, is very important.
12

13 Permanency also starts with the first placement,
14 because permanency is achieved through a match of the carer
15 situation and also the child's psychological state. The
16 more disturbed a child is, the more likely it is that they
17 will have increasing impermanency in their placements.
18 Therefore, from the very beginning of the child coming into
19 care, it is critical to ensure stability whilst decisions
20 are being made about what is to happen to the child.
21

22 Currently, a child can go through very many placements
23 while they are in front of a court. Properly organised
24 intake placements or temporary care placements can minimise
25 this. My own agency has 98 per cent stability while a
26 child is in front of the court. We have about 50 children
27 a year going through this system and have done for the past
28 10 years.
29

30 This isn't rocket science. It means organising it to
31 achieve an objective rather than just recruiting carers who
32 do a multitude of different tasks, so that permanency
33 starts in the beginning; then there is proper permanency
34 planning and the recruitment of carers who understand that
35 they are coming forward to become permanent carers and that
36 the permanency may result in adoption in any of the cases
37 in which they become involved.
38

39 Matched placement is another very critical thing,
40 because whilst a carer may be able to maintain a
41 relationship with a particular child, it is often because
42 there is a match with their characteristics with those
43 characteristics of a child. This then, in terms of later,
44 may result in an adoption care plan. Again, the needs of
45 the child still need to be overwhelming in terms of this.
46

47 In terms of the impermanency, often children may need

1 to experience return home later in their adolescence to
2 stabilise a placement, so obviously the needs and wants of
3 a child are very important throughout the whole care
4 experience.

5
6 THE COMMISSIONER: Now, Burnside, are there any views
7 about problems with might have emerged, so far as you are
8 concerned, in getting placements which are not going to
9 break down?

10
11 MR DRIELSMA: I won't repeat all the things that Louise
12 has said, which I agree with. The only thing I would add
13 is that central to this whole process is relationship.
14 Centrally is the relationship the child or the young person
15 has in their care situation, and that cannot be
16 underestimated in everything we do. Certainly, the
17 accreditation standards do speak a lot about relationship.
18 They speak a lot about ensuring that young people
19 participate and have some control over their lives and have
20 some sense of understanding of what's going on, and these
21 things all make for permanency and create a sense of hope
22 into the future for young people. Otherwise, I would agree
23 with Louise.

24
25 THE COMMISSIONER: Wesley Community Services?

26
27 MS BURGHEIM: Theresa Burgheim from Wesley Community
28 Services. I think one of the things that we need to
29 address is the continuum of care. Children come into the
30 care system when they're removed from their families.
31 I believe that we need to start looking for long-term
32 placements immediately. At the moment, various CSCs will
33 not do that, because they say that it's pre-empting the
34 decision of the court.

35
36 Wesley has lots of carers who are prepared to take on
37 that task and are prepared to take on a child who doesn't
38 yet have long-term orders; they're prepared to take the
39 risk of the child being returned or they're prepared to
40 take that child long term. I think that's a desirable
41 method to go with, because it does mean that many of the
42 children in our programs have only one placement.

43
44 There is also the issue of children who are simply
45 unable to cope with the emotional demands of living within
46 a family. Once upon a time, these kids were cared for in
47 group homes. Now, that isn't an option. They're usually

1 adolescents, and I think that there are cases where the
2 best permanency plan for some of these - they could do
3 better in a less-demanding environment than the foster
4 family. I think many of these kids deliberately break down
5 their placements because they can't cope with the emotional
6 demands involved.

7
8 THE COMMISSIONER: Thank you. Centacare?

9
10 MS EAGLES: Maureen Eagles from Centacare Sydney. I agree
11 with my colleagues. One other point I would like to make
12 is that the removal time is often the time when no-one has
13 a lot of information - often. It can be different,
14 depending on circumstances, but it's often the case that
15 they are bound by only what they know. Our experience is
16 very much that the time of that first need for a placement
17 is often the time when you're trying to understand what is
18 the permanency decision that will be the best one for this
19 child. I think absolutely looking at that restoration
20 point, which we will come to later, is the critical
21 question to be determined.

22
23 I think because of that, we would also agree that the
24 carers that take on that responsibility of children in a
25 bridging type of placement need to be absolutely resourced
26 and supported. That actually means in terms of the case
27 load, the case ratio of caseworkers supporting those
28 placements needs to be at a level that can actually allow
29 them the time that they need.

30
31 Those carers and those placements - for them to stay
32 stable for what might be 6 to 12 months, which is what we
33 know now, the children are often in trauma, there's a lot
34 of trauma associated, there are a lot of behaviours, so
35 those carers are doing a lot of work and a lot is
36 happening. I think gathering the information that you need
37 in as timely a way as you can, recognising that that type
38 of care is quite specialised in terms of its notion of
39 holding a child whilst permanency is being decided and
40 supporting those carers in those placements to a high
41 degree is necessary.

42
43 THE COMMISSIONER: Mr Dunn, Life Without Barriers?

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45 MR DUNN: Ray Dunn, Life Without Barriers. I think there
46 are three components to the question. One is properly
47 preparing the carers. Carers obviously have to understand

1 that the kids coming in have a history of trauma, of
2 failure and of abuse and hurt, and to develop a trusting
3 relationship takes time. Often, the breakdown occurs
4 during the early periods when young people are testing out
5 the carers and the care situation, so carers really have to
6 understand that journey and what that entails.

7
8 Secondly, the matching, as has been said. And
9 thirdly, key is the support. Carers need somebody with
10 them and on call 24 hours a day, seven days a week. If
11 they need somebody late at night, then somebody has to be
12 there. They actually need people and an organisation
13 walking the journey with them. They won't do it alone.

14
15 THE COMMISSIONER: Thank you. So far as representative
16 groups are concerned, AbSec probably falls into that
17 category, but do you have any views, Mr Pritchard, in
18 relation to placement?

19
20 I know that there are very different and important
21 issues relating to indigenous children and perhaps a real
22 lack of community out-of-home care organisations, which we
23 will come to later, but do you have any particular views
24 about placement?

25
26 MR PRITCHARD: Bill Pritchard, executive officer of AbSec.
27 There are a couple of issues that we really consider
28 important. One is the placement of children while matters
29 are before the court. They are often placed with
30 non-Aboriginal placements, and by the time the court
31 processes are finished, the child is actually I suppose
32 emotionally attached to the non-Aboriginal placement,
33 thereby making it less likely that the child will be
34 permanently placed in an Aboriginal placement.

35
36 This is often because of the lack of suitable
37 Aboriginal placements. We think we can demonstrate that
38 when appropriately placed, with an Aboriginal agency
39 supervising their entire placement, their overall
40 lifestyles and everything, we can demonstrate that
41 Aboriginal children are getting better outcomes regarding
42 stability with those placements. There's less placement
43 breakdown.

44
45 Just on permanency planning, we have recently held a
46 conference for Aboriginal foster carers, and Aboriginal
47 foster carers are adamant that they want stable placements

1 for Aboriginal children. They don't want the children
2 moved around, even back with other family members. They
3 want the child to be stable in the placement they are
4 placed in.

5
6 THE COMMISSIONER: The other representative body is the
7 Foster Care Association.

8
9 MS BEACH: Mary Jane Beach from the Foster Care
10 Association. I agree with what has been said. I would
11 like to emphasise that what is needed from a carer's point
12 of view to maintain that relationship is full information
13 at the time of placement, or as soon as possible, which
14 frequently doesn't happen, and also that the support, when
15 carers request support, is actually given. I find that
16 often it's a crisis point before the help is forthcoming,
17 and by that time there is already a rift in the
18 relationship. Carers ask repeatedly for support. They
19 don't get it. Then by the time they do get it, the
20 relationship is already damaged and the placement is
21 largely doomed.

22
23 The other thing I have seen with placements is that
24 it's a tricky balancing act - some children in care learn
25 that if you are not getting your own way and you make an
26 allegation, you'll get moved, and this is not in the
27 child's best interests. Obviously, everybody has to listen
28 to allegations, but it's not in the child's best interests
29 always to be moved. Sometimes that needs to be
30 investigated, mediated, whatever needs to happen, but not
31 constantly to move children every time they make an
32 allegation. They pay the penalty.

33
34 THE COMMISSIONER: I think it's common experience that for
35 many of these children, because of their background, they
36 have learnt some street skills and they are very quick to
37 respond to something they don't like in the Foster Care
38 Association, such as being brought into line if they are
39 misbehaving, with an allegation. That's a fair comment, is
40 it?

41
42 MS BEACH: It is. My children would have left home
43 sometimes if they could have done. I have seen the case of
44 a 12-year-old boy making an allegation that he was being
45 treated differently to the birth children. Well, they were
46 18 and 21. Yes, he was being treated differently. He was
47 removed from that placement and ended up on the streets.

1 It's a tragedy.

2

3 THE COMMISSIONER: Part of the problem is this: if a
4 complaint is made about you and it's not substantiated,
5 that is often associated with a finding of lack of
6 evidence. However, the question mark still remains against
7 that foster carer that the allegation has been made and is
8 left in the air.

9

10 MS BEACH: Yes, that's true, and of course it has to be
11 investigated.

12

13 THE COMMISSIONER: It has to be investigated, but you
14 say --

15

16 MS BEACH: The child shouldn't automatically be removed.
17 It should be processed, and it would help the child to work
18 out how to work things out.

19

20 MS FURNESS: It would depend on the nature of the
21 allegation, wouldn't it?

22

23 MS BEACH: Of course, and, yes, in some circumstances, of
24 course they should be removed, but not always.

25

26 THE COMMISSIONER: Thank you. The Association of
27 Children's Welfare Agencies, if I could call it ACWA from
28 here on.

29

30 MR McCALLUM: Andrew McCallum from ACWA. The practice
31 issues I think have been canvassed fairly well from the
32 organisations, but I think there are some other issues
33 associated with what is pushing the supply of kids coming
34 into out-of-home care. When you see a 27 per cent increase
35 of kids coming into out-of-home care, is it realistic to
36 think that we are going to have the trained staff and
37 trained personnel to actually deal with that in the long
38 term? I think that will be one of the issues, and I think
39 we have to reflect on what is driving the supply end of
40 this.

41

42 I think the continuum care issue is another one where
43 we have a hierarchy of care options. I don't think we
44 place enough emphasis on residential care as being a first
45 option for some kids, and I think it is the expediency
46 issue of making sure that a care plan in place very quickly
47 and that there is some transition between the pre and post

1 court process, because that is where multiple placements
2 will occur.

3
4 I am surprised to hear that 46 per cent of kids have
5 only had one placement. I would like to know how that
6 figure was arrived at, because I think the nature of kids
7 coming into care means that multiple placements are
8 probably more the norm than the exception. Some of the
9 organisations here have spoken about how they try to
10 minimise that process, but minimising is not the same as
11 doing away with it. When we are talking about kids who are
12 coming into care, who are traumatised, and we know that it
13 actually is trauma - we have a whole essentially voluntary
14 network out there that is expected to look after some very
15 damaged kids.

16
17 We have to look at what support we give foster parents
18 in this process and what training and what ongoing support
19 that means, because we are really talking about vulnerable
20 kids in vulnerable situations, and sometimes we can't make
21 sure that is not left to people who don't have the skills
22 or training or the support to carry that out. The supply
23 issue is one that I believe is what's driving why are there
24 50 per cent more kids coming into the out-of-home care
25 system in the last two years.

26
27 THE COMMISSIONER: Thank you. We'll come back to the
28 statistics when we ask DoCS that question, but I suspect
29 it's an inevitable result of all statistics that they don't
30 necessarily paint the true picture, and it may well be that
31 the relatively low figures are attributable to the fact
32 that there are a number of placements which are very
33 short term, that is, more than 14 days, which ends up
34 skewing the result. But we can clarify that in a moment.
35 The CREATE Foundation, please.

36
37 MS ELSTON-SMITH: Daryn Elston-Smith from the
38 CREATE Foundation. The only point I would like to pick up
39 is the point that Paul made earlier about the participation
40 of children and young people, and I just want to reiterate
41 and stress the importance that the voices of the children
42 and the young people themselves are heard at every point
43 along in the process of all placements.

44
45 THE COMMISSIONER: Now, there is a charter of children's
46 rights, or charter of rights for children, in out-of-home
47 care. I'm not sure to what extent its existence is known

1 or respected, and having read it, there seem to be a number
2 of aspects of it which are really neglected. Does that
3 charter achieve anything? Is it a meaningful document? Is
4 it recognised? I expect from what you say that possibly
5 the children's charter is observed and saluted in passing
6 rather than implemented. Is that a fair comment, or not?
7

8 MS ELSTON-SMITH: My response to that would be that while
9 things are enshrined in policy, sometimes that is not
10 easily translated into practice.
11

12 THE COMMISSIONER: Thank you. The Foster Parents Support
13 Network.
14

15 MS O'CONNOR: Sue O'Connor from the Foster Parents Support
16 Network. What carers are actually telling us is that they
17 need to be informed right from the word go, from when the
18 child is placed. They also want to be party to the
19 proceedings so that they know what's happening, they know
20 each step they're taking. They want priority to health and
21 education for these children, because most of them come in
22 needing all this medical treatment and also as far as
23 education is concerned. They do need the support and they
24 do need the ongoing training so that they can help these
25 children to the best of their ability.
26

27 THE COMMISSIONER: Can I just ask you this question: in
28 this case where restoration is also being considered by
29 DoCS and you have the child in care pending that decision,
30 are foster carers routinely spoken to as to their
31 impression as to whether restoration of that child is
32 possible?
33

34 MS O'CONNOR: Only in some cases. It should be in all
35 cases, but in some cases, yes, they are actually part of
36 the restoration process, so they're informed and they're
37 part of the contact, et cetera, so that they actually get
38 to report back on how things are going. But that's not in
39 all cases.
40

41 THE COMMISSIONER: Can I just ask the other people I've
42 spoken to so far whether they agree with that view. Does
43 anybody find that their foster carers, for example, are
44 routinely involved in restoration decisions, or are you
45 just told that the child is being taken back to their birth
46 parents?
47

1 MS BURGHEIM: I think that would more commonly be the
2 norm. When children are under the court, DoCS has casework
3 management, and it's my experience that we're consulted
4 very little. Even the agency is consulted very little.
5
6 MS VOIGT: My experience is my agency has to very strongly
7 advocate to have either the agency's point of view heard
8 or, most particularly, the carer's point of view heard and
9 their experience acknowledged.
10
11 THE COMMISSIONER: Are there any other views on that?
12
13 MR DRIELSMA: We've mentioned this in our agency
14 submission - making a place for family conferencing as a
15 powerful tool for ensuring that all parties participate,
16 have a voice and own the decisions that are made, and
17 restoration is one such.
18
19 THE COMMISSIONER: Yes.
20
21 MS BEACH: I would just like to add, we have had times when
22 the carers would have liked to have been involved in the
23 court process and have been told that that's not allowed,
24 and that's not actually true. So that's very
25 disappointing. It would obviously be in the child's best
26 interest if the carer could improve reports back on how
27 restoration is going at the stage of the child before and
28 after access. I would imagine that would be very helpful
29 to the person making the decision. So it's quite
30 disappointing.
31
32 THE COMMISSIONER: I think you've also drawn to our
33 attention at a previous meeting with you that there's a
34 concern that foster carers are not involved in casework
35 meetings.
36
37 MS BEACH: That's right. That's one of our major issues,
38 that by excluding carers from having support at case
39 conferences, it means that the carers are not able to
40 access that expertise about how the process actually works.
41 Often carers haven't had anything to do with the process
42 until location. I find it so ironic that that decision
43 would be made at the same time as a partnership agreement.
44 I find that quite bizarre. Certainly carers have quite
45 strong views about not being able to support the person at
46 case conferences and feel that they and the children are
47 being disadvantaged.

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THE COMMISSIONER: Thank you. Are there any other views about the involvement of the foster carers in whether a placement is going to be permanent or going to be removed or restored? I think we had some views that foster carers are very often not involved as much as they would like.

MR PRITCHARD: I'd just like to back up Paul and what he said about family problems. It's especially important for Aboriginal people and communities, having regard to the extra large family groupings of Aboriginal people. It is exceedingly important that the community is consulted as well as the direct family as to what is best for the child.

THE COMMISSIONER: Thank you. We have Dr Judy Cashmore here. I don't know if there is any research in this area which you would find helpful to bring to our attention. My understanding is, and DoCS have addressed this in their submission, that there is a paucity of research about out-of-home care generally.

DR CASHMORE: Yes, that's true. Judy Cashmore, University of Sydney Law and Centre for Children and Young People at Southern Cross University. That is one of the major problems, that we have very little information or very little reliable research in Australia that actually tracks children through out-of-home care. So we don't really know very much about the long-term outcomes. We know very little about those who enter not for the first time but for the second, third or fourth time. Those are the kids, I think, that are really at risk, because they're the ones that bounce in and out. There's quite a lot of evidence in relation to behavioural problems that that both predicts placement breakdown, but is also a result of placement breakdown. So you tend to get into a spiral in that case.

So there are a number of things that the research suggests perhaps could be done in terms of helping carers cope with behavioural problems, know how to manage them, ensuring that children actually can stay in school, because when children are excluded from school, it throws much more back on the carers. That also suggests that maybe there should be more thought about shared care options, and there are a couple that are now being put into place - for example, BoysTown and their during the week school, specialist school, process returning to home or to foster care on the weekends. The other option, of course, is

1 child care, support with very young children. But it's
2 also usual trying to keep children in their schools when
3 you change placements. So you really want to minimise the
4 number of changes in their lives and having some
5 assessments.

6
7 But the lack of the long-term follow-up and knowing
8 where these children end up and what the outcomes are for
9 them, especially in Australia, is quite critical, because
10 we rely on overseas research, where the circumstances are
11 somewhat different, and in fact the findings of those
12 longitudinal studies overseas are quite mixed. So you get
13 some that say that children are better off if they're
14 returned home, when you look at them five, 10 years down
15 the track, if they go that long; others that say that
16 they're better off if they stay in care. We really don't
17 know what the circumstances are and for which subgroups of
18 children that might be the case.

19
20 If I could just add a comment about the counting of
21 the number of placements. I think that does reflect
22 counting rules, and those counting rules are also what the
23 Australian Institute of Health and Welfare uses. If you
24 look at their counting rules, it means that where a child
25 exits care more than once during the year, the length of
26 time in care and the number of placements are calculated
27 only for the first exit. Secondly, if a child returns to a
28 previous placement, that's not counted. In the child's
29 experience, though, I'm sure that going back and forward is
30 a meaningful and significant thing for them, and I would
31 totally agree with the comments about it's all about
32 relationships and feeling cared for.

33
34 THE COMMISSIONER: We might go straight to DoCS for the
35 moment. There are a couple of issues which clearly arise.
36 The statistics as to the number of breakdowns or placements
37 I think are probably important too, because certainly the
38 information we're getting in the way of submissions
39 suggests that a lot of the children who have been in care
40 have had very many more than two placements, or, indeed, in
41 some cases we have children in up to 16 and 20 placements.
42 Is there something about the statistics which makes those
43 bare figures which I mentioned previously a somewhat
44 imprecise reflection of the true circumstance? Yes,
45 Dr Izmir.

46
47 DR IZMIR: Dr Gul Izmir from DoCS. In terms of the

1 statistics, there are a number of factors that impact on
2 that. I think Dr Cashmore explained very clearly the issue
3 of the counting rules. We are bound by the counting rules.
4 Otherwise our citizens have no comparability to the
5 statistics elsewhere. As the counting rules are currently
6 structured, obviously you do have a different number of
7 placement breakdowns compared to the ones of children being
8 in and out of placements.

9
10 There's the issue of multiple entries into care within
11 a year or, in addition to that, there's the issue of entry
12 into care. So every child that has entered into care this
13 year and stayed in care for a couple of years and then has
14 gone back and come into care again, obviously they do count
15 as different numbers of placements, placement breakdowns.

16
17 Another issue that impacts on the statistics is
18 obviously the validation of accuracy-type issues. We do
19 know, and we have expressed in our submission as well, that
20 there are some data issues associated with statistics which
21 we are trying to improve, but the remediation or the
22 cleaning up of the data, while it leads to improvement of
23 the statistics, there may be some issues still associated
24 with it.

25
26 THE COMMISSIONER: Thank you. Now, the other thing, DoCS
27 has been piloting - perhaps "triallying" is a better
28 expression - the permanency planning project. Ms Gallard,
29 I wonder if you could explain to us what that is and what
30 its impact has been so far as DoCS can measure it at the
31 moment.

32
33 MS GALLARD: Annette Gallard, Department of Community
34 Services. The Permanency Planning Demonstration Project
35 was initiated in 2006, but now we're moving to have all
36 community service centres doing permanency planning.

37
38 Permanency planning is focusing on children who are in
39 the 0 to 2 age group initially, because of the
40 developmental importance of those early years, and aiming
41 to get a permanent decision about the future of that child
42 within the first six months of their time in care. That
43 decision may be restoration to the parents, it may be
44 remaining in permanent care, it may be with foster carers,
45 placement with relatives, it may be adoption. We have
46 evaluated the first stage of the permanency planning
47 demonstration project and currently we have 200 children

1 who have had permanent outcomes coming out of that project,
2 and we will have all on by the beginning of 2009.

3
4 THE COMMISSIONER: What has been the result so far as
5 breakdowns in placement?

6
7 MS GALLARD: I have figures for the outcomes, but I don't
8 have figures for the number of placement breakdowns. The
9 evaluation showed that the children who were in the
10 permanency planning group had fewer placements than the
11 children who were in a control group from community service
12 centres participating in the demonstration project.

13
14 THE COMMISSIONER: So far as the figures of breakdowns or
15 placements are concerned, has any comparison been made as
16 to the respective frequency of placement breakdowns between
17 those children who are in foster care via the NGOs and
18 those who are in DoCS-arranged out-of-home care?

19
20 DR IZMIR: I do not recall any studies that we have done,
21 but I would be happy to go back and check and also see
22 whether it can be done.

23
24 THE COMMISSIONER: Thank you. We'll look later in this
25 forum at the question of the potential shift or move of
26 some more of the work to the NGOs. If there is a marked
27 disparity between the placement breakdown rates between
28 NGOs and DoCS care, that could be an important factor to
29 take into account, so we'd appreciate that.

30
31 So far as DADHC is concerned, you have a limited
32 number of children under your wing who obviously have
33 serious disabilities. Is DADHC doing anything to try to
34 maintain the stability of the placement of those children,
35 because I would have thought it is particularly important
36 for children with disabilities to have at least some
37 stability.

38
39 MR O'REILLY: That's right. For 06/07 we have 97 children
40 and 68 young people with a disability who are in either
41 court-ordered or voluntary out-of-home care. What we do
42 with regards to the court-ordered movement is we work with
43 DoCS with a case worker, we assign a case worker and
44 priority for those children with disabilities. We also
45 work with the families themselves and the care worker with
46 regards to an individual plan for that child. I think the
47 point made earlier on about work force capacity is a big

1 issue, and also the availability of appropriate care
2 workers or carers who are willing to take on the
3 difficulties associated with severe and profound kids with
4 disabilities.

5
6 Our objective, of course, is, in all cases, to attempt
7 to keep the child with the family. To do that, we offer a
8 whole range of services there - respite therapy, day
9 programs, community participation programs, and that sort
10 of thing. Nevertheless, the numbers, although small, do
11 represent a significant difficulty for either DoCS or us
12 and, indeed, the NGO sector.

13
14 THE COMMISSIONER: Are there any particular strategies,
15 however, which are available, used, to try to maintain
16 stability of those children who are placed in out-of-home
17 care effectively, under your auspices?

18
19 MR O'REILLY: Yes. What our figures show is that in the
20 DADHC-operated group homes we have 17 children and 17 young
21 people. In the NGO sector, for the funded-group homes
22 there are 80 children and 68 young people, and then other
23 types of accommodation services, which account for a total
24 of 54 people, so that's about alternative family
25 placements. And, again, there's a case worker assigned to
26 work with those families or those care workers, individual
27 planners, behaviour planners, that have developed.

28
29 With regard to the prevention side of things for
30 families, we also work with the family in an attempt to
31 make it easier for that child to be able to stay with the
32 family. Sometimes it just becomes too much for the family
33 completely and they voluntarily give up the actual 24/7
34 care of the young person. Nevertheless, I don't think any
35 family makes that decision lightly. It's a pretty tough
36 call for any family.

37
38 THE COMMISSIONER: Thank you.

39
40 MS FURNESS: Dr Izmir, can I ask you whether data is kept
41 by the department on what happens to children who have been
42 in out-of-home care and are then restored to their
43 families?

44
45 DR IZMIR: We do know whether the same child has been
46 restored and then comes back into out-of-home care. At the
47 moment the data on the outcomes in terms of, you know,

1 whether they have completed their education or their health
2 assessments is not very robust. But one of the projects
3 that we have currently which has been developed in
4 conjunction with the NGOs is what we call the out-of-home
5 care minimum data set, and we have commenced on a paper
6 collection at the moment which is getting those kinds of
7 outcomes in which children have been suspended from school.
8 It's also looking at whether they've had their medical
9 assessments. We do hope to turn that into an electronic
10 data collection so that we will be able to have long-term
11 statistical information on the outcomes for children and be
12 able to report it as well.

13
14 One of the other things we are working on is a
15 longitudinal study of children in out-of-home care and we
16 are working with national and international experts on
17 that. Again, that will include some further design of data
18 collection as well as data analysis and further research,
19 detailed research, into children so that we do have a much
20 better understanding of the outcomes and issues and the
21 reasons for children coming into out-of-home care to
22 address the sorts of research deficiencies that Dr Cashmore
23 was talking about.

24
25 MS FURNESS: Are you able to tell us the number or
26 percentage of children who, having been in out-of-home care
27 and then restored, subsequently returned to out-of-home
28 care?

29
30 DR IZMIR: Not off the top of my head, unfortunately,
31 because it's not something that we have reported so far.
32 But, again, I can go back and see whether we can extract
33 that data.

34
35 MS FURNESS: Thank you.

36
37 THE COMMISSIONER: Ms Boland, the Children's Guardian, do
38 you have any views on this question of trying to secure
39 greater stability in placements?

40
41 MS BOLAND: Kerryn Boland, Children's Guardian. Just
42 really to add to what people have said already and just to
43 clarify, we have a set of standards which go to planning
44 and permanency planning and early planning and planning for
45 long-term placement under our current standards. When we
46 look at accrediting agencies, we look at both their
47 policies and procedures to see that they have systems in

1 place to ensure that those things can happen. Most
2 importantly, we look at their practice, that they are
3 achieving what their systems set out to do before they're
4 accredited.

5
6 In relation to participation, which was raised
7 earlier, it is something that we look at regularly as part
8 of our standards, but it is also part of our case audit
9 system which we undertake annually, and those results would
10 suggest that there is further improvement for the
11 participation of children, young people.

12
13 THE COMMISSIONER: Now, health. I'm not sure if you have
14 an interest in this topic - you obviously have an interest,
15 but whether you have a direct involvement in the placement
16 situation. Any views you have would be appreciated.

17
18 MS LYNCH: I guess these are things that should be worked
19 out at the start, the importance of long-term attachment
20 and the impact that different placements can have on the
21 child. From health's perspective, I guess the things that
22 we think assist in maintaining of placement are the
23 education and support of the foster carer, the family or
24 where the child is, because we know that even with normal
25 parenting it can often be extremely difficult. When you
26 have a child with often physical health problems and mental
27 health problems, challenging behaviour or emotional
28 problems, the skills needed actually to deal with that on a
29 day-to-day basis are really quite advanced. So there is,
30 I guess, that education and support to their carer.

31
32 Sometimes people think that an individual therapy
33 might work. That's not complex enough for this population
34 either. It's the integrated approach to care. So health
35 does have a role to play in that support to the family, but
36 it needs to be a part of an integrated spectrum of care
37 across education, which was mentioned before, DoCS and the
38 carers.

39
40 THE COMMISSIONER: Thank you. I think we can probably
41 move on to the second topic, which is a critical one, of
42 recruiting, training, supporting and retaining carers,
43 including kinship, relative carers as well as foster
44 carers. Just by way of introduction, can I indicate that
45 the ageing of the population, the entry of women into the
46 work force, among other things, has resulted in fewer
47 foster carers being available. The DoCS submission

1 recognises that this is a problem arising from the
2 significant increase in demand for out-of-home care
3 placements and from the fact that the \$617m enhancement in
4 2002 was based on the current level of demand without
5 provision for what has now become a 37 per cent increase in
6 demand already. Innovative strategies are obviously needed
7 to attract and retain appropriate people and to train them
8 in a difficult and important job of caring for children,
9 most of whom, of course, have already been damaged as a
10 result of earlier neglect or abuse at the hands of their
11 parents.
12

13 The inquiry, I'm afraid to say, has received a large
14 number of submissions from foster carers critical of what
15 they say is a disrespectful and inconsistent way in which
16 they say they have been treated by DoCS. Failure to return
17 telephone calls and letters, months taken to receive
18 payments or approvals for medical treatment, allowances
19 being cut off because of a failure to review the case,
20 unreasonable contact requirements and lack of continuity in
21 relationships with case workers because of staff changes
22 have been among the issues addressed in these submissions.
23 Some foster carers have even reported that experiences of
24 this kind have led them to walk away from this form of
25 service.
26

27 To the extent that these complaints reflect a general
28 experience or even a common experience, questions do arise
29 as to how they can be addressed and whether the existing
30 carer support system implemented by DoCS and which some of
31 the other agencies share or the complaints unit of DoCS
32 provide an adequate response. I think this is clearly a
33 matter of some concern in an environment where the foster
34 care pool seems to be shrinking. It raises a question,
35 I guess, as to whether carers are being made to feel valued
36 by DoCS or kept sufficiently informed about the children in
37 their care.
38

39 Questions therefore arise as to how recruitment can be
40 encouraged, how foster carers can be retained in the
41 system, whether foster carers should be paid more, whether
42 kinship or relative care, which I gather equates to about
43 50 per cent of the out-of-home care population, and even
44 more for indigenous children, should be encouraged and
45 better rewarded, whether greater support for carers should
46 be provided and whether voluntary care should be encouraged
47 or whether it produces its own problems. Questions do

1 arise, I guess, particularly in relation to voluntary care
2 in relation to the availability of Centrelink payments or
3 support care allowances for those who take this work on.
4

5 So I guess this is a major issue, which we have
6 probably hinted at so far, but can we go around in the same
7 sequence, beginning with the NGOs, in relation to what can
8 be done in this area, because unless something is done,
9 then there is not going to be ability to cope with all of
10 the children who are coming into care, which raises
11 horrendous problems potentially for DoCS in intervening in
12 crisis situations, which is bad enough at the moment
13 because DoCS has at the moment, because of the demand, the
14 need to focus on crisis situations. So it is a pretty grim
15 picture unless addressed urgently.
16

17 Ms Voigt, do you want to be first off the mark?
18

19 MS VOIGT: Recruitment is only one part, of course. As
20 you were saying, it's retention. Recruitment needs to take
21 place and a full understanding of the carer in the
22 recruiting process about what they are recruited for, so
23 that they know whether or not, for example, they are being
24 asked to look after an adolescent until perhaps two or
25 three years, whether or not they're looking at permanent
26 care for a child who may be younger and for whom later
27 adoption may be an issue, whether they are looking after a
28 very disturbed eight-year-old, or, indeed, whether or not
29 they're going to be temporary carers who will be having a
30 great deal to do with families as the children are in front
31 of the courts. So the first point is articulating the sort
32 of care that you are recruiting carers to undertake.
33

34 The second is to make sure that they are financially
35 rewarded. There has been research elsewhere in the world
36 that shows that the number of carers is related to the
37 amount of funds that are available. Many carers have to
38 end up spending their own money on the children in their
39 care, and one cannot expect women perhaps not to take a
40 part-time job but to do the job which they are really
41 qualified to do, which is to look after children, unless
42 they are going to have some recompense. It is a difficult
43 and demanding 24-hour job.
44

45 The next part is to make sure that the sort of support
46 that they receive is appropriate. I was involved in
47 discussions with DoCS about the support system and

1 I advocated very strongly that, rather than a support
2 system separated from placement, it be the caseworkers who
3 are involved with the placement, because the sort of
4 support carers need is related to the children in their
5 care as well as administrative things such as making sure
6 the allowance is coming regularly. It is about
7 relationships, and carers need respect. They need to be
8 involved in case reviews.

9
10 We run a system called Looking after Children, which
11 demands that carers get the same information as everybody
12 else in the system, and our experience of carers is that
13 they very much value this. Carers need ongoing support and
14 involvement at each stage.

15
16 MR DRIELSMA: To add to that, this issue of valuing
17 carers - I mean, it does require relationships. It
18 requires good, strong relationships between the care agency
19 and the carer, that is, the caseworker at the care agency.
20 It is quite a personal relationship that needs to develop,
21 just like the relationship between the caseworker and the
22 child needs to be strong. This has implications then about
23 case loads, and case loads have implications about money,
24 the financing and funding of services.

25
26 We are on the verge of an out-of-home care role now,
27 and a lot of NGOs in the room would be waiting to see how
28 that pans out. We are quite hopeful that a higher level of
29 viability and quality will come out of the way things are
30 funded under that roll-out.

31
32 A lot of us have had to fight quite hard for as low as
33 1 to 12 caseworker to child ratios in our agencies. If you
34 think about that, that probably means between two and three
35 hours per week per placement that a caseworker can devote
36 to a placement, and that two or three hours a week then has
37 to transform into a good, strong relationship. You
38 wouldn't want higher ratios than that.

39
40 THE COMMISSIONER: Wesley?

41
42 MS BURGHEIM: I think maybe the case load thing is
43 probably the major difference between NGOs' relationship
44 with their carers and the department's relationship with
45 their carers. Most NGOs aim for a ratio of one worker to
46 ten cases. I know of a DoCS program where there were two
47 casework managers, four caseworkers and 200 children. We

1 can't expect good outcomes when there is that sort of
2 ratio. It's just impossible.

3
4 Another thing that we need to look at is a change in
5 attitude towards carers. Systemically, there is an
6 attitude of, "They're nice people who are going to look
7 after children. They do the work." The caseworkers do not
8 do the work. The carers do the work, and we need to
9 respect that.

10
11 As to the allowance, rather than an allowance to pay
12 for things like a child's clothing and whatever, carers
13 should be paid on the basis of their training and their
14 experience, so that we don't have a situation where a carer
15 takes on a very difficult child, does an enormously good
16 job and then gets their allowance cut because the kid no
17 longer is a cat 2.

18
19 We have to stop seeing them as nice volunteers and
20 start seeing them as people who actually do this work, and
21 we support them.

22
23 THE COMMISSIONER: Centacare?

24
25 MS EAGLES: We reiterate Theresa's comments. Just two
26 other comments. I think recruitment is a huge issue.
27 There's an increased number now of providers of foster
28 care, and there's a limited pool of people, for us all to
29 be actually saying, "Please come and see something
30 different about my agency." So I think there's a
31 difficulty there that we're all facing, when in fact it's
32 really around how big is the resource and we're all wanting
33 to do this work, so if there is some way of us looking at
34 how we can join together, that would be good. I'm not sure
35 what that is.

36
37 In terms of looking at the role of carers, we speak
38 the words "in partnership" a lot, but I think we're still
39 having to do a lot of work absolutely making that a reality
40 with carers, and I agree with Theresa, I think that
41 understanding and giving credence to the role - I think as
42 workers, we need to be engaging in that process more with
43 carers.

44
45 Some of the ways I think we can try to do that is
46 actually by listening to their voice in looking at
47 matching, so whilst we also, like Barnardos, recruit and

1 approve carers on the basis of the type of care they want
2 to provide or feel they are most comfortable providing at a
3 point in time, it's just not a matter of, "I'm free and a
4 child's there." It absolutely has to be about working with
5 the carer, looking at the information, do they feel that
6 will work for them, because they will know and they know
7 their own families, so they have to have a voice in that.
8

9 Just a final point on relative kinship carers -
10 respecting the history that they hold and the bond they
11 hold with a child coming into their care needs to be
12 factored in when looking at supporting them and a placement
13 being made. But I think also trying to work through some
14 complexities that they have that another placement may not
15 in terms of the fact that they do have a relationship that
16 could be then in conflict because of that relationship -
17 I think it's a difficult role for the relative kinship
18 carers and one that we have to give a lot of time and
19 attention to to make sure that it works well.
20

21 THE COMMISSIONER: Mr Dunn?
22

23 MR DUNN: Life Without Barriers has some 900 carers in New
24 South Wales and nearly 2,000 across Australia and I think
25 our success has really come about because we split the
26 roles. We recognise and believe that we are in the
27 business of looking after kids, but that necessarily didn't
28 associate with looking after carers, and we very early
29 split the roles of case management and carer support, and
30 that has been key to our success in recruiting and
31 maintaining carers.
32

33 The comments about relationship with the organisation
34 are very real and very pertinent. You need a strong
35 relationship with your carer. They need to trust you and
36 they need to have workers who are there for them. The
37 difficulty always has been for DoCS in managing both those
38 competing interests at the same time, and NGOs are in
39 a position where we can split the roles and put in real
40 supports for carers. That has been our experience.
41

42 THE COMMISSIONER: Yes, Mr Pritchard?
43

44 MR PRITCHARD: I suppose this question is very important
45 for Aboriginal people, because, as you know, a third of all
46 children in care are Aboriginal. Of that third of the
47 children in care, only 5 per cent are currently supervised

1 by Aboriginal agencies. That is set to grow to 10 per cent
2 of all those children over the next three years under
3 capacity building. That will still leave 90 per cent of
4 children supervised by non-Aboriginal agencies.

5
6 I think that's important when you work out about how -
7 the number of children in non-Aboriginal placements as
8 well, because DoCS and, with respect, NGOs are going to
9 always struggle to recruit Aboriginal foster carers, having
10 regard to the past history of welfare in New South Wales.
11 They can't fully engage with Aboriginal people.

12
13 Aboriginal foster carers are saying they're being
14 treated as second-class carers. That's what we have heard
15 from a study we're doing, and with the Aboriginal
16 grapevine, the word gets out, "You wouldn't want to be a
17 carer, because you're treated very poorly", so it makes it
18 even more difficult to recruit Aboriginal foster carers.
19 It's imperative that we recognise that and start treating
20 our foster carers for the work that they do, as was
21 previously said. It's not about a volunteer service.

22
23 In that study we're doing, we've taken in our
24 Aboriginal agencies as well, and the Aboriginal foster
25 carers that are supported by Aboriginal agencies are saying
26 that they feel fully supported, and that is why our
27 agencies we believe are able to attract Aboriginal foster
28 carers. We hope to expand it to the NGO sector to see what
29 their opinions are on Aboriginal foster carers who are
30 supervised by non-Aboriginal NGOs down the track.

31
32 THE COMMISSIONER: Now perhaps the peak bodies or
33 representative groups - ACWA?

34
35 MR McCALLUM: I think the issue of relationships is a
36 critical one. But I think also in our submission we want
37 to raise the possibility of the transfer of out-of-home
38 care services across to the non-government sector. I think
39 that fits into the relationship issue, because I think it
40 is easier for the values of organisations to be transferred
41 to foster parents if it is actually with a non-government
42 organisation.

43
44 I think it is very difficult with a bureaucracy.
45 Staff retention within a bureaucracy is also a difficulty.
46 The relationships tend to be made with the people in a
47 bureaucracy where they can relate to an organisation and an

1 organisational culture. When you're in a non-government
2 sector, I think that's easier to maintain in the long term.

3
4 We get back to the issue that this is all about the
5 best outcomes for the kids at the end of the day. And
6 while we have carers leaving the system, we diminish that
7 aim quite significantly and add an extreme amount of costs
8 onto the system as well. Retaining good-quality carers is
9 a saving downstream in all areas - in terms of outcomes for
10 the kids, in terms of their life prospects, in terms of
11 their draw on resources into the future, and also in terms
12 of the capacity to have those resources maintained within
13 the organisation.

14
15 I think raising the status, raising the training,
16 raising the support, raising the remuneration - and I think
17 if you actually have a better trained core of care-givers,
18 you'll actually have better outcomes. It goes back to my
19 first point, that you may have some impact on reducing the
20 number of kids coming into care in the future if you have
21 stable placements now.

22
23 THE COMMISSIONER: The Foster Care Association?

24
25 MS BEACH: I would like to agree with everything that has
26 been said, especially by Theresa. Also, one of the things
27 totally beyond me, and I have raised it with the department
28 at least a dozen times, is that they don't do exit
29 interviews. They are losing more carers than they are
30 recruiting, and they don't do exit interviews. Don't they
31 care? Don't they want to know?

32
33 It just doesn't make sense to me. Every business
34 I know does exit interviews, except DoCS. And they could
35 actually retain some of those carers if they bothered to
36 pick up the phone and say, "What's the problem? What can
37 we do? How can we fix this?"

38
39 I know that the department spends a lot of energy on
40 recruiting, but they're losing more carers than they're
41 recruiting. My understanding is that they are not doing
42 anything about the people leaving the system, which doesn't
43 actually make good business sense to me, let alone
44 relationship sense, in the sense of the children that are
45 needing the care.

46
47 The other thing I would like to raise with the

1 recruiting is that it would be great to see a big drive for
2 respite care. I think that would help retain placements.
3 It would help retain children in their birth families.
4 I speak to people all the time about being foster carers
5 and they say, "We couldn't take on full-time placement,
6 because we work; we have other commitments; we couldn't
7 afford it", but lots and lots of people could do one
8 weekend a month. Most people, when I say that to them,
9 say, "Oh, can you do that?" It's something that has
10 completely never entered their minds. So if anyone is
11 serious about recruiting, that would be an obvious avenue
12 to take.

13
14 THE COMMISSIONER: Thank you. CREATE Foundation?

15
16 MS ELSTON-SMITH: Whilst carers is not the focus for
17 CREATE, certainly the informed feedback that we have
18 received from carers in the delivery of our services and
19 programs is consistent with everything that has been said
20 so far.

21
22 THE COMMISSIONER: Thank you. The Foster Parents Support
23 Network?

24
25 MS O'CONNOR: As for recruiting foster carers, I think we
26 need actually to get the true story of foster care out
27 there, not just the bad stories. We need to recruit so
28 that people fully understand what foster care is about.
29 People come into foster care, and they are surprised, when
30 they go through the training, what it's about and the
31 different kinds of foster care that are available.

32
33 Training is very, very important for foster carers.
34 To keep foster carers, ongoing training is just so
35 important on the day-to-day care, but you also need to look
36 at different kinds of training that are offered for
37 different situations, like regional carers, which is very,
38 very difficult. I think we need to look outside the square
39 for the ongoing training for carers.

40
41 Kinship and relative carers should get the same
42 support as foster carers do. In some cases, even though
43 they are getting monetary funds now, they're still not
44 getting the support, and many of the kinship and relative
45 carers go on to be foster carers.

46
47 I have to disagree at the moment with Mary Jane Beach

1 about the leaving - sorry, the --

2

3 THE COMMISSIONER: The exit interviews.

4

5 MS O'CONNOR: There is training for all DoCS carers in New
6 South Wales. They have to do training on working with
7 authorised carers and there is an exit interview that they
8 need to be aware of for foster carers.

9

10 THE COMMISSIONER: Dr Cashmore, is there anything to be
11 learned from experience in other jurisdictions as to
12 whether they are doing something which either brings more
13 carers into the system or helps with the retention rate?

14

15 DR CASHMORE: I don't have any particular information
16 about that. I think that the issue is about using some
17 more professional carers, and perhaps one of the reasons
18 that NGOs retain and recruit better is that their payments
19 are actually over and above those that other carers can
20 offer, because they're subsidised by some of the agencies.

21

22 I think that other big issue that has come right the
23 way through is the support carers need in order to do the
24 job, and that is particularly true for kinship care. When
25 you look at the research in terms of the outcomes for
26 children and placement breakdowns, quite a complex picture
27 arises there. There is greater commitment, often, because
28 these carers actually have had a relationship with the
29 children before. But as has been raised, there are the
30 complexities of managing the relationship with the parents
31 as well. And also a lot of these carers, particularly in
32 indigenous communities, are grandparents and they don't
33 have a lot of resources to call on, material resources to
34 call on, and need help with that.

35

36 I think the other issue that comes up is the big one
37 about assessment and that when children come into care, you
38 have a really good picture of what their needs are. So
39 there needs to be a comprehensive assessment at that time.
40 I think there is some research that Drs Nathanson and
41 Tzioumi have done that show the full extent of the health
42 problems that children coming into care come in with, and
43 also the work that Tarren-Sweeney has done, in a
44 DoCS-funded project, on the extent of emotional and
45 behavioural problems, so it points out that these carers
46 really do need help in managing those sorts of issues.

47

1 THE COMMISSIONER: If I can ask the DoCS representatives
2 some questions about this and perhaps preface it by the
3 observation that I very much doubt that DoCS has any
4 overall policy or philosophy of devaluing foster carers or
5 kinship carers, but, rather, that the submissions tend to
6 suggest a disconnect between those who are at the head of
7 the organisation and those who are on the ground, very busy
8 dealing with a multitude of cases, to the point where the
9 pressures might make those caseworkers somewhat brusque or
10 inconsiderate in their dealings with foster carers or
11 suggest, as a reaction, that they're overdemanding or
12 whatever.

13
14 I think that to some extent it has been identified
15 because, as I understand it, DoCS is developing a better
16 program for support of caseworkers. Do you have any
17 comment that you would make on that, because it seems to me
18 to be a real issue if there is a prevailing feeling by
19 foster carers that their work is not valued, that they're
20 sometimes regarded as a nuisance if they bring matters to
21 attention or seek funding or extra costs for a child, and
22 so on.

23
24 MS GALLARD: You're right in saying that we really
25 recognise the importance of foster carers and relative
26 carers within our system and want to do all that we can to
27 retain them, because they are a very precious resource and
28 they provide tremendous value for children who are in care.
29 They're dealing with children's needs 24 hours a day.

30
31 To recognise the fact that we needed to improve the
32 way that we dealt with carers, we talked to carers and
33 implemented a program, which is still part way under way.
34 We have increased the number of caseworkers that are just
35 dedicated to recruiting, assessing, training and supporting
36 foster carers. We took 50 caseworkers out of the package
37 and added them to the existing caseworkers, and they have
38 been busy at recruiting additional carers and running
39 groups with carers and assessing them.

40
41 We do have a problem in our system that we have higher
42 case loads than in the non-government sector, and that
43 means that sometimes it's difficult to have the sort of
44 communication that we would like and the relationships that
45 we would like with foster carers.

46
47 However, all of our community service centres are now

1 working hard on improving communication. Simple things
2 mean a lot to carers, like having their phone calls
3 returned and getting information such as the next court
4 date. All of our staff have been made aware of that and
5 all of our casework managers, both child protection and
6 out-of-home care, are undergoing mandatory training on
7 working with authorised carers.

8
9 We don't have a high turnover of staff, but what we do
10 have is a rapidly expanding organisation. We have a staff
11 profile that means that a lot of our staff are female and
12 of child-bearing age, so they tend to go off on maternity
13 leave. In fact, our staff turnover rate is only
14 7 per cent, which is around the public sector average.

15
16 THE COMMISSIONER: Just pausing there for a moment - the
17 actual turnover of staff - that is, leaving the place and
18 new people coming in - is one aspect, but it is the regular
19 change in caseworker that leads to the complaint; there is
20 no continuity in who you deal with.

21
22 The situation is such that because you have a need to
23 recruit a lot of people, you are having graduates who are
24 straight out of university with very little experience of
25 life and very little experience of dealing particularly
26 with children. As a result, they may not be appreciating
27 the importance of the telephone call back or a response to
28 a letter or some kind way of speaking to them, rather than
29 a way which leaves the foster carers with the impression
30 that they're being regarded as a nuisance and overdemanding
31 and that they have to sort the problem out themselves.

32
33 I think it is the disconnect between what you have by
34 way of policy and what is being delivered on the ground by
35 young, inexperienced caseworkers that is the problem. My
36 question to you really is this: are you doing anything to
37 explain to those young caseworkers how important it is to
38 maintain proper working relationships with these people and
39 to recognise that you are getting people who are doing what
40 is virtually unpaid labour for the love of the children and
41 the community, not like your own employees who are being
42 paid a weekly salary to do the work? Can that be
43 communicated effectively to your caseworkers?

44
45 MS GALLARD: Yes, we're doing three things that are
46 contributing to that. Firstly, all of the new caseworkers
47 who come into DoCS do a component of entry training that

1 goes for 40 days and, as part of that, they do components
2 that are about out-of-home care and about working with
3 foster carers and relative carers.
4

5 The second thing is that we are training all of those
6 casework managers. We have found that they are very
7 influential when it comes to the attitudes within offices
8 and the work practices within offices. Thirdly, we have
9 established regional foster care advisory groups where the
10 regional director meets with representative foster carers
11 from local areas and gets feedback directly on policies and
12 practice, and that gets fed directly back to community
13 services centres.
14

15 Each of our community services centres has a plan in
16 place that's about improving communication. I won't
17 pretend that these things change overnight. It is
18 something that we are working on over a period of time, but
19 we are really committed to improving our relationship with
20 carers.
21

22 THE COMMISSIONER: Thank you. Children's Guardian, do you
23 have any views about this? Is there anything that the
24 Children's Guardian has worked on in this area or seen
25 through the audit process?
26

27 MS BOLAND: Obviously, via our accreditation process and
28 our audit process, we look at the recruitment and retention
29 of foster carers. It is true to say that where there is a
30 separation between the needs of the child and the foster
31 carer, that's where the programs operate most efficiently
32 and effectively. In relation to our particular role, we
33 have seen some extremely good practices from very good
34 models. Under our reform process, it is our intention to
35 promote those models throughout the sector, and I think
36 that is something that can be considered.
37

38 THE COMMISSIONER: DADHC, do you have anything to
39 contribute to this?
40

41 MR O'REILLY: I think that the issues that are of most
42 importance to care workers are actually being able to get
43 information, being able to get return phone calls, being
44 able to get involvement and that sort of thing. It's a
45 cultural thing that takes quite a while to change.
46

47 THE COMMISSIONER: Ms Lynch, is it relevant to Health?

1
2 MS LYNCH: No.
3
4 MS BEACH: Could I add something?
5
6 THE COMMISSIONER: Yes, certainly.
7
8 MS BEACH: I actually find that, generally speaking, the
9 young caseworkers are a delight to work with. They're
10 young, they're enthusiastic, they're eager, they're keen,
11 generally speaking. Of course, there are exceptions to
12 that rule. I'm not in the organisation, but my guess is
13 that it's a bit further on than that, that when people have
14 been there for a while and become disillusioned with the
15 process, they actually seem to lose interest and they find
16 it hard to return phone calls and do those things. But in
17 my experience, the young caseworkers are more often
18 extremely good quality, so maybe it needs to be addressed
19 at another level. I don't know.
20
21 MS BURGHEIM: Can I add to that?
22
23 THE COMMISSIONER: Yes, certainly.
24
25 MS BURGHEIM: Until a few months ago I was doing
26 front-line work, and I think the DoCS workers are just
27 amazing. I think that the amount they can do with the case
28 loads they've got is almost miraculous. Yes, they don't
29 return phone calls, and that sort of stuff, but it's
30 because they're just swamped with the amount of work
31 they've got to do.
32
33 THE COMMISSIONER: I accept that. I don't for a moment
34 suggest that all DoCS case workers are unkind, uncaring and
35 incompetent. What I can say is that for those I've met so
36 far, they're an extremely impressive bunch of people. But
37 probably you are right, it's the case load, that there are
38 often more important things to do than to deal with a
39 particular call within half an hour of receiving it. But
40 it is, as I say, a matter which has arisen in a large
41 number of submissions to us, including from people who've
42 said, "We're going to walk away from the system because we
43 don't feel ourselves valued." Anyway, it's being
44 addressed, so that's encouraging.
45
46 Perhaps you might move on to the next matter. This
47 really, I guess, is the case management and system for

1 allocation of parental responsibility. Parental
2 responsibility in case management for children in
3 out-of-home care usually lies with the minister, although
4 Barnardos currently also has this responsibility for some
5 children, and there are other agencies - I think Burnside
6 is one - where this is likely to be also a reality.
7

8 Case work activities are therefore usually undertaken
9 by the agency with case management. However, there are a
10 number of permutations possible. For many of the children
11 in out-of-home care there is no allocated case worker, and
12 my understanding from the DoCS submission is that that
13 would be the case, at least for the low-needs children, in
14 probably just over 40 per cent of the cases. This inquiry
15 therefore is interested in exploring how decision making
16 for children, once placed into out-of-home care, should
17 best be informed and achieved and how more effective
18 ongoing involvement by case workers in the life of all of
19 the children in out-of-home care can also be delivered.
20

21 It is noted in this respect that DoCS is moving in the
22 direction of transferring case management responsibility to
23 NGOs, which raises similar issues for the need for those
24 agencies to have suitably qualified case workers and
25 support systems for their out-of-home foster carers.
26

27 In 1992 the Usher Ministerial Review Committee
28 concluded that the appropriate long-term role for DoCS
29 should not include that of operating as a major substitute
30 care service provider. That was not supported by the
31 government of the day, apparently because of concerns as to
32 the capacity of the NGOs to cope with the demand at that
33 time. Many submissions have, however, advocated an
34 increased role for NGOs in the provision of out-of-home
35 care services and a reduced service provision role for
36 DoCS.
37

38 The question therefore arises as to whether the Usher
39 review recommendation should be revived in the light of
40 contemporary conditions which, as I've already observed,
41 see DoCS overwhelmed with reports of children at risk and
42 having to devote a very significant portion of its
43 resources to crisis statutory intervention. This does give
44 rise to questions of the capacity of NGOs to expand to a
45 point where they can absorb a greater proportion of the mix
46 and as to the cost implications of that.
47

1 Each needs to be considered in the light of the
2 somewhat disturbing current projections of the demand for
3 out-of-home care. DoCS in its submission has offered a
4 projection which would see an increase in the potential
5 out-of-home care population from the current 12,712
6 children to 19,495 by the year 2011, 2012. That's a
7 frightening growth for DoCS to have to manage or for any
8 system to have to manage. Obviously it has enormous
9 resource implications which, if not funded, will only lead
10 to a disaster.

11
12 It may well be that the state can never, and should
13 never, divest itself from providing out-of-home care for
14 those children for whom it has legal parental
15 responsibility. It may also be the case that DoCS needs to
16 be agency of last resort in relation to high-needs children
17 and for young people who, for a variety of reasons, cannot
18 be placed elsewhere, particularly adolescents, who are
19 notoriously difficult to place and manage.

20
21 Questions therefore arise as to whether the current
22 system in relation to the placement of high-needs children
23 is adequate or whether some other strategies should be
24 adopted for them and also for intermediate-needs children,
25 including, for example, an increase in the number of
26 residential care centres or group homes provided by either
27 DoCS or by NGOs.

28
29 The findings of the Children's Guardian in the
30 2006/2007 case audit file did support earlier findings that
31 children and young people in non-government agency care are
32 likely to benefit from more informed and comprehensive case
33 support than those in DoCS care. This is accordingly an
34 important issue. It also has a real significance in
35 relation to developing a more comprehensive system for
36 indigenous out-of-home care, including increasing the
37 number of existing Aboriginal community-based out-of-home
38 care organisations that DoCS currently funds to address
39 what is a significant overrepresentation of Aboriginal
40 children in out-of-home care.

41
42 To what extent the projection previously mentioned
43 also specifies or indicates an increase in that proportion
44 I'm not entirely clear at the moment, but it is the fact
45 that the birth rate for Aboriginal children is higher than
46 for non-Aboriginal children, and I'd like perhaps later on
47 for DoCS to tell me whether those projections have even

1 more potentially worrying implications for Aboriginal
2 children.

3
4 Let's go around the table in the same sequence. First
5 of all, Ms Voigt, do you have any views about this?

6
7 MS VOIGT: We have had a strong view since the Usher
8 inquiry that out-of-home care - in particular, I'm talking
9 about foster care and residential care - should be
10 transferred to the non-government sector, for reasons which
11 were pertinent at the time of Usher and have continued to
12 be so, which is that the non-government sector, on the
13 evidence, appears to offer a better opportunity for
14 children in foster care or residential care. This opinion
15 has been strengthened by the fact that Victoria has
16 contracted out almost entirely their system of out-of-home
17 care for foster care and residential care.

18
19 I'd like to address the issue which frequently comes
20 up that DoCS is the place of last resort. It used to be
21 when it ran large residentials. It's the money of last
22 resort now, because it funds organisations or, through its
23 heads of agreement, funds individual placements for
24 children. It doesn't itself have placement capacity for
25 very complex, high-needs adolescents with multiple needs.

26
27 What has happened more recently is, through the
28 funding arrangements, there appears to be emerging a better
29 arrangement for what DoCS calls their high-cost kids, the
30 children with very high and complex needs, many of whom are
31 adolescents, and this is taking place in the non-government
32 sector.

33
34 Of the whole number of children in care, out-of-home
35 care, there are only a limited number who are in foster
36 care or even a tinier fraction in residential care. Part
37 of the difficulty that DoCS experiences is also because it
38 isn't specialised in the work in relation to foster care.
39 For example, when a child immediately comes into care,
40 rather than being dealt with by the DoCS out-of-home care
41 sector, it is dealt with by the child protection officers,
42 and, as we all know, there is a huge number of staff in
43 DoCS working directly with children. So I would believe
44 that the evidence is that we would do better. Currently we
45 have one-third of the children in foster care in the
46 non-government sector, and I believe that we do have the
47 capacity to increase that to care for children at the

1 standard which the Guardian and the standards board in this
2 state have set for children's care.

3
4 I think I'll leave it there. I won't speak about
5 residential care. I think others will do so.

6
7 THE COMMISSIONER: Thank you.

8
9 MR DRIELSMA: Burnside certainly also supports the
10 devolution of care to NGOs direct care, and full case
11 management is something that I think a lot of us have been
12 doing de facto for a long sometime in any case. We look
13 forward to the new arrangements, where that's going to be
14 de jure the case, plus, perhaps, the delegations issue.
15 I don't think the delegations changes much from full case
16 management. The whole point is about the people being
17 close to the placement being the people who have control or
18 with the decision-making capacity with the people in the
19 placement.

20
21 I just want to make a point too about, I guess, the
22 importance of a robust accreditation system. Any reading
23 of the accreditation standards, it just demands high
24 quality. Other than people playing lip-service to it, you
25 can't get away from high quality if you stick to those
26 standards.

27
28 I just wanted to say then that I think there needs to
29 be more resources go into the sort of auditing that goes on
30 to ensure that accreditation is a robust system. I'll
31 leave it there.

32
33 THE COMMISSIONER: Yes, Wesley.

34
35 MS BURGHEIM: I think it's human nature, isn't it, to
36 always think that we can do it best? I think the truth is
37 the difference between our case work and the case work of
38 DoCS is that we don't have unallocated cases. We have a
39 limited case load and we have the time to do it well. I'm
40 not sure, if there isn't a massive, unbelievably large
41 amount of funding coming our way, that we would be able to
42 maintain that if all of out-of-home care were shifted to
43 the NGO sector.

44
45 One of the things that is necessary is a regular
46 automated increase in funding. As more children come into
47 the sector, they're going to cost more. It's simple maths.

1 Only 50 per cent of children who are removed get returned
2 home, so those kids just have to be paid for, and what
3 tends to happen with funding is it runs five or ten years
4 behind the demand.

5
6 I think that one of the things that does need looking
7 at is that there's a confusion around children who have
8 just been removed from their families and are still under
9 child protection case management, because the OCG feels
10 that if we got the child in placement, we are responsible
11 for case management, and obviously the department feels
12 that they're under child protection, so they're responsible
13 for the case management, and there's an area of confusion
14 there that needs clearing up. But, generally speaking, the
15 long-term programs, my experience is that case management
16 is handed to the NGO anyway.

17
18 THE COMMISSIONER: Thank you. Centacare?

19
20 MS EAGLES: Centacare would absolutely concur with the
21 Usher report. A particular focus for us, though, would be
22 on the transition for children in DoCS long-term
23 placements, because we probably would say that, in our
24 experience of relating to DoCS, those are the ones that can
25 fall off the edge a bit for them because their time has to
26 be diverted to crisis. So we think that the NGO sector
27 could absolutely play a role as a whole system supporting
28 children across the state.

29
30 I would say that I think many of the workers in the
31 NGO sector do have skills because they have been doing it.
32 Even though not necessarily having the title of holding
33 case management, that has certainly occurred.
34 Particularly it occurs in the cases where there are interim
35 court orders again, where there is that time when you're
36 not sure about where that child is going. An agency is
37 often the one doing a lot of that work.

38
39 We've seen that work very well with some officers
40 where it has been a shared case management role. It has
41 not been formalised, however, but it has been about a
42 relationship working with officers to achieve that, and
43 each of us understands what we can give to the outcome of
44 that decision making. So I think looking at is there any
45 way to embed that more would be a positive outcome.

46
47 I think also that the accreditation process and the

1 process of undergoing that gave every one of us that has
2 achieved accreditation a chance to keep continually
3 improving and improving the case management practice that
4 you've had as part of your service. I think that that has
5 also been now a delight to actually want to keep doing it.
6 So I think that there's a lot there that we have to offer.
7

8 THE COMMISSIONER: Just pausing there for a moment,
9 clearly there could not be a sudden shift moving everything
10 over holus-bolus to the NGO sector. There would have to be
11 a situation in which it was incremental, but from what each
12 of the last two speakers have suggested, would you see a
13 model in which, at least in the short-term stage where the
14 child is before the court and things are being sorted out
15 for short-term orders, DoCS would be better organising the
16 foster care or the out-of-home care, but then with the
17 longer-term placements the NGOs would take over? Is that
18 what you're suggesting, or not?
19

20 MS EAGLES: No, not necessarily. I'm talking more of case
21 management rather than placement. I think that the
22 placement is about what is the best placement for the child
23 at the stage of removal, and that could be across the
24 sector, either as a DoCS person or an NGO. So I don't
25 necessarily think I'm saying that. I think I'm talking
26 long-term placements have an opportunity there because they
27 hopefully are stable, and I think they can be transitioned.
28 I think you have to be mindful of the carer's thinking
29 about that, how they feel. They've joined an agency. If
30 you do transition that, I think that has to be actually
31 worked through very carefully with the people who in fact
32 are holding the placement.
33

34 THE COMMISSIONER: Mr Dunn?
35

36 MR DUNN: I would just concur with everybody else really.
37 The non-government sector I think is well placed, and
38 I think that's the message that will come across. We're
39 certainly a lot better than we were 10 years ago, which in
40 fact is a credit to DoCS and the way they've worked with
41 us.
42

43 Just in relation to the complex kids that we work
44 with, we have worked with them and are working with them
45 and will continue to work with them, so I'm not sure that
46 DoCS would now say they're the organisation of last resort.
47 In fact they've contracted a lot of those young people out,

1 and I know we have some 180 of them and they're in stable
2 placements and doing well. So it's a speciality they've
3 developed in the non-government sector. We're not the only
4 organisation, of course, that worked with them.

5
6 I think as a sector we understand the difficulties and
7 the pressure on the whole system as the increasing number
8 of kids come into the sector, but I think we're up for it.
9 I think we're confident, we're positive. As a
10 non-government sector, we'll all pretty much say, "Bring it
11 on, we're ready."

12
13 THE COMMISSIONER: AbSec?

14
15 MR PRITCHARD: Bill Pritchard. AbSec believes that all
16 Aboriginal children in care should be in Aboriginal foster
17 care and be supported by Aboriginal agencies, but we're
18 realistic enough to realise that, due to the high number of
19 Aboriginal children in care and also the high number of
20 Aboriginal children in non-Aboriginal care, which in some
21 regions is running as high as 50 per cent, a real focus in
22 this transition would be realising that we wouldn't be able
23 to accrue enough foster carers in the short term and some
24 of those cases would have to go to other sectors of the
25 NGOs, and we would see there should be an overseeing role
26 about how those children are cared for while they're in the
27 non-Aboriginal, non-government sector and really a strong
28 focus on a cultural care plan for those children to ensure
29 that they are connected to their communities and remain
30 connected to their communities until such time as there are
31 enough Aboriginal foster carers to ensure that these
32 children can be appropriately placed.

33
34 THE COMMISSIONER: So far as the representative groups are
35 concerned, we'd like to have your views on what you think
36 about a greater move towards non-government care and also
37 as to how it might be achieved incrementally or in some
38 other way. First of all perhaps ACWA.

39
40 MR McCALLUM: Thank you. First of all I'd just like to
41 say I think we have to be very careful about accepting the
42 inevitability of the increasing number of kids coming into
43 care. Otherwise that's almost like we've given up on
44 alternative ways of preventing that from happening. I
45 wouldn't like to see that. What we're really saying is
46 somewhere out there at the moment there are another 9,000
47 or 7,000 kids already who should be in care, if it's only

1 going to be three years time. I think we have to be very
2 careful about accepting that as an inevitability, because
3 it really does set us focused on a long path and take our
4 eye off the reporting strategies that we need to do.

5
6 With respect to the Usher report, I think we are
7 better placed than we were in 1992, far better as the
8 non-government sector. It was a capacity issue and a
9 readiness issue back there. If that is still the case,
10 there probably are some capacity issues, but we need to
11 address that. The principle is right. We should pursue
12 the principle. Strategies are that we get to that point
13 where we do that.

14
15 I think it's far greater for DoCS' function to be
16 fairly delineated and defined around what it does, and that
17 is child protection investigative processes. It's
18 interesting having worked in Victoria for 20 years, when
19 the change was made in Victoria the department at the time
20 used the phrase "We can't do that; we're the placement of
21 last resort." That never came to be an issue at the end of
22 the day. I ran an agency that was actually responsible for
23 every placement for a large part of the state. What the
24 department in Victoria kept was juvenile welfare. There
25 are ways. It has happened and it happened without a great
26 deal.

27
28 There was some sort of capacity building that was
29 necessary in some areas, and I think that's what we're
30 talking about here. The non-government sector are quite
31 capable here of making that transition and building
32 themselves, and the process is encouraging to help to build
33 the capacity of that sector. We need to continue along
34 that line. That's all I need to say.

35
36 THE COMMISSIONER: I think the point you make about the
37 number not necessarily being assumed to be set in concrete
38 is a good point. This has to be seen in the context of
39 everything else that this commission is looking at. On one
40 view, it is a potential worst-case scenario. It may come
41 to be, it may not. Clearly, a lot of work has to be done
42 in the early intervention and universal services, and so
43 on. But that's the subject of a later topic and it's
44 certainly not being overlooked that there has to be
45 strategies to try to limit the number of children coming
46 into out-of-home care. It would be very nice if that was
47 clearly a worst-case scenario, but whether it will be the

1 future will tell, and it will depend very much on what
2 happens with early intervention and other strategies.
3 The Foster Care Association?

4
5 MS BEACH: I'd like to endorse what Andrew said. We put
6 in our submission about some preventative measures both
7 with the Department of Health and organisations like
8 Beyond Blue that stepped in at the perinatal period,
9 instead of leaving it to DoCS to pick up the crisis. That
10 would make an enormous difference. In the UK they have
11 health visitors that stay involved with the child, and the
12 youngest child is five. That would make a massive
13 difference to those numbers.

14
15 Again, I would agree with Andrew that I'm sure the
16 agencies can do it. They will step up if that's the
17 decision. Obviously I would support the Usher report also.

18
19 THE COMMISSIONER: The CREATE Foundation?

20
21 MS ELSTON-SMITH: The CREATE Foundation continues to
22 receive negative feedback about DoCS being our service
23 provider from the children and young people in care that we
24 work with. I think that's mostly around child protection
25 concerns, so there is a lack of trust. I think that makes
26 it very difficult to set up positive relationships when
27 we're talking about case management. So perhaps the NGOs
28 would be better placed to be providers for those reasons.

29
30 THE COMMISSIONER: And the Foster Parents Support Network?

31
32 MS O'CONNOR: I think we feel that if case management is
33 handed over to NGOs, there needs to be a lot of
34 consultation with foster carers. Foster carers, especially
35 with children long term, they do things one way and
36 agencies sometimes work differently from the way DoCS work.
37 I think that could set up things to fail, or at least to
38 clash. I think there needs to be a lot of consultation
39 with foster carers.

40
41 As for the parental responsibility, I think it needs
42 to be easier for a foster carer to get sole parental
43 responsibility. Adoption is actually easier than sole
44 parental responsibility. I think we'd have a lot more
45 foster carers actually going for that.

46
47 THE COMMISSIONER: Dr Cashmore, do you have any views

1 about the Usher report in the current climate?

2

3 DR CASHMORE: Well, I share the concerns about a massive
4 shift and the capacity issue. Looking at the Victorian
5 comparison and the figures that were mentioned about that,
6 I think it's worth looking at population figures of
7 children in care. If you look at it on a population base,
8 they've got about half the number of children in care that
9 New South Wales does currently and there's about a fifth
10 the number of indigenous children in Victoria than there is
11 in New South Wales. It's worth considering some of the
12 differences, I think, between their system and ours. They
13 actually have more, I think, around family preservation.
14 They have more supervisory orders and they have more early
15 intervention that's outside the DHS gateway into that
16 process. So that raises the issue about the prevention
17 issues and the inevitability of those projections,
18 et cetera.

19

20 Just in terms of an overseas comparison, it's
21 interesting to look at a country, for example, like Sweden,
22 where 85 per cent of children in care are actually in
23 voluntary care. So they're done with agreements with the
24 parents. But that's against a background of a very
25 different system of universal services.

26

27 I guess there are two other comments. One is that I
28 think that if the state has parental responsibility, it has
29 a duty of care to children in care to make sure that they
30 all have case workers and they all have annual reviews.
31 I also think that we need to be considering more options,
32 especially for adolescents and those older children with
33 more challenging behaviours.

34

35 I certainly wouldn't advocate a return to the
36 old-style residential care-type units and big institutions,
37 but we do need to think much more about shared care
38 possibilities and possibly respite care and other ways of
39 doing that and new models - therapeutic care as well.

40

41 THE COMMISSIONER: So far as DoCS are concerned, I think I
42 raised the question in relation to those projections as to
43 whether they are broken down in particular to indicate what
44 might be happening with Aboriginal children in the future.

45

46 DR IZMIR: They would be broken down in terms of the
47 indigenous status, status of the children. But the thing

1 to know about those projections is that they're based on
2 the current care and lack of parameters. So they're really
3 nothing more than almost a projection of the figures and,
4 in that sense, they would be the worst-case figures that
5 you mentioned.

6
7 The other thing about the model is that we can change
8 the entry into care and state projections if we perceive a
9 significant change that's happening, and I suppose one of
10 the reasons why the current projections go up to 19,000,
11 more than 19,000, is that there has been a very significant
12 increase in out-of-home care over the last year. It is
13 difficult to know with any certainty whether that trend
14 will continue for another two, three years and then
15 stabilise or whether it will stabilise over the next year.
16 We just do not have enough understanding of the trends to
17 be able to know that.

18
19 THE COMMISSIONER: All right. The DoCS submission does
20 suggest that there be certainly a mix of DoCS and NGO
21 involvement in the out-of-home care situation. Could you
22 just spell out, please, how it is that DoCS envisages that
23 that would work? What would be the mix, the proportions?
24

25 DR IZMIR: Yes, we have advocated a mixed-service system
26 in a lot of the services that DoCS provides, certainly for
27 early intervention as well as out-of-home care. I suppose
28 there are a number of reasons for advocating that, and that
29 is we do think, depending on the particular service model
30 used, DoCS or the NGOs have certain strengths and it's good
31 practice to utilise the strengths of each of the
32 participants in a system to provide those services.
33

34 For example with emergency services, we do tend to
35 have, we believe, a competitive advantage, whereas with
36 some of the other services, for example, residential care,
37 the NGOs might have a greater competitive advantage.
38

39 The sorts of advantages and disadvantages of NGO
40 versus DoCS service provision are outlined in the
41 submission. However, although we do not advocate a total
42 transfer to the NGO sector, we have also always said that
43 we would be happy to see greater participation by the NGOs.
44 We have never said that the current mix in service
45 provision is something that necessarily should remain.
46

47 Currently, DoCS provides 80 per cent of the services

1 and the NGOs provide 20 per cent, so we would feel that,
2 yes, there would be potential for more NGO service
3 provision, if the capacity is there. With Aboriginal
4 services, we have embarked on an Aboriginal capacity
5 building project, where we have been working very closely
6 with Aboriginal services to double their capacity.
7

8 The most important thing, in our view, of wanting a
9 mixed service system is to have greater diversity in the
10 system, greater potential for implementation of government
11 policies and principles by having a government service
12 provider in the system, and also greater potential for the
13 funder to be informed; otherwise, if the funder is simply a
14 funder and does not engage in any service provision
15 themselves, then there have been many examples where they
16 do not understand the intricacies of service provision and
17 they are not capable of forming good service agreements and
18 good service contracts with the service providers.
19

20 MS FURNESS: Ms Gallard, you will be familiar with the
21 work of the Children's Guardian in relation to the recent
22 case file audit, which in broad terms found that the NGOs
23 did a better job than DoCS in relation to out-of-home care.
24 What is your view on the results of that audit?
25

26 MS GALLARD: Yes, we have welcomed the Children's Guardian
27 coming in and having a look at our case practice, as
28 reflected in our files. Clearly, we have a way to go to
29 improve on meeting the standards that the Children's
30 Guardian requires in a number of areas. However, the
31 results also reflect the fact that in a number of cases,
32 children are not allocated to a DoCS caseworker, and that
33 limits their ability to record in the file or in fact to do
34 the work that we would really want them to do. So we're
35 very keen to see an improvement in the situation where we
36 can allocate cases and where cases can be transferred to
37 the non-government sector so that that important work can
38 be done.
39

40 MS FURNESS: On its face, those findings would tend to
41 support a transition towards the NGOs providing a greater
42 share of the out-of-home care.
43

44 DR IZMIR: That is based on the current case loads, and
45 I think that issue has been raised by a number of people.
46 Whilst the case file audits support or favour NGO service
47 provision, we do have to realise that the DoCS caseworkers

1 operate with almost twice as much of a case load and, in
2 these conditions, the capacity to do a good job does not
3 diminish linearly. It does actually diminish in a dramatic
4 fashion. I mean, twice the case load and trying to do half
5 as good a job --

6
7 MS FURNESS: Realistically, is it likely to change, that
8 there are going to be sufficient numbers of caseworkers in
9 out-of-home care, given your projections, to adequately
10 deal with that issue?

11
12 DR IZMIR: Well, I suppose the funding comes from the same
13 source. Whether it goes to the NGOs or whether it goes to
14 DoCS, it will have to come from Treasury. So whether that
15 funding is allocated to NGOs or whether that's allocated to
16 DoCS so that they can have better case loads is really, in
17 terms of the overall system, not too much of a difference.

18
19 In the view of DoCS, really, the division of
20 responsibilities between NGOs and DoCS should be more based
21 on the competitive advantages of the two sectors. I mean,
22 if DoCS had the same level of case loads, is it a
23 proposition that DoCS would not do as good a job? I don't
24 know the answer to that.

25
26 THE COMMISSIONER: Just on that question - this may be
27 something you can't answer today, but the \$617 million, as
28 we pointed out, was fixed by reference to the 2002 case
29 load, and we know that that has increased dramatically at
30 the present time, and it had no provision for enhancement.

31
32 What would be the appropriate figure at the moment to
33 cater for the out-of-home care? I assume that it's not
34 simply a situation of multiplying the \$617 million by
35 137 per cent; it's something other than that, I guess.

36
37 DR IZMIR: Yes. At the moment, we are actually working on
38 it and we are trying to estimate DoCS figures, and I can
39 undertake to get that to you within the next couple of
40 weeks.

41
42 THE COMMISSIONER: I assume that having been caught once
43 with a figure written in cement, you don't want that to
44 happen again?

45
46 DR IZMIR: Precisely, and we will be doing those
47 calculations.

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THE COMMISSIONER: Ms Boland, do you have any views about this question?

MS BOLAND: Our case file audit of '06/'07 has been mentioned, and I think it's fair to say in relation to that case file audit that it is an audit of the whole system, and that is the job of Children's Guardian. Therefore, we have looked at allocated and unallocated cases in the DoCS mix. Having said that, though, on almost every dimension measured in the case file audits report, you would say that the non-government sector has outperformed the department.

We would have the capacity to go back into that data - and it would require the cooperation of DoCS - to have a look at the differences between allocated and non-allocated if that would be helpful.

MS FURNESS: It would be helpful, Ms Boland, if you could do that.

MS BOLAND: I would need to do that with the cooperation of DoCS.

MS FURNESS: I'm sure DoCS will cooperate.

MS BOLAND: I suppose the issue that our submission goes to, that there should be a transfer of a greater proportion of the cases to the non-government sector, is partly based on that. It's also based on the capacity and the type of services that the non-government sector offers. They are well-placed, in my view, to take on more, provided that there is a capacity-building element and that this happens over time and is measured well.

However, having said that, we are not advocating the whole transfer, and we take the point of DoCS looking at the strengths of the system. I think what we are saying now is that DoCS is so overloaded, it is actually difficult to look at the strengths of the system, and a movement to the non-government sector would assist their capacity to look at that.

I will just take up a couple of issues. It must be remembered also that our case file audit was done at a time when there was not a clear policy on case management. DoCS has now issued a clear statement on case management, which

1 I think is generally accepted as helpful and clarifying
2 situations. One would need to remember in those results
3 that there has been a significant change in relation to
4 case management confusion that appeared to be occurring in
5 the system when there wasn't clarity on case management.
6

7 THE COMMISSIONER: Does DADHC have any views in relation
8 to this?
9

10 MR O'REILLY: Just a couple. We already rely very heavily
11 on the NGO sector. We have 34 children and young people in
12 the DADHC-run arrangements for group homes and 202 children
13 in the NGO sector. One of the things we have found is that
14 in some rural and isolated areas, there is no NGO
15 available. Obviously, it then falls to DADHC to provide
16 that service. In other instances, it is straight parent
17 choice, that they prefer it to be through a government-run
18 arrangement.
19

20 The second issue relates to the case management and
21 parental responsibility. In some - not many, but some -
22 cases, a parent may find that they're incapable of being
23 able to provide the support they need for a child with a
24 disability. They have the child in a respite centre and
25 refuse to pick up the child, because of their needs.
26

27 We don't have any legislative way to move that child
28 out of the respite centre. We have mentioned in our
29 submission that this is one area that we do need to look
30 at, because I think we all agree that a respite centre is
31 not the place to provide the best upbringing for any child.
32

33 THE COMMISSIONER: Thank you. So far as Health is
34 concerned, are there any views? In particular, does Health
35 have any view as to whether it's easier to work with NGOs
36 or DoCS in a partnership if there are children moved to a
37 greater extent into the NGO sector?
38

39 MS LYNCH: I'm not aware of any information there. What
40 I would say, though, is that we've already mentioned the
41 high health needs of this population. It is essential that
42 Health is involved from the outset to do those assessments
43 and --
44

45 THE COMMISSIONER: That is the very next thing I'm going
46 to come to, so I might cut you off and hear you perhaps
47 even immediately on the next issue.

1
2 I think we need to move on. If we can go on to the
3 fourth thing, which in the agenda is referred to as
4 priority access for children and young persons in
5 out-of-home care. It is clear that the research does
6 indicate that children living in out-of-home care have high
7 and frequently unidentified health needs. A more
8 comprehensive system of partnership between agencies for
9 health screening may well be necessary in order to identify
10 and then address those problems.

11
12 But even if the need for medical and therapeutic
13 treatment is identified and known, submissions to the
14 inquiry so far have told us of delays in, and often an
15 inability to access, services for children and young people
16 from health care and allied agencies.

17
18 Some of the difficulties are said to stem from a lack
19 of cooperation by DoCS in actually funding those services,
20 but frequently it appears that the services are simply not
21 available within the public sector, particularly in rural
22 areas, and, indeed, are often in scarce supply in the
23 private sector. I guess speech therapy has been identified
24 consistently as a prime problem, even though it has
25 enormous implications for a child's education and later
26 development and self-esteem. That is only one, dental
27 services being another one.

28
29 There are clearly some initiatives being developed or
30 trialled by DoCS, amongst others, and by some of the
31 agencies in relation to this issue, but it does seem to be
32 one of the service gaps that need to be targeted, because
33 an absence of these health services can clearly have
34 enormous effects on development, education, ultimately on
35 employment and self-esteem, as well as, I guess, being a
36 factor in intergenerational developments of the same
37 problems.

38
39 So perhaps going straight to you, is there something
40 that you want to say about the need for a greater
41 involvement of Health with DoCS and other agencies, or a
42 capacity for greater involvement at least, in order to
43 address these needs but particularly to try to give these
44 out-of-home children some priority access to the system?

45
46 MS LYNCH: Yes. There is a memorandum of understanding
47 between DoCS and Health around priority access to health

1 assessments for young people in out-of-home care, and there
2 is an addendum being written around that at the moment in
3 terms of mental health care.
4

5 What we have in the metropolitan areas are some really
6 excellent services and centres that work specifically with
7 a very difficult bunch of kids. Where we have the problem
8 is in the rural areas. Again, as you say, it's a workforce
9 matter. There are some services - and it, again, doesn't
10 solely rest with Health, but I think an integrated system
11 that includes the general practitioners as well as
12 specialist allied health professionals - certainly I think
13 those services could do with some boosting, particularly in
14 some areas. Where they do exist, often they've grown out
15 of particular interest or centres of excellence around some
16 of the children's hospitals, or Redbank House, for
17 instance, which provides mental health care and specialist
18 programs for very challenging kids that are in out-of-home
19 care.
20

21 We want to be careful I guess, if the non-government
22 sector is doing more of the out-of-home care, that we
23 replicate our memorandum of understanding with them and we
24 clarify our exchange of information processes as well.
25 Health would still see itself as providing specialist
26 health services, because that's where the expertise we
27 believe sits, also because it provides the referral into
28 treatment as well.
29

30 If I could just add that we spoke about the
31 preventative spectrum, and I won't go into details about
32 that now. We targeted the health of the children, but we
33 also have a role in targeting the health of the parents,
34 particularly around mental health and drugs and alcohol.
35 Health has a strong role and an interface there as well.
36

37 THE COMMISSIONER: We might go quickly around the NGOs as
38 to whether you are experiencing problems in getting these
39 specialised services for the children that your foster
40 carers have in their care and whether you see any problems
41 in developing a memorandum of understanding or some kind of
42 understanding with Health and with the private medical
43 profession if the NGO role is to increase?
44

45 MS VOIGT: Yes, my agency holds parental responsibility,
46 and this is utterly unknown, of course, to Health, so we
47 would be pleased if that would extend, because we have hit

1 one or two difficulties with that recently.

2
3 The other difficulty we have is simply that there are
4 not enough services. I mean, speech pathology - there just
5 are not enough services, and, again, the issue of rural or
6 children who are placed further out. In terms of getting
7 specialist assessment, we simply pay to get it when we need
8 it.

9
10 MR DRIELSMA: It's true that there are not enough
11 services. On the issue of paying for things, the crux of a
12 lot of the issues we are talking about today is, how do we
13 pay for the levels of services we want? The only comment
14 I want to make right now is that, in my assessment, you
15 would need to probably double the out-of-home care budget
16 right now to afford both the sorts of things that are
17 demanded by accreditation standards and the sorts of
18 wrap-around services or health services that we need for
19 children in out-of-home care.

20
21 MS BURGHEIM: The majority of our work is in metro west,
22 towards the Penrith area, and services in general are light
23 on the ground. Because of that, the memorandums of high
24 priority just don't work for us. And it's not lack of
25 willingness; it's just lack of capacity in the health
26 services and what-not.

27
28 My suggestion is that there be additional funding, so
29 that where they prioritise out-of-home care kids, it
30 doesn't mean taking somebody else off the list, which it
31 does at the moment. There is up to a two-year waiting list
32 for speech therapy in the Penrith area, and when you're
33 talking about a three-year-old that can't speak, two years
34 is just too long to wait. There needs to be some funding
35 there that doesn't mean that another three-year-old is
36 going to miss out, because our three-year-old gets the
37 service.

38
39 MS FURNESS: Is that public and private speech therapy
40 services?

41
42 MS BURGHEIM: One of the problems is that because of the
43 memorandums of understanding, there is a requirement by
44 DoCS that you go through public health, and if the waiting
45 list is too long, the next step is that you have to take
46 the child to a GP for referral to a private speech
47 therapist for 10 sessions, and then, after that, the

1 department will pay for the speech therapy until the child
2 comes to the top of the waiting list, and then they have to
3 transfer to public health. It just doesn't work. That's
4 the bottom line.

5
6 MS FURNESS: But are there private speech pathologists or
7 therapists around?

8
9 MS BURGHEIM: There are. There are private ones. They're
10 full, too, but certainly you have better access to them.

11
12 MS EAGLES: I think for us the focus would be, as is
13 everyone else's, on looking at the impact of not enough
14 services and not enough funds to purchase private services.
15 The impact for us as an agency is for our caseworkers
16 working with foster families with the children in care,
17 because they're the ones still waiting, waiting, waiting,
18 and we can't give them an answer and we don't have access
19 to make the system work better. So when we were looking
20 earlier today at disruption rates and support, I think that
21 that flow-on will make a big difference, if we can improve
22 the access and service delivery.

23
24 MR DUNN: I agree, Commissioner, it is mostly on a
25 fee-for-service basis that negotiations with Health are
26 held.

27
28 THE COMMISSIONER: Are there any other views from CREATE
29 or the other agencies? I mean, your children are the ones
30 who suffer.

31
32 MS ELSTON-SMITH: Certainly, everything that has been said
33 is consistent with the feedback from the children and young
34 people that we work with at CREATE and also with our own
35 research. The only other thing I would like to add is that
36 this is also a major issue for those young people
37 transitioning out of care.

38
39 MR McCALLUM: All these issues go to the heart of the
40 issue of placement of kids and their likely success in the
41 future, so I think it really comes back to - it's not just
42 a DoCS problem; I think it's a government problem, and it
43 is an interagency cooperation issue. ACWA, at the last
44 election, put up a statement that there is not enough for
45 agencies to be able to guarantee kids in care and outlines
46 ten principles about what should be occurring. The state
47 as a parent has to provide something better than what the

1 kids were removed from in the first place, and you have to
2 guarantee this; otherwise, they have actually failed too.

3
4 THE COMMISSIONER: Are there any other views from foster
5 carers?

6
7 MS BEACH: Yes. I would just like to say that one of the
8 things we used to do when we were actually allowed to go to
9 case conferences was to put time frames on things. So that
10 if a child needed speech therapy, we would ask the
11 caseworker to put in a plan that they would go to public
12 health, but if there was not going to be anything available
13 in the next two months, then they could see a private
14 speech therapist, in that example, until public became
15 available.

16
17 Now, I know that's not ideal. As Theresa was
18 referring to, if they have a rapport with one practitioner,
19 it is not to the child's best advantage to then shift them
20 across, but it's certainly better than getting nothing for
21 a long period of time. So that would be certainly one of
22 our high priorities in that matter.

23
24 MS O'CONNOR: I think this needs to go over to education
25 as well. I see that the public education system is not
26 coping with our children. I would like to see it easier
27 for foster carers to access private, whether it be for
28 speech therapy, whether it be for counselling or whether it
29 be for education.

30
31 THE COMMISSIONER: Thank you. I think that is fair
32 comment. I hadn't really overlooked the need for remedial
33 strategies and education and learning disabilities.

34
35 Now, I know that DoCS is aware of the problem and you
36 are trying to do something about it, but are there
37 strategies under way which might somehow fill this gap in
38 particular? It is partly dealt with in your submission.
39 If you want to add to it, then feel free to do so. If you
40 think that it is adequately dealt with on the grounds that
41 you are aware of it and are addressing it, then you can
42 leave it at that.

43
44 DR IZMIR: Yes, we are trying to address it as part of the
45 expression of interest process. We have put in, as part of
46 that \$617 million, funding for assessment services, funding
47 for speech therapy, funding for other kinds of counselling

1 or other services. In our negotiations, we will be looking
2 to include those in the funding.

3
4 THE COMMISSIONER: Thank you. I would like to move on to
5 the Children's Guardian. I think the restoration issues we
6 have looked at probably in the planning permanency
7 position.

8
9 But as to the Children's Guardian, as was indicated in
10 a previous forum, some provisions in the Act have not yet
11 been proclaimed, which means that they are not yet in
12 force. Among the unproclaimed provisions are some that
13 relate to the role and responsibility of the Children's
14 Guardian. If proclaimed, the guardian would be able to
15 exercise the parental responsibility of the minister and
16 would be entitled, for example, to examine copies of case
17 plans for each child or young person in out-of-home care
18 and to receive reviews concerning the placement of those
19 children in accordance with guidelines to be developed by
20 the holder of that office.

21
22 It will also have the power to monitor children and
23 young people in voluntary out-of-home care as well as
24 powers to remove the responsibility for daily care from an
25 authorised carer to resolve disputes between a child,
26 parent or relative, agency or carer and to apply to the
27 Children's Court to rescind or vary orders.

28
29 Some submissions to the inquiry have suggested that
30 these provisions should now be proclaimed. Neither DoCS
31 nor the Children's Guardian in their submissions do support
32 the proclamation of the provisions but favour their repeal
33 and replacement by a somewhat different approach.

34
35 I am not entirely clear at the moment what is the
36 nature and extent of the additional approach which would
37 replace the unproclaimed provisions which are said to be
38 unworkable in their present format. So perhaps I could ask
39 DoCS and the Children's Guardian first to spell out what it
40 is that they see would be a better model than the
41 unproclaimed provisions?

42
43 MS BOLAND: Just by way of background, obviously when the
44 position was created, its primary purpose was seen to have
45 an oversight in relation to each child in out-of-home care,
46 so the current provisions reflect that very broad scope for
47 the Children's Guardian.

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Perhaps the most unworkable clause is section 181(1)(d), which talks about examining a copy of each child's case plan review, and a complementary section in section 155(5).

That would have, on a modest estimate, the Children's Guardian looking at probably 10,000 case plan reviews per year. From a perspective of what we would be capable of doing and what resources would be needed to do that, for the outcome, I think what we are saying in relation to that is that that particular section is unworkable and we are looking at replacing it with another model.

That is not to say that some of the objectives wanting to be achieved by that section are not achieved by our case file audit function. We have taken an approach in relation to the last case file audit, where we did look at some 2,335 cases across the system, which is a comprehensive sample, and we think that we have a reasonably good idea about how the system is travelling in relation to the dimensions that we audit.

To do that and to monitor the system and then to look at that many case plans would put us in a position, I think, of what's been termed previously by other people super case worker who would be second-guessing case work on the ground, would be potentially centralising decision making and causing delays in very important decisions that we've made locally. So that's the rationale for saying that those particular sections are workable.

I know that this issue had considerable discussion amongst the non-government sector and the government during the time of the proposed proclamation, and I will be corrected I'm sure, but I think there's reasonable consensus that that's the general workable approach.

I should say also that when these sections were proposed, the oversight framework that now is in place was not quite as sophisticated as it is now, so there are a number of agencies, oversight agencies, who have complaint-handling functions, alternative dispute resolution functions, investigational functions. The department itself and most of the NGOs have good complaint-handling systems, investigation system, and we would advocate, obviously, that there should be an increase

1 in the use of ADR to resolve disputes.

2
3 What we're suggesting is that there might be a role
4 for the Children's Guardian in relation to some high-level
5 issues, and some of the issues that have been discussed
6 before this commission have been in relation to contact
7 orders. If they are to be managed as part of the case
8 management, we would see ourselves having a role in
9 providing guidelines in relation to that or in fact having
10 the decision-making power in relation to that.

11
12 We would require an amendment, obviously, to the
13 legislation to give us that power, power to direct in
14 certain circumstances that parties should exercise the
15 parental responsibility of the ministers in a certain
16 fashion, and behind that, if that was not followed, would
17 sit a number of areas under the Act, namely, section 182
18 and section 184, which allow the Children's Guardian to
19 seek orders from the court in relation to revision of the
20 court orders.

21
22 There would be other tools available to us in relation
23 to our accreditation process where we place conditions on
24 the accreditation if directions weren't followed. There's
25 a suite of things that we can do there also, and that is in
26 relation to deaccrediting, et cetera. These are large, but
27 the system would need to be allowed to work so that these
28 decisions could be resolved locally and we would only
29 intervene in a very, very small number of matters.

30
31 MS FURNESS: Ms Boland, can I ask you about section 182,
32 which, if proclaimed, would empower you by a notice in
33 writing to remove the responsibility for the daily care and
34 control of a child from an authorised carer. When the
35 provision was initially drafted, was there a particular
36 policy imperative behind giving you that power without any
37 specificity as to the criteria you might apply before
38 exercising it?

39
40 MS BOLAND: I don't know that I can answer that entirely
41 in terms of the thinking behind that particular section.

42
43 MS FURNESS: Well, thinking of it now, what circumstances
44 could you envisage based on the work that you've been doing
45 that would enable you to exercise that power by notice to
46 remove the responsibility for the daily care and control
47 from an authorised carer?

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MS BOLAND: Clearly we would obviously go back to the department, which has the capacity where a designated agency is not fulfilling its powers, and ask them to look for alternative arrangements. That would be the most sensible thing to do.

THE COMMISSIONER: So far as DoCS is concerned, are you of similar opinion as to what should happen if the unproclaimed provisions, for example, were repealed and replaced by some other model?

MS BOLAND: Should DoCS be?

THE COMMISSIONER: I'm really asking DoCS whether they're of the same view as the Guardian in relation to what should happen if the unproclaimed provisions are repealed and replaced by a different model. Perhaps more specifically, are you agreed as to what would be an appropriate model?

DR IZMIR: We are agreed that there should be endorsed provisions in the course of action and that in their current form they're not possible to implement effectively. We are also of the view that the Children's Guardian fulfils a very important role in terms of maintaining the overall quality in the system, but on some of the detailed proposals that are in the Guardian's submissions, we will have to go back and have a bit of a discussion with some others in our agency to be able to form a view.

THE COMMISSIONER: It just occurs to me, time particularly being short, there may well be quite opposite views as to what should happen in relation to those provisions. As I said, the DoCS submission is on the website. I think we can put the Children's Guardian submission on the website pretty quickly. There would be no objection to that?

MS BOLAND: No.

THE COMMISSIONER: So we would probably welcome views, I suspect, from the agencies as to such as the framework of the model as appears from those documents. I think the model might need a bit more refining. It's fairly broad at the moment. I'm not sure I fully comprehend it. It's probably my fault rather than the authors' submission. We would welcome your views on that.

1 Just briefly for the moment, is there any consensus or
2 view amongst the agencies and the associations, and so on,
3 as to whether it is desirable to now proclaim those
4 unproclaimed provisions, or is it better to scrap them and
5 start again with something which maintains a greater degree
6 of involvement or potential involvement by the Guardian in
7 the operation of the out-of-home care system in particular?
8 It's a broad question, but does anybody have any views
9 about that?

10
11 MS VOIGT: My agency certainly supports the repeal of a
12 non-proclamation of those provisions. We would not as yet
13 have a comment, because this is the first time I've heard
14 about the Guardian's submission.

15
16 THE COMMISSIONER: All right. Around the table?

17
18 MS BURGHEIM: I think our position would be the same.

19
20 MS EAGLES: We would support the Guardian's decision on
21 what they think they can do and do well. I think the only
22 other comment we would have is about the children in
23 voluntary care and them being included in the same process
24 of accreditation and case file auditing and review.

25
26 MR DRIELSMA: Can I just say too, this being resolved will
27 hopefully produce a lot more clarity about the Guardian's
28 role. There is just a point about the administrative
29 duplication that sometimes occurs in the department, DoCS
30 wanting to impose performing monitoring aspects of
31 contracts and what clearly comes under the Children's
32 Guardian, making sure you're accredited, having file
33 references, and so on.

34
35 THE COMMISSIONER: Are there any other views about the
36 Guardian?

37
38 MR McCALLUM: We would support the Guardian. We have
39 addressed that in our submissions.

40
41 THE COMMISSIONER: I think it would be worthwhile, and we
42 can draw it to your attention once we get perhaps a more
43 specific proposal probably circulated amongst the agencies
44 and get your views on that. Sorry, Dr Cashmore.

45
46 DR CASHMORE: I'd just like to comment about that, because
47 I was involved in the review and in the ministerial

1 advisory committee. There was a great deal of discussion,
2 and in 2004 there was considerable discussion. I'm not
3 sure it's true that there was real consensus at that time
4 about that process, because there were two models that were
5 put up, but there wasn't a real comparison between them.
6 I think there's still some work to be done around that
7 process. I'm not sure that the green paper necessarily
8 reflects that discussion from that time.

9
10 I think that the work in terms of the audits, and so
11 on, is very valuable and it's a process that should be made
12 public so that people can actually see the findings from
13 that. My concern would be that that is still quite limited
14 sampling, so that we're not quite sure how you identify
15 those children who are falling through the cracks,
16 especially in unallocated cases.

17
18 There is also the issue that has never been resolved
19 since 1987, which is the issue of a register of children in
20 care and the review, et cetera. Again, I think it was
21 revisited by Usher and, again, revisited, I think, in the
22 2002 inquiry. So there are a number of issues, I think,
23 around this that really do need some full discussion and
24 different models and different ways of working with it to
25 achieve what was intended at that time, that the Children's
26 Guardian would provide a safety net for children so that
27 they don't miss out, and it's not the luck of the draw as
28 to whether they're in NGOs or DoCS or which particular CSC
29 is providing their care.

30
31 THE COMMISSIONER: I was actually going to say something
32 about the register next, and you've managed not only to
33 remind me of it but to direct my attention to it. I want
34 to save some time for observations from the floor. The
35 register, it seems to me - I am surprised it hasn't been
36 proclaimed. I would welcome the views of those of you who
37 have spoken today or are otherwise involved as to whether
38 you do see advantage in proclaiming those provisions or
39 introducing those provisions about maintaining a register.

40
41 It seems to me - perhaps it's a superficial view - to
42 be an absolutely essential basis for any longitudinal study
43 of the way the system works and very important to identify
44 who is missing out on some services and who is doing well
45 or not doing well, which is part of the problem of a lack
46 of a consistent or detailed study of the system. But it
47 also has an impact, it seems to me, in relation to

1 something I'll just mention, although I won't call for
2 debate today, and that's the transition of children and
3 young people from out-of-home care to independent living.
4 I'm concerned as to whether sufficient assistance has been
5 provided, both financially and otherwise, for those
6 adolescents who have been removed as a result of statutory
7 intervention and placed under the minister's parental
8 responsibilities to make that critical transition to
9 adulthood and to a situation where they're expected to care
10 for themselves. Similar issues, of course, arise for those
11 children or young people who have not come into the
12 statutory intervention system, but have joined the homeless
13 community and have just been missed or forgotten in the
14 system.

15
16 There are suggestions, I believe, from what I've seen,
17 that for both categories of people there is a current real
18 lack of a proper system which needs to be addressed. One
19 of the simple things which came to my attention at a
20 meeting this week is the fact that there is a sum of money
21 which is available potentially and some support available
22 for a young child who is going in a transition situation,
23 but the requirements and the procedure to get that money
24 are very complicated, such that most kids just give up and
25 are left to fare for themselves.

26
27 I know DoCS is addressing this. There is the capacity
28 to extend the assistance and the support for a longer
29 period. There is provision to give support for children to
30 go into education, and so on. But it seems to me to be
31 ad hoc, haphazard and incomplete. I would very much
32 welcome - we can't do it today - the views from all of you
33 who are here present or the general public, as well as from
34 DoCS, as to what more can be done to support and assist
35 people making that critical step from a degree of control
36 out into the world where they're expected to fare for
37 themselves. Because if they don't make that step properly,
38 if they can't be supported for their medical and particular
39 mental health issues or their ongoing education and
40 vocational training, they don't have a hope of succeeding,
41 and it will simply guarantee that they have their own
42 children and repeat the cycle into the next generation and
43 the generation after that. So I do want your help on that,
44 if I can.

45
46 In the short period of time left, I'm sure there are
47 many people who want to talk. If anybody does want to

1 talk, can I ask you please to keep it fairly brief, and
2 perhaps say who you are.

3
4 MS [REDACTED]: You may have seen me in the paper. I am
5 a foster carer. I was in the Daily Telegraph 12 months ago
6 for not receiving a carer payment for my nephew for over
7 three months. I fought very hard to have the payment
8 restored. Only with help from the Foster Care Association
9 was that payment restored.

10
11 From that point onwards my relationship with the
12 office was not very satisfactory. I am also a long-term
13 carer with Life Without Barriers. I also have had numerous
14 issues relating to support, inadequate support. I was
15 bashed by a child in my care. I phoned the support person
16 at the time, only to be told, "What do you expect me to do
17 about it?"

18
19 The child was subsequently arrested and taken to
20 court. Neither DoCS nor the agency attended the court
21 hearing. Another child made an allegation - in relation to
22 what Mary Jane Beach said, an allegation was made against
23 me and my partner. It has been proven false, but my name
24 is still tarnished with the CCYP. The people that put
25 carers on the list are the people who govern the list. I
26 don't know whether you all know this, but they govern the
27 list, so the people who put me on there are the only people
28 who can remove me from that list.

29
30 I am asking, Commissioner, that you look at this in a
31 very serious manner as to why there are no foster carers.
32 There are lots of people who would like to be foster
33 carers, but carers place their professional and personal
34 reputation on the line to care for children that make false
35 allegations, and I'm not saying all children make false
36 allegations, because there are certainly a high number of
37 children that are abused in care, either systems abuse or
38 by carers.

39
40 What I am asking is that the Administrative Decisions
41 Tribunal govern the list and look at whether the person
42 should be on that list to begin with. At present we can't
43 even appeal to the ADT to have our names removed. We have
44 asked the Ombudsman to look at this, and Mr Gary Dawson
45 says that he himself cannot remove us from that list,
46 although he can see that we are innocent. We are in a
47 society where we are innocent until we're proven guilty,

1 but not for carers.

2
3 THE COMMISSIONER: The point you make is certainly one
4 which is known to us, and I did actually allude to it
5 earlier, and I think you can assume that we'll be looking
6 at that aspect, as to how it can be dealt with. Thank you.
7 There are a number of people who want to talk, so I ask you
8 to keep it short.

9
10 MR [REDACTED]: My name is [REDACTED] and this is my
11 wife, [REDACTED]. In order to be efficient, I'll read
12 this out.

13
14 When we look at the agenda, the first four paragraphs
15 of the opening statement, on every single one of those
16 paragraphs the system has so far failed our child. Our
17 child has a significant disability and requires out-of-home
18 assistance. She will die around her 12th birthday. How
19 can it be that DADHC had nothing to offer? Their only
20 suggestion was to report us to DoCS as being a danger to
21 our child. Why have we had to relinquish our child to the
22 state in order to get help?

23
24 After that, DoCS tell us the only option available in
25 the entire state is an indefinite crisis placement in
26 another city, in Newcastle. This indefinite placement,
27 which could be up to a year, has a rotation of different
28 carers that we ourselves can't keep up with and has
29 resulted in our child living in three different houses in
30 the first seven-week period. It would have been four had
31 we not intervened. Lastly, why is our child, who has a
32 genetic condition and only one year left of any possible
33 learning before her inevitable deterioration, still not
34 enrolled in school although we're at the end of week five
35 of the first term?

36
37 Everything we see is reactive. Why is there never any
38 proactive action? Why is there no infrastructure in place?
39 Our child's placement in Newcastle allegedly is somewhere
40 between \$7,000 and \$10,000 a week, a huge amount of money
41 for a child that could be in small-group residential care,
42 a child that does not require one-on-one care but general
43 supervision. DoCS has never taken time to ascertain our
44 child's needs. It's a situation of case closed and no more
45 to think about. We see a massive waste of money that maybe
46 could be spent appropriately by actually creating a
47 solution if there was any forethought or imagination.

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THE COMMISSIONER: Can I ask you, have you sent a submission to us?

MR [REDACTED]: We have sent a submission to you. There was a submission from the Matilda Rose Early Invention Centre, and we are the entire part 1 of that submission.

THE COMMISSIONER: Thank you. You'll appreciate that we're now up to almost 300 or more submissions and I'm still working my way through them progressively. We'll certainly have a look at that situation.

MR [REDACTED]: Thank you very much.

MR ALISTAIR McNICHOL: My name is Alistair McNichol, chief guardian in Scotland, have been for 30 years, care manager, adoptive parent and short-term foster parent. One of the areas I've been concerned with is when children need care, and I've had to gather the records of a number of agencies and place them with the archivist because there's a constant stream of people who come to the agency who haven't been well treated and they're committed to care.

A record system is retained for 100 years so that past relatives, parents, children, can access these records. Each child has a comprehensive medical record of care that follows them all the way through, it can be up to 25 years of age, because we realise that they are vulnerable people.

I think that's the back end of the whole child care process, how these records are made available, what the privacy connections are and how they're shared between these agencies.

THE COMMISSIONER: Thank you, we're addressing those problems.

MS SHEEDY: My name is Leonie Sheedy and I represent the people who are State wards and home children who grew up in the 500-plus orphanages that Australia once had. We started this group eight years ago, and the oldest member is 96 and the youngest is 26. We have people who have had three generations who have been in care.

I want to pick up on something that Judy said about the lack of research. How can you learn how to make it

1 right for children in care today when there has never been
2 any research into what worked or didn't work for us? DoCS
3 failed to put a submission in to the Senate inquiry into
4 children in institutional care. It was the only State
5 Government that failed to put in a submission. That is
6 disgraceful. They were supposed to be our legal parents,
7 and they still don't care about the outcomes of their own
8 State wards. That is disgraceful.

9
10 THE COMMISSIONER: I think you can assume that one of the
11 things that needs to be looked at is the question of
12 longitudinal studies, because, as you say, it is the only
13 real test of what is working and what doesn't work.

14
15 MS SHEEDY: There are many New South Wales State wards all
16 around this country. They can't even bear to live in this
17 State, because of the trauma that happened to them. Read
18 "The Forgotten Australians", the Senate inquiry report.
19 I look forward to the day when DoCS is accountable for what
20 happened to New South Wales State wards. Thank you.

21
22 MS [REDACTED]: My name is [REDACTED], and I did send a
23 30-page submission to you. I have heard this morning
24 people speak, and I must admit that much of my submission
25 also agrees with all of those speakers. I would like to
26 thank the lady who just spoke a moment ago. I have a
27 grandchild who is a State ward. She was taken in at the
28 age of 12 and a half or 13. Mental Health and DoCS do not
29 understand trauma in children. Whilst they're subjected to
30 just being "behaviour" and not "traumatised", then we are
31 going to have a lot of damaged kids.

32
33 My granddaughter is now 16. She has been on the
34 streets for the last three years. She has had no
35 education, no health help at all and no medication for the
36 flashbacks and nightmares that she has from the trauma.
37 A lot has to be done, and I'm very grateful that it is
38 starting to be looked into. Thank you.

39
40 THE COMMISSIONER: Just one more. Well, three people put
41 their hands up. We will hear each of you briefly.

42
43 MS [REDACTED]: I'm glad of this opportunity to speak. My
44 name is [REDACTED], and I have one child that was given
45 to me through the courts. I have six grandchildren. Two
46 are with the Governor-General. They went into foster care,
47 and because they went to long term, they said that because

1 of restoration, we were unable to see them. We didn't get
2 to see them, and it has been two years since we have seen
3 them. We have only just seen them now, because the oldest
4 one has run away from the foster carers three times now,
5 and the third time he was on the streets for three days,
6 not wishing to go back. The point I'm trying to make is
7 that I had to go through the courts to obtain some sort of
8 agreement to see the children, and that was breached and
9 I still haven't seen them.

10
11 THE COMMISSIONER: The contact issue is a very difficult
12 one, which we are looking at, including ways of enforcing
13 contact orders. Thank you for telling us about your
14 experience. It is a matter that certainly we will be
15 looking at.

16
17 MS CONWAY: Thank you for this opportunity to speak. This
18 is a picture of my daughter. Melody Rose Conway died at
19 the age of 16 in DoCS's alleged care. I received her
20 belongings, such as they were, in used, tatty garbage bags,
21 with no documentation whatsoever.

22
23 The child death review has quashed two inquiries. The
24 second one was supposed to be independent of the first, but
25 I had already spoken to those people. An inquest has been
26 quashed stating that my child died two years later than she
27 did.

28
29 Melody had so much talent, and she was completely and
30 utterly crucified in this system. Because I followed the
31 rules and wrote letters and read the Children and Young
32 Persons (Care and Protection) Act and did things by the
33 book, they stonewalled me. They made Melody write that she
34 would have no further contact with me. In refuges, they
35 screamed at her, "Get off the phone." They wouldn't allow
36 me contact. I had done nothing wrong. Melody had had an
37 episode of attempting to jump from a building at a high
38 school. The high school had hidden the fact that there had
39 been a relationship with her and a teacher --

40
41 THE COMMISSIONER: We are aware of this case. You have
42 written to us, and we have documents in relation to it.
43 I would rather that you don't name the school or the
44 teacher or individuals involved.

45
46 MS CONWAY: Okay. Well, let me just say that the
47 Ombudsman has told me that an average of 25 to 50 deaths

1 occur in refuges per year. I would have thought that is
2 37, but none of them show up in the inquests. Melody is
3 not in any of these inquests. These children just
4 completely go through the cracks when the system has
5 control of the child. The Institute of Criminology says
6 that females between 13 and 17 that are in care are 200
7 times more likely to incur a criminal record. I think that
8 speaks for itself.

9
10 The last thing I want to say is - the massive amount
11 of coaching that these kids get before they even hit the
12 system. You know, kids are saying, "My mother is a jewel
13 thief and my father is with al-Qaeda. You have to save me.
14 They won't buy me Billabong track pants", and they're
15 accepted into the system. These kids are wasting the
16 system's time. They should be at home. The system should
17 be there for the children that really need it, but it's
18 getting clogged up by all these kids that assume all of
19 these rights, with no responsibilities. They're never
20 given any sort of understanding that, with rights, come
21 responsibilities.

22
23 THE COMMISSIONER: Thank you for that.

24
25 MS [REDACTED]: I'm [REDACTED], and I'm a parent. I have
26 three kids, two who are in Barnardos foster care and one
27 who is profoundly disabled and medically frail and lives at
28 home with me, who is 12.

29
30 In relation to DADHC working with DoCS and stuff,
31 I disagree. I think that the system in a lot of cases -
32 maybe it's just the region I'm in - they don't actually
33 work sort of - they say they'll work together with the
34 family, but you have DoCS involvement and stuff, and in
35 actual fact you only have a small period of time where they
36 are with you, sort of thing.

37
38 There are obviously a variety of issues, which I won't
39 go into. But my son is totally dependent, needing 24-hour
40 care. He was in DoCS care in a hospital situation, where
41 we perceived that he was abused in that hospital situation.
42 He was in a private hospital, where he was actually
43 returned to our care - my care, actually - in an interim
44 thing and then a full-time sort of thing.

45
46 That's why I think for kids with not just behaviour
47 issues but with actual medical and complex needs, there

1 needs to be a lot more not just talk but the actual
2 services being put in place and the help in the home.
3 DADHC says they want kids with high needs at home; DoCS
4 says, no, out. So when are they going to work together?
5

6 My son's care doesn't stop at 18. It's 24-hour care,
7 up half the night, all the rest of it. So there needs to
8 be more cooperation between the disability side and DoCS,
9 not just the talk, let alone why is a multi-handicapped
10 child with all these needs at home, and two other kids in
11 care? But we won't go there.
12

13 THE COMMISSIONER: Thanks. We are looking at this
14 question of interagency relationships between the various
15 services, and the point you make is very much under our
16 observation. Thank you very much.
17

18 Thank you very much, then, for attending today and for
19 your participation. As I say, this is a very important
20 part of our reference, and the information given today and
21 the feedback is very helpful to us. Thank you very much.
22

23 AT 1.08PM THE HEARING CONCLUDED
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