



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON HEALTH, AGEING
AND COMMUNITY SERVICES**

(Reference: [Inquiry into Child and Youth Protection Services \(Part 2\)](#))

Members:

**MS B CODY (Chair)
MRS V DUNNE (Deputy Chair)
MS C LE COUTEUR**

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 4 FEBRUARY 2020

**Secretary to the committee:
Dr A Cullen (Ph: 620 50136)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

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Amended 20 May 2013

The committee met at 1.32 pm.

CAMPBELL, DR EMMA, Chief Executive Officer, ACT Council of Social Service Inc

MOLONEY, MS ELIZA, Policy Officer, ACT Council of Social Service Inc

THE CHAIR: I declare open this third public hearing of the Standing Committee on Health, Ageing and Community Services inquiry into part 2 of a reference from the ACT Legislative Assembly. Part 2 of the reference from the Assembly has asked the committee to inquire into the ability to share information on the care and protection system in accordance with the Children and Young People Act 2008, with a view to providing the maximum transparency and accountability so as to maintain community confidence in the ACT's care and protection system.

Before we proceed, I would like to take a moment to acknowledge that we meet on the lands of the Ngunnawal people, the traditional custodians. I pay my respects to their elders past, present and emerging, and acknowledge the continuing contribution of their culture to this city and this region.

Today the committee will be hearing from representatives of the ACT Council of Social Service Inc, ACTCOSS, followed by the ACT Human Rights Commission.

We will now move to our first witnesses today, Dr Emma Campbell, chief executive officer, and Eliza Moloney, policy officer, from the ACT Council of Social Service Inc. On behalf of the committee, thank you both for joining us today and for your submission. Can I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the pink privilege statement that is on the table. Could you confirm for the record that you understand the privilege implications of the statement?

Dr Campbell: I do.

Ms Moloney: Yes, I do.

THE CHAIR: Can I also remind witnesses that the proceedings are being recorded by Hansard for transcription purposes and are being webstreamed and broadcast live. For the purposes of this public hearing, I remind witnesses to refrain from referring to information that may identify a child or young person who has been or is the subject of a Childrens Court proceeding.

As witnesses will be aware, any information that is disclosed to, or obtained by, a person under the Children and Young People Act 2008 is subject to a strict set of secrecy provisions. The Assembly reference to the committee also specifically requires that the committee take evidence and hold documents in ways that will not allow for individual people to be identified without their express consent.

Before we proceed to questions from the committee, Dr Campbell, do you have a brief opening statement?

Dr Campbell: I do, yes. I would also like to acknowledge the Ngunnawal people, who are the traditional custodians of this land on which we are meeting, and pay respect to the elders of the Ngunnawal nation, both past and present. Thank you for inviting us to this hearing today.

As the peak body for people experiencing disadvantage in the ACT and the community organisations who represent and service them, ACTCOSS is pleased to contribute to developing a better child protection system in the ACT. This system is critical to a range of important life outcomes for young people and families in Canberra.

The safety and wellbeing of children and young people must be at the core of child and youth protection services. To ensure that the community retains confidence in the ACT's child and youth protection services, the child protection system must be transparent and accountable.

The removal of a child from their parents is one of the gravest decisions that can be made. In our efforts to protect children, I believe that we have not yet fully reflected or acknowledged, in the policy and practices of child protective services, the momentousness of the decision that leads to the removal of a child from a parent.

As a result of this failure, we have neglected our responsibility as a community to provide the support necessary to families to manage the challenges that they face that lead to the involvement of child protection agencies. As a result of that failure, we have not ensured that there is robust accountability and appropriate transparency for a child protection system that can take a child from its parents and/or its extended family permanently.

This month the Productivity Commission released their 2020 report on child protection services. In the 2018-19 reporting period there were 9.4 children on care and protection orders for every 1,000 children in the ACT. More concerning, there were 91.9 Aboriginal and/or Torres Strait Islander children on a care and protection order for every 1,000.

MRS DUNNE: One in 10.

Dr Campbell: Only 53.6 per cent of children in the ACT in out of home care or on other supported placements were with relatives or kin. That means that almost half of all kids were separated from their families. ACTCOSS calls for, at the very least, the recommendations of the Glanfield report to be implemented as soon as possible.

In the ACT, mechanisms for accountability and scrutiny of child protection decisions are weak. Too many decisions are not subject to any external review mechanism. One outcome from this standing committee must be a review of what decisions made by the CYPS should be subject to external merits review—again, as recommended by the Glanfield report in 2016—and robust accountability mechanisms should be implemented as soon as possible. ACTCOSS recommends instituting an external review model through the ACT Civil and Administrative Tribunal, ensuring that potential ACAT members for CYPS decisions are properly trained.

More broadly, to build community confidence in the child protection service, improvements must be made to information sharing and transparency. We recommend that the CYPS improve communication with parents, carers, children and young people. We would like once again to bring to your attention the Glanfield report, which makes a number of recommendations with regard to this issue.

Further and urgently, CYPS policy and practices must be revised to ensure that Aboriginal and/or Torres Strait Islander child placement principles are explicit in the policy and the practice of child protection in the ACT, and CYPS staff must receive ongoing training on unconscious bias.

Remembering that the removal of a child must be viewed as a failure of our community to support that family, ACTCOSS urges the committee to consider recommending a move towards a restorative practice approach, including an increase in early support that works with families, and to consider implementing restorative practices in removal cases. We would be happy to discuss restorative practice in more detail during our evidence. Similar suggestions are made in the Glanfield report.

I will conclude by acknowledging that the government has taken some steps to begin to address many of these issues. We hope that the committee will also make the necessary recommendations to ensure that further work is done so that the community retains its trust in the ACT's child protection system.

THE CHAIR: Thank you so much. I want to pick up on a couple of points that you raised, both in your submission and in your opening statement, in regard to communication with parents, carers, children and young people. In particular, you say:

... accessing formal decision-review processes can involve complicated, structured, and overly formal processes that potentially alienate both young people and their advocates ...

Can you expand on that for me?

Dr Campbell: A lot of our submission is based on communications with our members. Eliza led some of this work. Do you want to share a bit on that?

Ms Moloney: Yes. When we have sought information on the best ways to communicate with children and young people, we have really valued the experience and contribution of the CREATE Foundation, who represent the experiences of children and young people in out of home care. Systems communication with young people is something that they have looked at quite extensively.

It is things like the way information appears. Plain simple English is really useful, not only for children and young people, but for a whole range of people in the community. It is also making sure that information can be related to children and young people, depending on any disabilities they may have or developmental needs. Also, in relation to navigating the system and accessing communication, something that CREATE have talked about is the stability of caseworkers, making sure that you have somebody as a central point of communication rather than having a lot of turnover,

which can make permanency of information quite difficult. But also there is the comfort of accessing information. That is really important for children and young people who may already be experiencing some marginalisation: to increase any amount of comfort that we can in communicating with the system.

Dr Campbell: It is really important to make sure that, in particular, young people, but anyone who is involved in the system who is vulnerable, have access to advocates. It is one thing to simply read something that is on a paper and agree with it; it is another thing to really understand the long-term consequences for you and your family of agreeing with that statement when it is presented to you. It is advocacy and funding. Good quality advocacy for those involved in child protection services is something that will help with many of the issues that are addressed in our submission.

THE CHAIR: It is interesting that you raise the advocacy side of things. We have heard some evidence during some of the hearings about—I am going to get the terminology wrong again—the children’s legal advocate. I think it is more commonly referred to as the children’s legal representative. Do you have anything to do with that? Do you interact with that side of advocacy as well?

Dr Campbell: I have not yet.

Ms Moloney: We do deal with community legal centres as well as Legal Aid, though not specifically with the children’s legal advocates. But funding for community legal centres is something that we continuously state is so important, not just for non-legal advocates.

THE CHAIR: Apparently, we have heard, a legal representative gets appointed for the children and acts on behalf of the children. That is what we are informed. But we have heard evidence that that is sometimes a little more difficult. I was not sure whether, from another aspect of advocating, you see that legal side at all. By the sounds of things, no; it is very separate.

Ms Moloney: Not really. But another thing that has been stressed to us in the process of thinking about information sharing and child protection is ensuring that communication is timely. The wait for hearing about the circumstances of your order can be unacceptably long for children, young people and their families.

THE CHAIR: Do you advocate for many children within the child and youth protection system?

Ms Moloney: We do not advocate.

MS LE COUTEUR: They are not an advocacy group.

THE CHAIR: That is my point.

Dr Campbell: We do not advocate for individual children or families. Often the organisations who are tasked with working directly with the families and children involved are not in a position to share some of their experiences in ways that perhaps ACTCOSS do. The role of an organisation like ACTCOSS is to work with service

providers, who are not necessarily peak body advocates, and communicate the challenges that they face. We are a kind of receptacle for the frustrations and the challenges of many of those who are working directly with children.

MRS DUNNE: That is reflected in your submission. You reflect on the fact that this is, in a sense, a composite submission. What you have said to us in a sense—and this is not a criticism of you—is not new, because we have heard from some of these organisations directly as well.

THE CHAIR: In fact, in part of your submission you recommend that you support AFI, Advocacy for Inclusion. We have heard from Advocacy for Inclusion, and they were very passionate about advocating for people with a disability who maybe do not get the support that they could use.

Dr Campbell: I think there is also a difference between legal advocacy and personal advocacy, and even navigating or dealing with legal systems, lawyers. Knowing that you have the right to access lawyers, which lawyers you can access freely and so on is complex, and you need an advocate to help navigate that. There is a difference. Many of our members would be active in that non-legal advocacy space, and they need support in order to support all members, all those involved in this system.

MS LE COUTEUR: You mentioned in your opening remarks that the Glanfield inquiry recommendations should have been implemented. This is probably a question for Ms Moloney rather than you, Dr Campbell, given that she has been in Canberra a bit longer. Why do you think, when we did have this inquiry—

MRS DUNNE: It was nearly four years ago.

MS LE COUTEUR: Do you have any ideas as to why it was not implemented?

Dr Campbell: What are the barriers from the community sector?

MS LE COUTEUR: There was an inquiry; there were a lot of recommendations. Basically everyone that has talked to us has been positive about them, some people more than less. But everyone has indicated that this suggested a step forward that has not been properly taken. Given that you have been talking to so many different groups, I am wondering if you have an idea of why that step was only a bit taken.

Ms Moloney: As far as I can tell from the discussions I have had in the community, that is something that the community sector wonders as well. There has been a lot of support for this by the community sector. We, too, have been left wondering why it has been almost four years. Child protection issues have certainly emerged in a bigger way, politically and in advocacy spaces, in the past two years. Maybe now we are finally getting to that groundswell, paying enough attention, and sufficiently recognising the importance of it, that, hopefully, we can get them implemented.

Dr Campbell: This inquiry is a great opportunity to demonstrate—for the committee to recommend and for the ACT government to see—that the vast majority of the community sector and those involved in this area do broadly support the recommendations in the report. I think that that will help the momentum behind

moving forward with some of these ideas.

MRS DUNNE: Could I touch on the Glanfield inquiry. One of the principal recommendations was a review of which decisions should be reviewable. That clearly has not happened and here we are nearly four years down the track having the same conversation. Your recommendation is that we should be implementing that recommendation, which is a recommendation to have a review.

Do you as a peak body in consultation with your constituent organisations—and this is probably a takeaway answer—have a view about which are the very important things which are not now reviewable that should be reviewable, rather than this committee just reinforcing and saying, “Implement the Glanfield inquiry recommendation in relation to that,” and actually put some meat on those bones, saying, “The community is saying to this committee that section”—pick a number—“should be reviewable,” so that some of the work is done?

The risk is—I am a cynical old lady who has been doing this for a long time—that we make a recommendation and somebody in the bureaucracy sits there and is given the job of saying, “Which ones should be reviewable?” They do not think that any of them should be reviewable, because we have got legislation like that already. We need a mechanism so that the community takes hold of that process.

We should not be telling the government that they should just be reviewing the legislation. We should be telling the government that they need to set up a community task force or something that oversees the review of that legislation but also it needs to come with some oomph from the community sector. You said, on behalf of the community sector, “We want this recommendation implemented.” How do you implement it? What things do you want?

Dr Campbell: ACTCOSS’s position is that at the very least then there should be the implementation of a review of what should be reviewable—at the very least—but ideally we would support the recommendations by Legal Aid ACT.

Ms Moloney: We have drawn on the legal expertise of our members and people we work with. Drawing on Legal Aid ACT’s expertise, we have agreed that all administrative decisions made by the director-general under a care plan or care and protection order should be subject to external review.

Dr Campbell: That would include, for example, where they live, which family members or other important people the child would have contact with, frequency of contact and so on. We also have suggested, as I put forward in my opening statement, that ACAT may be an appropriate forum for external review.

MRS DUNNE: It certainly seems a logical place for it to be. The mechanisms are there. The practices are there. But the committee would have to be cognisant of the point that you make that ACAT panel members who deal with this would need, perhaps, specialist training.

Ms Moloney: Yes.

Dr Campbell: I think that we just go back to the momentousness of a decision to take a child away from its parents and its family. And it is not suggesting that in every case or any case that that decision would be overturned, but to have no rigorous right of review is, I think, troubling. And we are behind other states and territories in this also.

MRS DUNNE: Could I also touch on the overarching issues. You spoke about it in terms of advocacy, and people in evidence before us have said that the combination of the opacity of the system and the power imbalance in the system creates a situation where most families cannot advocate for themselves. How do you address those two things: the sheer opacity of the system—the Glanfield recommendations go to that to some extent—and also the power imbalance?

Dr Campbell: Do you want to talk about restorative practice?

Ms Moloney: We did discuss in our submission a bit about restorative practice approaches. I think—it was also touched on in the Glanfield review—that family group conferencing is one way to ensure that it is not families against the system but families involved in the decision-making process and also children and young people being involved in that process.

The Canberra restorative community network has been holding along the way some really interesting and valuable meetings with community members, people who work in advocacy and people who work as social workers and others, and they have been doing really good work, I think, in bringing people together to discuss the way that people want to be more involved in making the decisions. Family group conferencing is a big one in that. They are working on a restorative practice. They have been able to point us in the direction of some really interesting work in other places.

Leeds has been doing some really interesting restorative cities work. Other than bringing families into the decision-making process through family group conferencing they have also been doing what appears to be really thorough and good training for people who may work in the child protection system or in systems that interact with it, so other social work practices—education, police—on what exactly more collaborative work would look like.

I think doing conferencing and using approaches that bring families in but then also doing the training to make sure that there is a systems-wide change is really important.

MRS DUNNE: In an ideal world how would family conferencing work? Presumably the essential ingredient is that whoever facilitates that conference does not have any skin in the game to some extent, they are independent, above the fray to some extent. But what else is needed?

Ms Moloney: I think certainly advocates. Not necessarily all families will feel comfortable stepping into a process like that by themselves and may want legal or non-legal advocates to help them navigate that process. I think that we should really be sure that advocacy options are still available to families even in systems like family group conferencing.

Dr Campbell: Once you make a decision that we want to look at alternative ways of

managing child protection issues, managing them in a way that involves families in decision-making, that presents an opportunity to bring a range of experts in to look at what would work best in the ACT and in our circumstance and so on. And there are lots of examples out there.

MRS DUNNE: How would this system address issues? You talk about unconscious bias. In your submission you talk about the bias towards removing children at risk. What sort of cultural change do you need? Extensive family group conferencing would bring about cultural change but you also would need some sort of cultural change to set that off in a sense, to be a boost to commencing a whole process that was much more restorative.

Dr Campbell: I guess the driving force behind unconscious bias is often misunderstanding and assumptions about other people because of cultural background, age, whatever it may be, and a lack of communication between those who make the decisions and those involved in or at the receiving end of those decisions, which means that those misunderstandings and those presumptions continue whether they are right or wrong.

We have talked about the lack of transparency and the lack of communication and we see that case conferencing is a good way to improve that. By improving communication and understanding you take away some of those presumptions and, therefore, you help remove the impact of unconscious bias by decision-makers. I do not know if that—

MRS DUNNE: I think that it all presumes a culture which is predisposed to a different approach. This is not necessarily a reflection on the ACT and the way we do it in the ACT but collectively there is an approach to care and protection issues which seems to indicate that the default position is removal of children in many cases. How do you circuit-break that so that we wake up tomorrow and that is not our default position? How do we get to that?

Dr Campbell: I think that is why transparency and accountability are so important because as it stands, from what I understand, there is a lack of accountability.

MRS DUNNE: Decisions are made without—

Dr Campbell: There is no need to explain why decisions have been made to those affected by them. When people are made more accountable, and if they are also made to understand, as I keep saying, the momentousness of these decisions, I think that will bring some cultural change. But accountability is the best way to bring about cultural change.

THE CHAIR: Thank you both very much for appearing today. When available, a proof transcript will be provided to you to provide an opportunity to check the transcript and suggest any corrections. On behalf of the committee, I thank you both, Dr Campbell and Ms Moloney, for appearing today and for making the time to make a submission to the inquiry. Thank you.

WATCHIRS, DR HELEN, President of the Commission and Human Rights Commissioner, ACT Human Rights Commission

GRIFFITHS-COOK, MS JODIE, Public Advocate and Children and Young People Commissioner, ACT Human Rights Commission

YATES, MS HEIDI, Victims of Crime Commissioner, ACT Human Rights Commission

TOOHEY, MS KAREN, Discrimination, Disability, Health and Community Services Commissioner, ACT Human Rights Commission

THE CHAIR: We will now move to our next witnesses, from the ACT Human Rights Commission. On behalf of the committee, thank you all for appearing today and for the submission to the inquiry. I would like to remind witnesses of the protections and obligations afforded to them under parliamentary privilege. Can you all, for the record, identify that you have read and understand the implications of the statement?

Dr Watchirs: Yes, we have; thank you.

THE CHAIR: For the purposes of this inquiry and public hearing, I remind witnesses to refrain from referring to information that may identify a child or young people who have been or are the subject of a Children's Court proceeding. As witnesses will be aware, any information that is disclosed to or obtained by a person under the Children and Young People Act 2008 is subject to a strict set of secrecy provisions.

The Assembly reference to the committee also specifically requires that the committee take evidence and hold documents in ways that will not allow for individual people to be identified without their express consent. I remind witnesses that we are recording all proceedings today for Hansard, and it is being webstreamed and broadcast live.

Before we proceed, Dr Watchirs, do you have an opening statement?

Dr Watchirs: Yes, I do. I would like to begin by acknowledging the traditional owners of the land on which we meet, the Ngunnawal people. I respect their continuing culture, the oldest continuous one in the world, at 65,000 years, and protected under section 27(2) of the Human Rights Act. I respect their contribution to the life of this city, Canberra, and the ACT region, and pay my respects to elders past, present and emerging.

Thank you for the opportunity to appear today and make the submission which we made last year. We have had the benefit of hearing the evidence of other parties and reading submissions, and it appears to us that there seems to be a consensus about the need to improve transparency and accountability in the child protection system.

As statutory office holders, all four of us have oversight functions, and it is a very significant concern to all of us as a whole. As a human rights jurisdiction, the starting point should be, naturally, the Human Rights Act. However, the underlying legislative framework, the Children and Young People Act 2008, falls well short of compatibility with the Human Rights Act by lacking safeguards.

Despite being a human rights jurisdiction for 16 years, administrative law, very basic safeguards, such as external review and accessibility to information, that are a matter of course in other jurisdictions, are simply unobtainable presently in the ACT. These deficiencies need to be addressed as a priority. It is for that reason that vulnerable people in the community, particularly Aboriginals and Torres Strait Islanders, who are disproportionately represented in out of home care, will continue the trend.

We welcome the government's commitment to improvement, with a restorative child and youth protection system that works with families in a trauma-informed and respectful way. We consider those good intentions to be honourable, but they must be underpinned by legislative change. We will not be satisfied with compatibility without legislative change.

There are two main areas to change transparency and accountability by changing the legislative framework. These relate to information and review rights. There is a blanket prohibition on sensitive information that cannot be shared. It covers broad things like reports and appraisals, contraventions, interstate orders, family group conferences and prenatal reports.

To enable greater and more timely information sharing, we have several recommendations. The first is that the director-general develop and publish guidelines on when and how the discretion to share this sensitive data under section 851 of the act will be exercised. Also, there is allowing identifiable information about a report to be shared with the consent of that person who is the reporter.

There is specifying when certain parties, such as parents or lawyers, must be provided with particular information. There is enabling a person who has left out of home care to access their own records. There is expressly providing for review rights to refuse the provision of sensitive information on the basis of it not being in the best interests of the child.

With respect to the second biggest area, review rights, we are completely out of step with other jurisdictions. Other jurisdictions have tribunal review of placement and contact arrangements: VCAT, NCAT, QCAT, SACAT and WASAT, but not ACAT. There is already jurisdiction for refusing approved carers and foster carers and revoking approved carers. ACAT does have minimal jurisdiction presently and it does have jurisdiction for mental health and guardianship, so it is used to dealing with people experiencing vulnerability.

Currently, there is no merits review. A care and protection order is made by the Children's Court, and that can be subject to legal appeal to the Supreme Court. But that is quite different to merits review, which results in a correct or preferable decision being made.

As a result of the Glanfield report four years ago, there was a review looking at reviewability of decisions. We made a submission in June last year. We understand that the minister will report back next month. Although we did make a submission, we have not met with the consultant who is writing up the report, Peter Muir. We understand that some stakeholders have met with him.

We think that external review is very important and that improved internal review will not be sufficient. External review must be on the cards; it must change the books, if you want to change culture in terms of accountability.

The broad discretionary framework under the act to make decisions, combined with the lack of external mechanisms, is, in our view, incompatible. We set that out in our submission to that government discussion paper in June last year. We referred to section 11, the rights of the child and the family, section 21, the right to a fair trial, section 27(2), cultural rights, and section 8, equality and non-discrimination.

Allied with that review, there is also the Our Booris report; the final report was in December last year. There were findings about bias and systemic discrimination resulting in different outcomes for Aboriginal families.

In terms of specific legislative change, apart from review we think that the best interests test in the Children and Young People Act does not accord with the Convention on the Rights of the Child. Currently, section 349(1) has 12 provisions. There are actually seven provisions in article 3 of the Convention on the Rights of the Child. They are actually reflected in Victorian legislation, and we think that the ACT should pick that up. We are both human rights jurisdictions, and theirs has been updated. Firstly, section 10(3)(a) of the Victorian act explicitly recognises that prioritising support to preserve family unity is an inherent part of the best interest principles. That is not the case under the 12 principles in the ACT.

Secondly, there is an express requirement for the court to be satisfied that all reasonable steps have been taken to provide the services necessary to support family unity prior to making an actual care and protection order. That is in section 276(1)(b) of the Victorian act.

With the last two recommendations, we recommend that model litigant guidelines be used for the child protection jurisdiction. The Victorian Law Reform Commission made a recommendation back in 2010. We are concerned about the adversarial nature of proceedings. The feedback from practitioners to us has been that there is not model litigant behaviour. If you are aware of the CP case in your earlier hearings—

MS LE COUTEUR: Yes, we all agree on that one.

Dr Watchirs: Lastly, there is enabling greater scope for the publication of court decisions. Remarkably, CP was published. I am not aware of other cases. We think that the Family Court system at the federal level has a very accessible and commonsense methodology for enabling the system to be understood and for the public to have confidence by publishing certain information, whether it is de-identified or in other forms. I think that is the only way—openness of information and accountability through external review mechanisms—to make cultural change in the system.

All commissioners here have practical perspectives. With Karen Toohey, it is in relation to complaints as discrimination commissioner and community and services commissioner, in the way services are provided to children and young people. Jodie Griffiths-Cook is the Public Advocate and Children and Young People Commissioner,

and Heidi Yates is the Victims of Crime Commissioner, in terms of families' experiences of family violence, which has a strong impact on care and protection.

THE CHAIR: Thank you. I actually wanted to pick up on one of the latter points you made in your opening statement about the court proceedings.

Dr Watchirs: Yes.

THE CHAIR: I note, in your submission, you talk quite openly about some of the concerns and you also mentioned about the excessively adversarial approach to litigation. You also mentioned a lot of the ways that the Victorian legislation fits. As another human rights-compliant jurisdiction, can you, I guess, expand on some of the things that you think that we need to see and how we could make it more akin to the Victorian system. Not just changing the legislation, but are there other things like more training for some of the CYPS staff? We have heard that sometimes that can be of concern from some of the evidence we have heard.

Ms Griffiths-Cook: I am happy to take that question, and I am sure that others can probably add to any comments that I might make as well. Look, I think at that front end of the system, to some extent—and I will take it back a few steps, and as Helen also referenced—by the time it gets to the court proceedings themselves, at some level, the horse has already bolted. The adversarial nature of those proceedings is already well set up and established. For me, if we want to minimise, reduce, ideally eliminate the adversarial nature of the court proceedings themselves then I think those processes that come before need to shift considerably in their approach.

It is the way that that very first report is responded to, or the very first knock on the door or phone call that is made. If we set that up better, if we make conversation, if we look for what supports do you need and start that conversation, as opposed to an assumption of: we are just coming in here to get the evidence that we need to take your children away.

I am not saying that that is all cases, by any means, but I am overgeneralising for the purpose of making that point. I think, when it comes down to it, we really need to think differently. I quite often, when I am sort of conceptualising—and they are not discrete groups by any means—I talk about those for whom the reason for removal is inadvertent neglect.

They do not know what they do not know to be an effective parent. We need to think really differently about the supports we provide to that group of people, in particular. That is not saying that others should be excluded from that by any means. But if we cannot even get that right, in terms of really getting in place early and actually, instead of knocking on the door with that view of how to build the evidence to take your kids away, very much going: what does that look like?

We are seeing some shifts in that space already. Take the functional family therapy that is being run out of the partnership between Gugan Gulwan and OzChild, which is effective because it does not require people to come into the system to enable the provisions. It is actually very much premised on: if we do not have to make a report on this particular family, we are going to step in now and actually do what we need to

do to support that family, to shift the family dynamic, to create a space where if there is violence in that family dynamic, those within the family understand what that relationship dynamic is all about and are actually given the supports to change their patterns of behaviour toward each other so that they no longer need to resort to violence to achieve the same outcomes. That is just one example.

If we can look at that early on, and if we can set up a system where the expectation is one of responding in those ways then, ideally, by the time—if it comes—that action needs to be taken or that a matter needs to be brought before the court, we have already established a conversation where families feel that they have at least had a say in that process and perhaps are on a more even keel in terms of the existing power imbalance that occurs within those spaces.

MRS DUNNE: What you have described there is something that was described to the committee last week by the restorative network, which is—

Ms Griffiths-Cook: I dare say it was.

MRS DUNNE: an entirely different approach; it is a cultural shift. To follow up with my questions to ACTCOSS, how do you effect that—apart from ministerial edict: as of tomorrow we are having a cultural shift, boys and girls—how do you do that? How do you—and I will come back to this—change the disposition from secrecy to openness?

Ms Griffiths-Cook: Look, my colleagues with legal backgrounds would be more able to speak to the legal aspects of that, I dare say, but I come at it as a psychologist—I am very well situated in that space. Yes, cultural change is part of that but if we do not provide direction, whether that be through legislative framework or policy direction, then I do not think we are ever going to get there.

You are absolutely right that cultural change is needed, but we also need to tell people what the expectations are in terms of those processes of engagement and set that scene really clearly. If there is training that is needed to achieve that, then provide that training. From a legal framework perspective, I think my colleagues would be better placed to speak to that, based on their experience, particularly Helen and Heidi, who have had far longer experience in the ACT itself and within its legal space, and to suggest some of those options that might be available.

Ms Yates: Hearing from our colleagues in Leeds and Hull in the UK who have gone about this cultural process change over time with significant reductions in the removal of children, there would be lessons to learn about how you bring about, in a practical sense, that change. I think it is about a change in the processes that case workers at the lowest level of CYPS are required to undertake in order to make a decision and to record that.

Fundamentally, though, it is about this sharing of power, which is the most confronting thing, I think, for government agencies who are used to, in a conversation, holding all of that power. Restorative practice offers us a model of different engagement, which is about not assuming you have all the relevant information when you walk in the door. That is something that cultural change alone will shift, really.

How do we deliver that? Play it by using a whole lot of tools in the toolbox, whether it is training or whether it is about a change in documented processes and how you undertake it and how you record things. I think accountability and knowing that your decision can be queried formally by the person you are engaging with is a very important tool in that regard.

Ms Griffiths-Cook: I would say potentially structural change as well. While you were talking, I was thinking about the fact that that front line within CYPS is called an intake team. That in and of itself suggests that you are bringing people into the system. It does not suggest that you are actually setting people up to facilitate supports to actually hold people outside the system. So thinking about it, from some of those structural perspectives, what are those inherent messages that we are sending through the way that we are setting up the systems within the directorate itself?

MS LE COUTEUR: The most distressing part of the evidence that the Canberra Restorative Network gave is about the removal of babies. I do not know if you have had the chance to read that, but it was looking at a seemingly quite large number of babies being removed in the hospital and the mother generally not even knowing that this was going to happen. I do not know if it was, to be polite, misinformation provided; you could use stronger words, I think.

Ms Yates: Indeed. Thinking about how you make that change happen overnight, drawing on my experience as a practitioner in the legal assistance sector in the ACT over many years, it is some of those requirements around putting things in writing so that someone actually knows what they have to do to jump the hurdles to potentially keep their baby once he or she is born. There is a lack of communication about what the concerns are and the referral to appropriate assistance so they can decide whether or not they want to try to jump those hurdles, which are clearly set out. Then, when they are not jumped, not just the general, “You didn’t meet the mark”, but setting out that the remaining concerns we have are A, B and C,” which then allows people to think about what is the next step in terms of the court appearance that necessarily comes next.

THE CHAIR: Ms Yates, just following on from that, we have also heard—and I think there were bits of it throughout some of the testimony and in some of the evidence this morning—about the power imbalance. People are already feeling quite vulnerable I would imagine. I have not been in that situation but, putting myself as a mother in a situation like that, I would imagine that you would feel vulnerable, you would feel unable to understand the full extent of the decisions that are being put in front of you.

Without the golden magic thing, what should we be doing to help that power imbalance as well; to provide those checklists to the parents to say, “Hey, these are our concerns, let us work together to get this.” Can we work together? How do you see that ability?

Ms Yates: I have plenty of ideas about that, actually. I am sure you do too.

Ms Griffiths-Cook: We could all bandy a few around. I think some of it is about the need for—transparency is one word for it—what I would call “increased honesty” at

the front end of the system. It is that stuff of being really clear. I think sometimes what would happen—and again I am trying to put myself in shoes that I hope never to have to stand in—is that people would have come in and been told, “We have had a report and we’re checking into it et cetera.” Anyway, it comes to a tail end where they go, “No further action.” What a parent potentially hears from that, I would anticipate, is, “Excellent. I must be doing everything okay then,” instead of a conversation that says, “Look, you’re really close to the line. We’re not going to be taking your children this time around, but if this, this and this keep going, then the next time we might have to do so.”

I think there are some case workers who probably do that better than others, but if we are not honest, and consistently honest, regardless of who the person is that is having that conversation with a family member, then they walk away not understanding terms like, “appraisal” and “unsubstantiated” and “NFA” and all the things that are bandied about. That language is bureaucratic language. We need to talk language that parents understand and we need to let them know how close they are to that line so that they understand what actions they need to take and so they understand how to keep themselves on this side of that line and not inadvertently step over it.

Ms Yates: It has been said before this committee already, and other parties have given evidence, that the notion of losing your children is perhaps the most grave risk that anyone faces. I know Acting Justice Walker when she was magistrate of the Childrens Court said very clearly, “If I had a choice of spending some time in prison or having my kids taken away, I know what I would be choosing.” So when you think about any of us responding to someone knocking on the door suggesting that that is a possibility, the likelihood of someone being able to take in a whole lot of information is very low.

So what are the different ways we could communicate with anyone in that circumstance to maximise the likelihood that they can take in what is being said? One thing is about it being said respectfully, calmly and clearly. Another is about when you say it. Do you knock on the door at 9 o'clock at night or do you approach someone at school drop off where there are others around? When do you have that conversation where there is opportunity for flexibility if there is not always? How might you provide it in writing if the person is likely to be able to engage, or, most likely, how do you connect that person directly with a right to advice and advocacy as early on as possible so they have someone who is familiar with that system to talk them through what the options are and what the terms mean and to help them negotiate next steps with the power holder, which is the directorate?

THE CHAIR: And particularly people coming from a non-English speaking background or people with a disability. There is a raft of different scenarios there which obviously add more complexities, but should also be considered.

Ms Yates: Indeed. And the availability of advocacy as an absolute guarantee, but ideally, if necessary, legal assistance early on, is key and has the possibility of avoiding emergency action or other court action if the matter is already ongoing. I do think that the cold, hard data from our restorative colleagues in the UK gives us both economic and human rights reasons to pursue different types of conversations. They have clearly achieved that in the face of what were horrific statistics regarding removal. That tells us that it is possible.

Ms Griffiths-Cook: And not just in the UK. There has also been some work undertaken in New Zealand.

MS LE COUTEUR: New Zealand, yes.

Ms Griffiths-Cook: Start closer to home where, again, there are significantly reduced removal rates and their intervention and supports that are being provided are indeed seeing outcomes.

THE CHAIR: The committee has been given evidence around the Wellington models—similar size, similar—

MRS DUNNE: So much. Can I go to your submission and the case study which I think really rings alarm bells and also reinforces my own experience and, I suspect, this committee's experience. You say, in the case study, that for the public advocate getting information under section 879, the heading is that the service will assist the public advocate.

Ms Griffiths-Cook: Yes. The only provision that provides for a “must” action. Yes.

MRS DUNNE: Yes. What the case study indicates is that there has been a change in approach and that there is less and less information available. Before I ask the question I will also reflect that that has been my experience back in the day as a shadow minister. I, from time to time—not regularly, not often—received briefings on protected matters. Yes, it was a big deal, but members of this Assembly receive briefings on protected matters.

It seems to me, from our experience now and this committee's own experience, that it is, “That is a protected matter. It is not in the best interests of the children. Like it or lump it.” Is that what you are experiencing?

Ms Griffiths-Cook: In a different way, would probably be a better way of framing it. When I started—this is in 2016—we would ask for information. “Can we have some information to assist us to understand the decision being made in respect of ... ?” And we would get, “Sure. Pick up the phone, let's have a chat. Find out what information you're after.” We would ask a few questions and get the response. We would either be satisfied that that was actually being adequately dealt with or we would not be, in which case we would then issue an 879 request asking for the very specific information that, I guess, was the basis of any remnant concerns that we had. And that was the accountability safeguard, I guess, for CYPS in providing what then fell into the protected or sensitive information categories.

What we are increasingly finding now is that picking up the phone is not a viable option. We are pushed sideways. “Please write that as a section 879 request,” often without us having even sufficient information. We have got some bare bones information that tells us there is a concern, but we do not have enough to enable us to have the specificity. So what we end up doing in many cases is, “Please send us all child concern reports for the period from here to there. Please send us all appraisals in relation to those child concern reports from the period from here to there,” which—

MRS DUNNE: Which is costly and time-consuming for everybody.

Ms Griffiths-Cook: Costly and time-consuming. We could end up with a ream of paperwork, and somewhere within that we might actually find the information that we are looking for. So it is that kind of that stuff. The more information we have the better off we are, the more specific we can be. We get back to basics and all the rest, but we actually find ourselves in a position where we are having to ask for more and potentially get more than we actually need, which flies in the face of the intent, as I see it, of the way that the legislation has been put together. We are getting more than we need to try to answer a question that we have.

That is some of the stuff that we are certainly experiencing as a shift as time has gone on. We have tried to put in place, and we have put in place, some systems to actually assist in the prioritisation of those, things where we might be questioning the way a decision has been made. We will frame that as being something that is contentious versus a critical or urgent situation where we have imminent concerns perhaps about the wellbeing, or where there is an imminent court matter that we are looking to determine whether we could or should have an advocacy role in that respect.

We used to be able to operate in a space where the responses were either provided with some initial information to help guide our subsequent responses or were provided in a way that was in the spirit, I guess, of the request that was being made, whereas now if we are not very specific to the line—and we often have multiple dot points to make sure that we are—then we will miss or not be given particular pieces of information that are part of that puzzle.

MRS DUNNE: So what do you think has caused that? Is there just an atrophying of the system? Is there a change in administrative practice or what? What you are describing is a closing up of information channels, which is another element of lack of transparency.

Ms Griffiths-Cook: Look, I think there have been shifts. Again, I can only talk to my immediate experience. I think there have been shifts and changes in the willingness, perhaps, of people to be transparent, but also perhaps concerns. I wonder whether some of this is upheld by the way the legislation is currently framed. But I think it is that stuff of, “We need to protect our staff,” which is true: staff need to be protected to ensure that they are not breaching the law. Previously we could just pick up a phone and actually make some initial inquiries to identify whether there was an issue that needed to be looked at off the back of something about which we had already had a concern brought to our attention. That can only have come from a higher-level direction. Whereas frontline staff, or those in those first-line decision-making roles, were previously able to have those conversations with us, there has now been a clear directive that says, “No, you do not. That needs to come through an 879.”

MRS DUNNE: This is not new legislation. This is legislation that has been around since 2008.

Dr Watchirs: And in 2010 there were the amendments in relation to sensitive information. But certainly the finding of Glanfield was that the directorate has become

much more risk averse and bureaucratic, and that is our experience: increasing inflexibility.

MS LE COUTEUR: On page 8 of your submission, you say:

It is currently an offence to publish information that identifies someone as being the subject of a ‘children’s proceeding’ unless the person is an adult and consents; or if the person has died ... or 100 years have passed.

I am aware from a defamation point of view that “publish” can be interpreted very broadly. If you were to send an email to a couple of people, that could be, in some circumstances, regarded as publishing. I am wondering how that goes from the point of view of the parent whose child is subject if they are trying to converse in any way about their life. Is this a reasonable interpretation or has “publish” got a much higher threshold in this? I am wondering how you could even talk about your life.

Dr Watchirs: It is fine if the person is an adult and now consents. They can talk about their own life; it is not an offence.

MS LE COUTEUR: Yes, but if the child is not yet an adult. They have 18 years to become an adult. Reading that, I am just wondering. I would think that for most parents having a child removed would be a somewhat present issue in their life; let us put it that way. It would be something that they would communicate to other people about.

Dr Watchirs: It is a very blanket prohibition that does not exist in other jurisdictions as far as our research shows.

Ms Griffiths-Cook: At a practical level I can give you an example of the kind of things that we may and do see. We may have a parent who may contact us. Their child or young person has been taken into care. They have some concerns about that which they raise with us. One of the things we have to say to them is, “Yes, we will make inquiries about that. However, we may not be able to tell you the outcome of our inquiry.” That is where, effectively, the parent or grandparent has raised the concern. They have to trust that we have acted on that, and we do. But often they may not get that feedback loop closed under those provisions. If that information that we get falls into those categories, we cannot actually disclose that and share that.

THE CHAIR: If a parent was to ask the same questions directly, would they get the information?

Ms Griffiths-Cook: Of CYPS?

THE CHAIR: I know that it is difficult to answer.

Ms Griffiths-Cook: I might defer to my colleague, who I believe has had some matters in this space.

Ms Toohey: We do have difficulties in that space. In my team, we handle complaints arising in the CYPS space. Parents will often bring complaints about a lack of access

to information about their child who might be in foster care or the decision-making going on about medical appointments or those sorts of contact arrangements. There is very limited information that we are able to provide. Often we will get a response saying, “Here’s the response, but you can’t provide this to the other party.” We are put in the awkward position of trying to provide procedural fairness to people without actually being able to give them the information that we have been provided.

MRS DUNNE: Why can’t you provide it to the other parties?

Ms Toohey: Because it is protected information.

MS LE COUTEUR: They do that in a blanket fashion regardless of whether it is information that might help the party to feel positive and reassured?

Ms Toohey: My colleagues in CYPS—I give them credit—do try to work with the arrangements that we have. We try to run a restorative process in terms of bringing people to the table in a conciliation function. Over the period of time I have been in this role, we have gone from not being able to engage my colleagues in CYPS in coming to the table to talk to complainants around these sorts of matters to more recently managing to engage in a couple of matters in that way. The parties have found that to be very beneficial. Conciliation, because it is confidential, gives the opportunity perhaps to exchange some of that information in a less formal way without the concerns about publication. I am not saying that they would disclose information inappropriately but, as you would know, conveying something in writing is often positional as opposed to when you are sitting around the table with a parent who is distressed about some assumption that they might be making about the treatment of their child in foster care or contact arrangements and those sorts of things.

There are different sensitivities around the nature of information that we get. We had one matter where we had a young person who was in custody who brought a complaint to us. We were not able to provide the information we had to the lawyer who was representing her in the conciliation process. In terms of procedural fairness in those sorts of circumstances, and natural justice, it becomes a very difficult process. Our legislation says that you can bring a complaint to us, we can try to conciliate it, and we can make recommendations. But if we do not have the appropriate information or the other party does not, it becomes almost meaningless.

As I said, there has been some progress, certainly in our space, in terms of CYPS being willing to come into the conciliation process, but that has been a very recent occurrence, which is unfortunate, because, as you have been made aware, the benefits of dispute resolution and restorative practice are significant, particularly in establishing confidence and trust in those organisations that have such power and control over your life.

Ms Yates: In the absence of the opportunity to take a matter further, to ACAT, following an unsuccessfully conciliated complaint, the challenge of that is that in an ACAT environment you are able to subpoena or request information which has not previously been available to you.

MRS DUNNE: I would like to see that.

Ms Yates: Yes. Having the benefit of experience, as others have, of seeing matters where someone has been refused approval as a kinship carer or a carer generally and is able to make that application to ACAT and then access—we have seen at that point in time generally a significant uptake in the engagement of CYPS with that particular matter, and generally a resolution quite quickly after that application has been made.

I speak with colleagues from Victoria, Queensland and elsewhere, where they have had equivalent merits review processes available for some time now. I had a conversation back in 2012 saying, “Has there been a huge increase in litigation in QCAT and VCAT of these matters out of the pathways available?” They said, “No, because now we make it clear that we intend to make the application and there is immediate engagement with the issues, which we then resolve.” Currently, without access to that pathway, the struggle is that engagement in the detail of the particular issue that the parent usually is raising is a real challenge.

The Human Rights Commission, along with our CYPS colleagues, is primarily interested in ensuring best quality decision-making, but at times you need the motivation to do that, the knowledge that the matter can be taken to a formal review process at ACAT, for example, if it is not resolved.

MRS DUNNE: Can I just go back to the review process and the question I asked previously. The Glanfield inquiry said, “Conduct a review.” As far as we can tell, it has not been conducted. The outcome has been that there is no change, anyhow. I will ask the question differently from the way I asked it of the previous witnesses. Are there elements of the Children and Young People Act which, through the Human Rights Commission perspective, should not be reviewable? What are the exceptions for things that are too important not to be reviewed? I think that is a smaller subset, a smaller list, than the things that you think should be reviewed. Feel free to take that one as homework.

Ms Griffiths-Cook: I think that might be one to take. It is a kind of flip so we can jump into what ones should be.

MRS DUNNE: But should we be having the disposition that all decisions should be reviewable except some really important ones? And are there some that, say, the Human Rights Commission might suggest are beyond the bounds of reviewable? I suspect that you might come up with a no, but I think it is a reasonable question to ask. Are there things within this act which are so sensitive that they should not be reviewed, they cannot be reviewed?

MS LE COUTEUR: I would have thought not necessarily so sensitive but so trivial. There are a lot of decisions that are made where you have made the central decision to put the child there or whatever, and the rest falls from it and there is no point in fighting over all the bits that go after that.

MRS DUNNE: I think the committee should be looking for some guidance from the community about what things should be reviewed rather than just replicating the Glanfield recommendation.

Dr Watchirs: One issue is the frequency of review. At the moment, you can only have it 12-monthly unless there has been a change of circumstances for a care and protection order other than the actual issue. That may be another way of controlling it. We could take it on notice. I think that would be preferable.

Ms Yates: I think we would agree that the starting point should be that decisions are reviewable, as administrative decision-makers. And there are other ways, of course, to go about ensuring appropriate protection of the rights of others in the review process itself. For example, if they are refusing to provide the contact details of the other parent with whom the child is having contact because of a history of family violence, and that is required, then, even if that decision was reviewable at the tribunal, there would be appropriate applications or submissions to make to the member as to why particular information should not be disclosed. Whilst we take that on notice, there are other tools in that review process that can be used to appropriately protect rights rather than having a blanket ban on particular decisions not being reviewable.

MS LE COUTEUR: Can you think of other ways of protecting rights? As I said, the evidence of the Canberra restorative justice network was very disturbing. One of the things they said was that midwives are mandatory reporters. The lady said she was, in fact, doing training for these midwives and nurses because they were having great difficulty doing this because they knew that the results of reporting anything would lead to the baby being removed. Have you got any thoughts about what things should be made mandatory to be reported? As you can tell, I was quite shocked by most of what was said about that situation.

Ms Griffiths-Cook: From the mandatory reporting perspective, in my view, I think that it, in and of itself, is not too bad a framework. My colleagues may not agree but I think it is the extreme. If we look at the number of reports that are made every year, which is 17,000 plus, as I understand it—a report is the action that someone feels that they have to make but it is the only action that they take—and given that some of those reports that are made do not meet the threshold and actually do not align with the provisions for mandatory reporting, I would query whether we need to keep working in that space for some of those, and certainly not all of those. I think the thresholds are reasonable.

But it shouldn't be that you do not just report without response. What is that, if you just think that reporting is the answer? "I've done my duty and, thanks very much, I don't have to think about this anymore. Phew, I can go and sleep at night." There are options, as we were talking about earlier, to actually provide a response that is a supportive response that helps mitigate the need for further action. I think that is where we need to put that emphasis. Whether that is a training solution or not I think we need to work better with those who are mandatory reporters to make sure that we have got those thresholds right so that those people who are mandatory reporters also understand that they potentially can have a role to respond in other ways, and here is what those other ways might look like. Part of that may mean that we need to look differently at the systems of support that exist and whether we have got the right supports, the right number of supports, the availability of supports, the timeliness of supports.

I think mandatory reporting, in and of itself, should not be an end point if someone

has a concern, particularly when we know that in the vast majority of those 17,000 no further action was taken. What you have got are people out there for whom there are concerns, and that might be because they have not quite got parenting right. But what are we doing about that to help them so that they do not end up, after 80 reports have come through, finding that suddenly their kids are removed? Those things happen. We see emergency action taken after 80-plus reports—that is a lot—before someone actually goes, “Okay, I think we’ll take the kids into care.” There are a lot of opportunities for intervention in those previous 80 reports that might have actually changed that and resulted in quite different outcomes.

Ms Toohey: If I could just make a quick comment on that. Certainly in my space as health services commissioner the issue has been raised with respect to that notion of what the role of a midwife is in assisting a mother to deliver a child and then being put in a circumstance where they may not have the expertise to determine whether a report should be made but they tend to, I guess, err on the risk-averse side. That can put them in a position of both supporting the parent to deliver the child and then making a report at the same time.

It is certainly an issue that has been raised with me. We have seen matters as well where reports have been made, particularly around parents who have a disability and there are assumptions about their ability to care for a child simply based on an observation of the level of disability that the parent exhibits. There is absolutely no evidence, apart from that, that the parent has any difficulty caring for a child.

The first experience that that parent has is of child protection coming to talk to them, and that whole initial bonding period has actually been completely overshadowed by the experience, for some reason, of suddenly being on the CYPS radar and being summoned to a meeting to discuss their parenting skills when, in fact, what they have done is spent the previous months putting in place all the supports and services that they need to ensure that that child is well supported. It can be a very disturbing and heartbreaking experience for people. I think, particularly in that environment, as I have said, midwives have certainly fed back to us that their professional intent is around supporting that mother through a healthy, active, safe birth to bond with the child and then being responsible in some ways for an intervention in that relationship directly afterward.

MRS DUNNE: I want to go back to the submission and the case study that was on page 4, I think, where you say at the bottom of that, in that box, that in recent times the Public Advocate’s team has also been challenged about their participation in care matters with questions being raised about what their value-add to the process would be. The Public Advocate has a number of legal responsibilities in relation to the Children and Young People Act. When you say “in recent times”, how recent? And is this a marked change in attitude by the Public Advocate?

Ms Griffiths-Cook: I can say within the past six months and, yes, that has not been something that has been raised previously. It certainly took me aback when I received that advice from a couple of members of my staff that those questions or those challenges, I guess, were being issued.

It concerns me on a couple of levels. We will often engage in care team meetings and

seek to become part of a care team, sometimes from an advocacy perspective where we have a clear issue or concern that we are seeking to try to facilitate a better outcome. At other times we will seek to involve ourselves from our oversight capacity in terms of looking at, I guess, those systems-level responses and seeking to ensure that everything is operating the way it should be.

In any way, shape or form even being asked or challenged as to why would you be involved is unnecessary, we have the right to be involved through those legislative provisions that provide us with the responsibility for monitoring the out of home care system or services for the care and protection of children and young people. It is a really interesting one and we did make the point in the submission of that feeling at some level that there is a seeking to guide, guard, direct how we actually operate and how we manage and seek to operationalise our advocacy and oversight functions and responsibilities. And that is certainly something that has been more recent and is of significant concern to me and something that I am actively monitoring and will actively act on, should I see that it is continuing.

It has only been a couple of instances but those, in and of themselves, are sufficiently concerning to me when I combine those with those differences in response that we have seen over time. It is something that, if this is happening, I want to nip in the bud and not allow that to become something where we are then having to mitigate a bigger systems issue in terms of responsibilities that we hold.

MRS DUNNE: If I could ask another question which is related to information sharing but is a hardy perennial for me: we ended up with the Vardon report back in the day and that actually stemmed from one of your predecessors who was then called the community advocate making the disclosure that she was not receiving concern reports about abuse of children in care. Has that situation, from your point of view, been remedied? Are you consistently receiving concern reports about abuse of children in care?

Ms Griffiths-Cook: Yes, we are. We now have systems in place where CYPS are not just meeting their legislative obligations, which they are, though sometimes the timeliness of our receipt of those is prolonged. But what we have in place now, which has been a shift that is a practice shift which is not provided for in legislation but is certainly assisting our efforts, means that we are getting the list of those appraisal proceedings that are underway.

That came about because I felt that the timeliness of receiving the actual 507 reports, because of the delay in some of those, did not provide an adequate time for us to potentially support a child or a young person within those proceedings to ensure their right to be heard in the context of the allegations that had been made was being upheld and/or to provide any other sources of support or advocacy that might be needed to support them through that situation.

We are getting the advice about appraisals that are underway, which enables us to then look at that. And if they are familiar to us or if we have some questions to ask about those we can do so. As to the timeliness of receipt of completed 507 reports, I think there is still room for improvement there.

MRS DUNNE: I like to ask this question from time to time when the Public Advocate is appearing.

THE CHAIR: It has come to the end of our scheduled time today. I thank you all for appearing this afternoon. I note that you did take one question on notice.

MRS DUNNE: Sorry, it is probably a big one.

THE CHAIR: The committee has not actually set a deadline for receipt of responses. However, we would love it if you could get it back to us within two weeks of the date of today's hearings. Again, on behalf of the committee I thank Dr Watchirs, Ms Griffiths-Cook, Ms Yates and Ms Toohey for appearing today. A proof transcript will be forwarded to you once it is ready, for you to have an opportunity to check the transcript and suggest any corrections should they be required.

Thank you again. We will resume hearings for part 2 of this inquiry into child and youth protection services tomorrow, Wednesday, 5 February, at 3.30 pm I now close the hearing. Thank you.

The committee adjourned at 2.57 pm.