



**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**

**WEDNESDAY, 5 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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## **Privilege statement**

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

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“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.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 20 May 2013*

**The committee met at 3.30 pm.**

**STEPHEN-SMITH, MS RACHEL**, Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Children, Youth and Families, Minister for Health, Minister for Urban Renewal

**CROSS, MS REBECCA**, Director-General, Community Services Directorate

**PAPPAS, MS HELEN**, Executive Group Manager, Children, Youth and Families, Community Services Directorate

**MARTENS, MS ANNE**, Senior Manager, Legal Services, Children, Youth and Families, Community Services Directorate

**THE CHAIR:** I declare open this fourth 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 in 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 that they make to this city and this region.

Today the committee will be hearing from the Minister for Children, Youth and Families and officials from the Community Services Directorate. On behalf of the committee, thank you, minister and officials, for appearing today and for the government's submission to part 2 of this inquiry. Can I remind witnesses of the protections and obligations afforded to them by parliamentary privilege and ask you to acknowledge that you have read the pink privilege statement that is on the desk?

**Ms Stephen-Smith:** Yes.

**Ms Cross:** Yes.

**Ms Pappas:** Yes, I have.

**Ms Martens:** Yes.

**THE CHAIR:** For the purposes of this inquiry and public hearing, I remind witnesses to refrain from referring to information that may identify a young person or child 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.

I also remind witnesses that the proceedings today are being recorded by Hansard for

transcription purposes, and webstreamed and broadcast live.

Before we proceed to questions, minister, would you like to make an opening statement?

**Ms Stephen-Smith:** Thank you, chair. I would like to make a brief opening statement. I also want to start by acknowledging the traditional custodians of the land that we are meeting on today, and the impact of the terrible fires that we have been experiencing on our beautiful country and the country that means so much to them.

Thank you very much to the committee for the opportunity to present at today's hearing of the inquiry into child and youth protection services in the ACT. As you know, the government has welcomed part 2 of this inquiry, which goes to some critical issues in relation particularly to information sharing and privacy. As others have commented on in evidence over the last week or so, these are both legislative matters and matters of culture and practice.

I want to thank participants in this inquiry for sharing their views and experiences with the committee. We are continuously working to improve the territory's child protection system, so we look forward to any contribution this inquiry can make to that endeavour.

The government absolutely believes that most children and young people are best protected and cared for within their own family. This is a fundamental premise of the A step up for our kids out of home care strategy. But we also know that keeping children safe in their families and communities cannot just be the responsibility of child protection services. This is a whole-of-community responsibility.

Sadly, there are times when children and young people are at risk of abuse and neglect within their families, or families do not have the capacity to protect their children from harm, and child protection services then play a critical role in ensuring children's safety and wellbeing.

Child protection work is underpinned by the principle that the best interests of the child must be the paramount consideration. An additional principle applies to decisions about Aboriginal and Torres Strait Islander children and young people to recognise their connection to kin, culture and community.

We know we have more work to do in this area, but we obviously welcomed the release of the final report of the Our Booris, Our Way review in December. We are already working to implement many of the review's interim recommendations and we will provide a formal response to the final report as soon as possible.

In the government's submission to this part of the inquiry, we acknowledge that the current information sharing and privacy provisions of the Children and Young People Act, the CYP Act, are somewhat convoluted and confusing. A lot of work has been done through practice guidance to make sure CYPS—child and youth protection services—staff know how these rules work. But there is certainly a legitimate argument that the act itself could do with updating.

Despite this, it is clear that the CYP Act, as it stands, authorises information sharing when it is in the best interests of the child or young person and when performing a function under the act. CYPS is required to share information about a child's welfare and any exposure to possible harm, a parent or carer who may need help and may not be able to care for a child adequately and safely, and any individuals who may pose a risk of harm to a child.

Information is shared between government and non-government agencies, service providers, law enforcement, regulatory and oversight bodies, as well as with other jurisdictions. Information is also shared with parents, carers and other individuals involved with a child or young person, in both the context of legal processes and as part of ongoing case management. This includes the establishment of care teams for a particular child or young person. A care team facilitates information sharing among individuals and entities who are working with a child, young person or family to coordinate services and provide the best support.

Lots of information is shared every day within the child protection system and lots of decisions are made every day. The vast majority of these are non-controversial or are made in a collaborative way in the context of care teams. While the committee will hear evidence about situations where people have not been satisfied with the level of information shared, the decisions made and the processes surrounding these—and these are often very legitimate concerns—it is important to make the point that there are hundreds of staff in CYPS making decisions every single day.

It is also important to acknowledge that decision-making in child protection is inherently complex. While the best interests of the child are paramount in all decisions made about a child's safety, welfare and wellbeing, there are times when the adults involved have vastly different views about what is in a child's best interests, and it falls to a decision-maker in the CYPS or to the Childrens Court to make a judgement.

Decisions in child protection are also often made when children are at considerable risk and when families are in crisis and are most vulnerable. We recognise that the statutory time frames for taking matters to the Childrens Court, particularly following emergency action, can impact on the ability to share information with parents, their lawyers and children's lawyers in a way that they might consider to be sufficiently timely. This, in my view, is an important line of inquiry for the committee. It is not something over which CYPS or its staff have much control at present.

This also goes to the question of access to justice more broadly. The introduction of a duty lawyer in the Childrens Court was funded in the last budget as part of our commitment to building a fairer and more accessible justice system.

The committee is probably also aware that child protection has been identified as an area of focus for the disability justice strategy. CYPS has done considerable work over the last couple of years on improving the way parents with a disability can be identified and supported when they come into contact with the child protection system.

The committee would also be aware that the ACT government is currently examining its approach to the internal and external merit review of child protection

decision-making. I know witnesses talked about that last week and yesterday. I will be making further statements about this work in the Assembly in March, but we are, of course, happy to talk about it today.

The long story short is that, while everyone agrees that more review mechanisms should be available—and that includes me—there is no consensus on what they should be, just as there is no consistency between other jurisdictions on either which decisions are reviewable or the most appropriate review process.

There is a lot of complexity here. Again we welcome this inquiry. I will hand over to Ms Cross to provide some additional, very brief background.

**Ms Cross:** I would like to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. I would like to acknowledge the contribution they make to this city and surrounding region and pay my respects to their elders, past, present and emerging.

I thank you for the opportunity to present at today's hearing for the inquiry into child and youth protection services in the ACT. As the minister stated, children and young people are best protected and cared for within their own families. However, in the ACT when children and young people are at risk of abuse and neglect within their families, or families do not have the capacity to protect them, child and youth protection services has an obligation to ensure their safety and wellbeing.

You have no doubt determined from the submissions provided and the discussions held with other witnesses before this inquiry that child protection work is extremely complex. When a child or young person and their family come to the attention of child and youth protection services there are often multiple people and multiple agencies involved. Some are already involved with the family, such as the child's school and support services working with the family and extended family members. Some agencies become involved with the family because of their interactions with child and youth protection services, such as legal services or advocacy services.

All of the people involved with a child or young person have a view about what is in the best interests of that child. These views and perspectives are influenced by their own history, opinions and needs, and consequently are often different and often conflicting. This adds to the complexity. At the centre of the decision-making is the child and youth protection services case manager, who is required by the Children and Young People Act to make decisions on behalf of the director-general. Every effort is made to maintain children safely at home.

For the majority of families who become known to child and youth protection services, their children continue to remain at home and the family works with us on a voluntary basis to improve the safety and wellbeing of the children. This is the desired outcome and what we strive to achieve with every family. That is why we continue to invest in the Uniting children and families program, Karinya House, family group conferencing and functional family therapy. These programs are contributing to a significant reduction in the number of children that are coming into care.

The snapshot reports highlight that there has been a slowdown in new entries into care.

Service demand continues to increase but at a lower rate in 2018-19 than in 2017-18 and 2016-17. From July 2018 to June 2019, 122 children entered the out of home care system, compared to 155 in 2017-18 and 196 in 2016-17. This reduction is also reflected in the lower number of Aboriginal and Torres Strait Islander children entering care, with 20 per cent of children entering care in 2018-19 being Aboriginal or Torres Strait Islander. This compares with 32 per cent of entries in 2017-18 and 30 per cent in 2016-17.

This is clearly still too high; however, progress is tracking in the right direction and the directorate continues to focus efforts on reducing these numbers. It must be said, though, that there are times when, as a last resort, child and youth protection services needs to consider emergency action. We know that families are in a time of crisis when emergency action is taken. Emergency action impacts not only on the child involved; it also impacts on the birth parents, extended family, support services and the CYPS staff involved.

I would like to assure the committee that emergency action is used as an absolute last resort. Child and youth protection services are acutely aware of the lasting impact of emergency action and the ongoing consequences for everyone involved. It is the action of last resort when the child protection worker has such concern about the safety of the child that they must take action to prevent a serious injury or possible death of a child. It is also taken when the cumulative impact of emotional abuse or neglect is having a significant impact on the safety, health and wellbeing of a child. I reiterate that these are very difficult decisions to make and it is why the legislation requires the evidence to be before the Childrens Court magistrate within 48 hours of CYPS making that decision.

It is important to understand that often child and youth protection services becomes involved with a family when they are at a crisis point. CYPS case managers are required to make critical life-changing decisions in circumstances where they have incomplete information. Often in emergency action situations CYPS is working with families that have not been known to the system. When taking emergency action the case manager is required to make timely decisions based on the information available to them. Ultimately it is for the Childrens Court to decide about whether a child is in need of care and protection. This decision is based on all the information being available to the court, including information presented by birth parents, children and young people and any other party who seeks to be involved.

In relation to the sharing of information, child and youth protection services case managers are continuously analysing information as it becomes available, balancing that information and making decisions about what information should be shared and what information should not be shared. This is done considering impacts for the child and impacts on the other people involved, such as victims of family violence, birth parents, carers and reporters. I acknowledge that at times of high stress and crisis information might not flow as freely as people would like. We are willing and keen to work with any organisations to improve how we do this. Our first priority will always be ensuring a child or young person's safety and wellbeing. Thank you.

**THE CHAIR:** I just have a couple of questions about your submission. There has been evidence about the difficulties for women escaping domestic violence and

supporting their families. You mentioned in part of the submission the family safety hub. Some of the evidence we heard was that women escaping a violent situation are often also dealing with the fact that their children are being removed from them because of the violence. What sorts of things is CYPS doing that include the family safety hub and how does that interaction actually work? I am not sure that it is necessarily getting out to the community as well as it—

**Ms Pappas:** Family violence has been an area of focus for CYPS probably since about 2015-16—a really strong focus on recognising how we have to treat the circumstances of family and domestic violence differently to other circumstances because of the dynamics and because they are such complex situations. I think our practice is shifting in that space. We have had a lot of investment in training, in partnership with the Domestic Violence Crisis Service. We bring in people from Victoria and other people from across the country who are experts in working with men who are perpetrators of violence, and in working with young people who experience violence and then perpetrate violence as well within their family homes.

We have done a lot of work in making sure that we provide practice guidance for our staff so that they understand that this construct of failing to protect is really a very old construct and that there is a shift in our practice towards holding perpetrators responsible for their behaviour. I was privileged enough to go to a Safe & Together conference in February of last year, which was one of those conferences that are life changing. It really crystallised for us that we need to shift our practice further in that space around holding perpetrators accountable for their behaviour and partnering with the non-offending parent in order to keep children and the non-offending parent safe.

So that is a work in progress for us. We continue to invest in that, and we continue to train in that. We have recently partnered even further with the Domestic Violence Crisis Service and they have embedded two staff within the child protection services, CYPS. That allows for direct contact with the DVCS specialist as things are happening with families. They are able to go out jointly. We are able to share information and we are able to link women generally, and their children, to support services. All of that is in aid of partnering with the non-offending parent, not holding women to account for the behaviour of the perpetrator, and keeping children safe. So that is the journey that we have been on since 2016. There is more work to do in that space. We are hoping that we will be able to continue to deliver training and then mature that training as all our staff get the foundational knowledge that needed in order to respond to family and domestic violence.

**THE CHAIR:** So you have been working with, obviously the family side of it, which is great, and which organisations?

**Ms Pappas:** Yes. The Domestic Violence Crisis Service and Canberra Rape Crisis Service. Those organisations across town.

**THE CHAIR:** What about shelters like Beryl Women's Inc and those sorts of places?

**Ms Pappas:** Sure. With Beryl Women's youth refuge, we worked on an individual basis with families that are involved in their service. That relationship is improving. We have had some recent work that we have done with Robyn Martin and her team

out there. It has been great for our staff to be able to be part of those conversations on the ground, because all of those conversations help people understand and respond differently next time they have to respond to these sorts of situations.

There is more work to do. You will never hear me say that we are doing it well. There will always be more work to do as people's knowledge builds, as people move away from feeling that children need to be removed from a situation in order to be safe. It is about being able to sit with some risk, because it is all about risk in the end. It is about risks to children and young people but using the resources of a family in a different way to protect children and to protect non-offending parents.

**THE CHAIR:** Thank you.

**MS LE COUTEUR:** I was very touched by the evidence from the Canberra Restorative Justice Network. My questions are all going to be based on what they said—sorry, I am using the iPad, which I find difficult to get to the right page.

**Ms Pappas:** We are all in that—

**Ms Stephen-Smith:** I have a lot of sympathy for you.

**MS LE COUTEUR:** We are all in the same boat. If you look at the *Hansard* for the last lot of public hearings we had, on page 74 Ms Tito-Wheatland said:

ADACAS talked to us about this. Quite often it is the mother who has an intellectual disability and some other physical disability or mental illness. Often as well—

And then the Acting Chair said:

Those people would have come to the attention of medical authorities before they gave birth. Is there ever intervention—

And then Ms Tito said:

A positive intervention? ... no.

But you just told me, if I understood correctly, that that was not how you saw the system working, that there would be interventions.

She went on, and we talked at some length, and they said it actually had not been a change in legislation, a change of practice. But certainly they were quite clear: there was not positive intervention. She saw no positive interventions before a baby was removed. Do you have any comments on that?

**Ms Stephen-Smith:** I think I understand your question, Ms Le Couteur. I guess I would make two comments. One is that, as Ms Pappas said, in relation to family and domestic violence, there is more work to do. We certainly have more work to do in understanding the experience of parents with disability in the child protection system, and that includes better identification of parents with disability. Our previous client management system was not very good at including that identification, so data has

been an issue in terms of even understanding the number of parents in the system who have a disability.

**MS LE COUTEUR:** I have asked questions on that exact subject.

**Ms Stephen-Smith:** Yes, so we have talked about that before. There is also evolving practice, and one of the things I mentioned in my opening statement was the fact that this is a focus under the disability justice strategy. From next year, CYPS is scheduled to get a disability liaison officer as we roll out that network of practice under the disability justice strategy, or community of practice.

But a lot of work, again, around training in relation to disability awareness and in relation to understanding better how we can support parents with disability is underway. I might get Ms Pappas to talk about that again, not to claim in any way that we are doing the best that we should be doing, but it is certainly something we are very committed to.

**Ms Pappas:** This is an area that is challenging for staff; there is no doubt about it. I guess any presenting issues for families that come to the attention of the child protection system are complex and it is never just one issue. It is fair to say that the drivers of families that become known to the child protection system go to issues of family and domestic violence, mental health, drug and alcohol and all of that. But it is never one. Disability is obviously an aspect of that as well and how people perceive, or do not perceive, parents being able to care for their children successfully.

There is a lot of work for us to do in this space. Understanding how many of those families are in our system is the first thing. Our new IT system, Syrus, has set up that capability for us and we are working with our staff now to ensure that their data entry is accurate so that we can understand those families in the system.

We are almost at the end of a process where we have been working with ADACAS, Advocacy for Inclusion and the Office for Disability to develop some practice guides to help staff understand, again, how you would work differently with a parent with a disability and, depending on the disability as well, and how do you develop a constructive reasonable adjustment in the context of a child protection system when the primary focus is the safety and protection of children.

I think it is very similar to the family and domestic violence narrative, in that there is a way to do it. We have to build our staff's capability in that space and we have to work with those partners out there with that expertise and community who can walk alongside our staff and help our staff do that better.

**MS LE COUTEUR:** Yes. I quote a similar part from Dr Northam, who is a midwife and a nurse, at the bottom of page 74. She is doing an education program around mandatory reporting on infants and she says that there are people who do not want to report and they have to, of course, because their registration is at risk because—I am quoting here—“many of them do not believe the right thing is being done by the child or the mother.”

We have a ridiculous system where removals are happening that do not seem fair

to the people who are actually involved at the time removals are done.

I could go on. She is working in the system, so I presume she knows what is happening. This is firsthand evidence and it is horrific. What are you doing to change that?

**Ms Stephen-Smith:** One of the things that has been recently implemented and is under Minister Berry's portfolio, through the prevention of family violence, is the health justice partnership, the placement in the hospitals, in the maternity areas of Legal Aid or the Women's Legal Service—

**MS LE COUTEUR:** It seems like a great program.

**Ms Stephen-Smith:** Yes, it is a fantastic program. Both patients, but also midwives, doctors, nurses, can go and get that support, the legal advice: "I'm a bit concerned about this; what is the best way to tackle it?" Does this patient want to have a conversation or does the woman want to have it? Usually, if she is having a baby, the woman—

**MS LE COUTEUR:** Yes, yes.

**Ms Stephen-Smith:** wants to have a conversation with the legal services, that conversation about whether there is a risk that child protection is coming into their lives. Obviously, the program is initially focused on women who are experiencing domestic and family violence, but it may also benefit women who may be coming into contact with the child protection system to have that access to legal advice in a supported environment, and also having that access to legal advice for the midwives and the nurses.

Having been out to Calvary and spoken to them—we had a bit of a roundtable with them about their experience—they have really welcomed that and seen that as a way that that is improving that experience for women and getting that support to them early, the legal advice that they need. But that can also then mean they are connected up with other services. Again, we are not saying that the system is working perfectly, but it is a mechanism for people to build connections. You would be aware we have the Red Cross, Birth Family Advocacy Support, as well as ADACAS and Advocacy for Inclusion for parents with disability that are trying to build those links and those supports.

**Ms Cross:** When we visited the service, people were saying, because it is a lawyer that they are speaking to, that they are not concerned about mandatory reporting because of privilege. They are actually more readily raising issues because they feel they can have that discussion and it will be protected by that privilege, so they are more open in disclosing what is going on as well.

**Ms Pappas:** I would not mind just adding that, in the context of the mandatory reporting narrative, I think there is some work that we need to do with all of our community across the ACT so that people actually understand what they are required to do under mandatory reporting legislation. The legislation sets out the list of people who are mandated reporters, but people are only required, or mandated, to report

where there is non-accidental injury or where there is sexual abuse. That is what they are actually required to do. All of the other information that child protection systems get is a voluntary report.

I think the work we have to do is to go out and say to people, to these professions who are providing reports: “If you do not think a child is being abused—has been, is being, or is likely to be, I think are the three conditions: is that right?—you are not required to make a mandatory report.” Our preference is make a response; do not just report but respond. In fact, respond and then if you feel that you need to, you can report. There is community education; I think there is some work we have to do around making sure that people actually understand what they are required to report.

**MS LE COUTEUR:** That seems really interesting, because we were talking in this context about women who are still in hospital, and it would seem to be highly unlikely that they could in that context be involved in sexual abuse or non-accidental injuries. That does seem highly unlikely in any reasonable maternity hospital. I am not thinking that could be the case.

**Ms Pappas:** It is really about what people think they should be reporting because they are concerned about a child, what they are required to report and what information they want to give the child protection system, which may or may not already know that family.

I do think that there is community education needed; there is some work we have to do to help people understand that. People are very welcome to call us, provide information, but I want people to understand what they are absolutely required to tell us and what they are not. And what they are not is a lot of the information that we get from reporters across the ACT.

**MS LE COUTEUR:** While we are on this, there is another part that seems problematical. The justice health initiative sounds as though it is great, but there would probably be quite a few people, on the basis of the evidence that we have been given, who would have no idea until the baby is removed that this is even a possibility. They would not talk to the lawyer because they have no reason to believe that this is relevant to their life. This is talking about child protection workers saying things other than what actually happens. How do the child protection workers start letting people know in advance of removal that it is possible?

**Ms Pappas:** In advance of the removal?

**MS LE COUTEUR:** Yes, that it is a possibility. Again, I am concentrating here particularly on babies in hospital, because that was the evidence that was very clear and very disturbing—so that they can seek other support. As you suggested, there was other support, but why would they seek it?

**Ms Pappas:** The act—jump in, Anne, if you want to—allows for prenatal reporting, but the response can only be a voluntary response and with the consent of the pregnant woman. From time to time we do hear about pregnant women and people being concerned about the safety of children following birth. The system reaches out to see whether we can get consent and work alongside that woman in order to provide

services and to connect that woman while they are still pregnant and before birth.

Surprisingly, and to the credit of our staff, we get quite a few women who do agree, who build good relationships with the child protection worker and are able to be connected and therefore diverted away from the system. But there are other families or other women who choose not to. The process is that there would be an alert placed on the system, and when that woman births, that triggers contact with the child protection system. Then we commence our appraisal process, if that is the decision that is made. That is the context of how we come to know about women that people are concerned about. Those reports could come from midwives, GPs or—

**Ms Cross:** In both the circumstances Ms Pappas is describing there has been contact with the mother prior to the birth. It is not that the baby is born and unexpectedly we turn up. These are examples where there has been ongoing contact with the mother and the family prior to the birth.

**Ms Stephen-Smith:** It speaks to one of the challenges. Ms Pappas said she is surprised sometimes that people are willing to engage, and that is one of the challenges. How do we build a system where people trust that child and youth protection services is there to work with them rather than closing the door and saying, “I do not want to have anything to do with you,” for very good, understandable reasons, particularly for Aboriginal and Torres Strait Islander families. For families involved in child protection there is often intergenerational trauma, whether they are Aboriginal or not.

That is a real challenge in the system. We know that that sort of unwillingness to engage is then potentially a trigger for further action, when supports could have been put in place. Part of the work that we are doing through the early support initiative as well, in a different area of the directorate, is trying to work out how we build relationships of trust with vulnerable people who have been unwilling to use services in the past and what lessons we can learn about how we do that. Non-government partners, in my view, are a really important part of that, because people are more likely to trust a non-government organisation than they are someone with a government lanyard round their neck.

**MRS DUNNE:** Ms Pappas, you touched on the situation where pregnant women are mainly recognised as being at risk in some way or other, though it may not be your terminology. What formal programs or formal mechanisms are there when someone is flagged as being at risk and pregnant?

**Ms Pappas:** In the context of the portfolio of children, youth and families, we have the child and family centres as a really good example of that. You have midwives and MACH nurses embedded in the child and family centre, so when pregnant women come and they are flagged or somebody is saying, “I’m a bit worried about this woman and the possible risk to children or her risk to herself,” they are then connected with a program such as circles of security or parenting programs in the same location, and it is a warm handover and women are connected. They are connected to Relationships Australia counselling; they are connected to lawyers; they are connected to a whole range of services. That does not stigmatise their response in terms of a child protection response but allows them to connect. The child and family

centres play a pretty critical role in making sure that those women are connected as early as possible.

Some women choose to partner with the child protection agency and others do not want to. That is another partnership that a woman can enter into. And we are looking to improve—

**MRS DUNNE:** It would be an optional pathway at that stage? To connect with the child protection agency would be an optional pathway at that stage?

**Ms Pappas:** Yes. They have to consent, obviously. There is no intervention; we cannot force an intervention. They consent. The child and family centres have some really skilled staff. There are skilled staff—the nurses, the midwives and other people—that have based themselves in supporting those women to make good decisions around connecting early to prevent escalation of risk or escalation of concern.

**MRS DUNNE:** I have two questions which should probably be taken on notice. In the last couple of financial years, how many people have been identified in that category who have had assistance in the antenatal phase, and how many babies have gone from being born directly into the care and protection system?

**Ms Pappas:** From birth—

**MRS DUNNE:** Yes.

**Ms Pappas:** Do you mean from the maternity ward?

**MRS DUNNE:** Out of the maternity ward into—

**MS LE COUTEUR:** Or, say, in the first week of their life, very newborn.

**MRS DUNNE:** One of the witnesses the other day said that they were trying to get that information and the hospital would not provide those numbers. I presume that the care and protection system can.

**Ms Pappas:** I do not have the data, but I think there is some unpublished data at the moment. The AIHW might have some data in this space, but I am not sure. I will go away and check for you.

**MRS DUNNE:** Thank you.

**Ms Pappas:** The last 12 months, did you say?

**MRS DUNNE:** The last two financial years. I want to go to something you touched on in your opening comments today, minister, and it is also in the submission. Essentially you say that there are a series of mechanisms, both internal and external, for review of decisions and that there is internal and external oversight of the care and protection system. You list a whole range of agencies in the ACT that are participating in that.

You include in that list the Human Rights Commission. You say in your submission that they are a strong and independent external oversight of the system and you include the Human Rights Commission in the list of overseers. In the context of the evidence that the Human Rights Commission gave yesterday, where they were quite explicit that there needs to be external oversight, that there is not appropriate external oversight at the moment, how can your submission stand in the face of the evidence of the so-called overseer?

**Ms Stephen-Smith:** I have not got the benefit of the transcript from yesterday and I only saw part of the hearing—other people have seen the whole thing—but I think there may be a difference here between decision review and system oversight. It is very clear that the Human Rights Commission, both through the Public Advocate and through the complaints process, through the health and disability commissioner—whatever she is called; Karen Toohey’s position—has oversight roles in the system.

I know, from the little bit I did see yesterday, that Ms Griffiths-Cook talked about some of the work that she and CYPS have been doing to improve the reporting that she oversees in relation to accusations of abuse in care. The Public Advocate has significant capacity to access documents, can sit on care teams et cetera. Anybody within the system can make a complaint to the complaints commissioner within the Human Rights Commission about an action that has been taken. In terms of oversight, the Human Rights Commission has a very strong role to play as part of the oversight of the system.

In terms of external merits review of decisions, that is something that we have acknowledged. There is the Childrens Court and there is ACAT in relation to some decisions in relation to carers. But there is not an external merits review process for some decisions taken, such as placement of a child or contact, as there is in some other jurisdictions.

All I really said in my opening statement was that we are reviewing that approach to internal and external merits review decisions. But that is not the same thing as oversight. There is a slightly different oversight.

**MRS DUNNE:** I take the slight distinction there. Why are you still reviewing the issue of external oversight, given that nearly four years ago the Glanfield inquiry recommended substantial changes? Why are we still thinking about this four years on?

**Ms Stephen-Smith:** The Glanfield review recommendation was that the Justice and the Community Safety Directorate should undertake a review and examine it. And they did produce the discussion paper last year. As I have said in the Assembly, and I am very sorry to say, it has taken longer to get to that point than we would have liked. There has been a lot of work. Obviously the same area of Justice and Community Safety has also had a lot of work to do to respond to the Royal Commission into Institutional Responses to Child Sexual Abuse, which probably was not necessarily on the cards in relation the Glanfield response.

It is something that I am very keen to see move forward. I think the submissions to

that discussion paper that can be released are public now. We will shortly release the consultants' report on their further work and examination of those submissions.

But as I said in my opening statement, part of the challenge is that there is not a single model that we could pick up and apply in the ACT. There is not a consistent model across other jurisdictions. I have read all the submissions to the discussion paper, and there is no consistent view among stakeholders as to either what an internal merits review process should look like or what an external merits review process should look like.

My position at the moment in terms of how we move forward is: strengthening internal merits review and being really clear about what that looks like and how to do it. We have certainly tried, in partnership with the Red Cross through the working together for kids information, to articulate what the internal review processes are and how you can access those.

But we clearly need to articulate that even more clearly to really codify what our internal review processes look like and possibly to strengthen and change those slightly, and then establishing something external will probably take a little longer, and we need to work through that.

There are a number of issues in relation to that—and sorry to go on; I am actually quite passionate about this—

**MRS DUNNE:** That is fine.

**Ms Stephen-Smith:** There are differences of view about whether something like that should sit under ACAT or within the Childrens Court, which already has a role. But there are views that it should not be part of the court process because it is too formal or it should be because it is already part of the process. You can do a less formal panel arrangement within either the Childrens Court or ACAT or you can do an even less formal panel arrangement, which, I understand used to exist, that provides advice to the director-general but is not actually a decision-making body in its own right, which I think is Western Australia's model. In Queensland, they do it through the Administrative Appeals Tribunal. But it is actually specified that it is an adversarial process.

My view is that, whatever we do, it must be in line with our commitment to be a restorative city. As we go forward and design this it is actually about how we use part of this process by making our own internal complaints mechanism more restorative, clarifying our internal merits review process and establishing anything external. These must all be consistent with our commitment to making the whole system more restorative and working with people, rather than doing to or for them.

**MRS DUNNE:** What does the internal merits review system look like now?

**Ms Stephen-Smith:** Ms Pappas can talk about that.

**Ms Pappas:** Internal to the child and youth protection services, there are a number of ways that families or a person who wants a decision reviewed can access. As I say, it

could be through our complaints process that sits outside the operational area. It could be directly with a case worker. It could be to an independent body such as the quality complaints and regulation team that sits outside CYPS totally but is another area of CSD. There are a number of ways that families or people can complain, I guess, or seek a review of a decision.

Generally what happens is that a parent calls or there is decision X that they are dissatisfied with. "I want somebody else to have a look at the decision." It goes to the team leader who reviews it. Our structure is north and south to allow for people to respond to individual communities across Canberra. And we have a process where, if you are part of a decision, it moves to somebody who has not been part of the decision-making process. It is somebody who does not know the details of the case, who has not been involved in the process, who has not tried to influence or inform it. We use those mechanisms to make sure that those reviews are fair and reasonable.

Then it goes up through a line to the director of child protection. There is an option there and she is able to review the decision of the executive senior branch manager, who sits in our policy area. With some expertise, she can review some operational decisions that she has not been part of. I get the privilege, I guess, of seeing quite a few of them. Our complaints area does that.

There are quite a few mechanisms. And they are robust. They can be improved, absolutely. What we need to do is make that publicly available so that people can opt into whatever process best suits their needs. That is the work that we are doing at the moment. We want to move away from that, letters at 10 paces. We want to go to a restorative, conciliatory approach.

What we did hear in the submissions was that if you improve the original decision, and then how you communicate that, the need for those external reviews diminishes. Not everyone has to be happy with the outcome but they at least need to understand, to know and to understand the basis on which the decisions are made. That is absolutely a place where we are committed to.

**MRS DUNNE:** Presumably if they understand the basis and have some buy-in they are less likely to be unhappy, even if they do not get what they want?

**Ms Pappas:** Yes. People can be unhappy with decisions and accept them, and people can be unhappy with decisions and not accept them. Then we have got to be clear with them about where their pathways are. At the moment there are some critical decisions like placement decisions or contact decisions that they have an option to go back to the Childrens Court on and ask the court not to review our decision but to make a new decision based on all the information that can go before the Childrens Court. Those provisions already exist in the act. And we have got circumstances where people choose to do that.

**Ms Stephen-Smith:** And then ultimately people who are not happy can go to the Supreme Court.

**Ms Pappas:** Supreme Court, Court of Appeal and so on.

**MRS DUNNE:** That is, as we have heard, very unusual.

**Ms Stephen-Smith:** Yes.

**MS LE COUTEUR:** And very expensive.

**Ms Stephen-Smith:** One thing I would add is that, as part of the response to the Glanfield review, the case analysis team was established. In situations where families' circumstances are very complex and the internal review is about placement, for example, it may be that the case analysis team is also employed, independent of the original decision-making team, to do an entire case analysis, to provide advice to whoever that next review level is, which is a really useful part of the process.

**Ms Cross:** The only thing I would add is that, in addition to Ms Pappas as an internal reviewer, it can also be referred to the deputy director-general and to the director-general. There are a series of stages that it can go through within the directorate for that independent review.

**Ms Stephen-Smith:** Part of the decision-making about what will happen in establishing a new process is: how many steps of internal review do we want people to have to go through before they go to an external merit review process? If we know that they are very unlikely to be happy with an outcome of any internal review, how do those things relate to one another?

**MRS DUNNE:** Separate from the internal review of individual decisions that someone may bring up, is there professional oversight of decisions so that a caseworker, someone who is authorised to make a decision, makes a decision but they are also peer reviewed? What is the mechanism inside the agency for that at the moment?

**Ms Pappas:** We have developed over the years a practice stream for caseworkers. We have practice leaders, senior practitioners and principal practitioners, and they are people who develop expertise in particular portfolios. We have people who have had early childhood education, for example, youth justice experience or a trauma background.

With the work of those staff, along with demonstrating what good practice looks like by running a couple of cases and having staff walk alongside them, there is an opportunity for staff to say, "I'm not sure. I don't know if I've got it right; can you provide me with some advice?" They can also be referred by the team leader for some independent oversight and review of decisions, review of process and review of interactions. Through that process we have identified some areas of development around how our staff have very difficult conversations well. That is a real skill. I think that goes to how you explain yourself in a way that people will hear the information when they are stressed and in crisis. How do you make reasonable adjustments for that? How many times do you have to go back and have that conversation, until you know that that person has understood and heard what you have had to say?

They are the sorts of things where there is a benefit in having somebody just outside the decision-making process. It gives us some insight about how we might improve

our procedures, how we might improve our training and how we might improve our induction. Staff do not just have the information but build a skill around some of those things that we ask them to do.

**MRS DUNNE:** Is there ever any review of decisions as a desktop exercise amongst senior staff, independent of whether there might be a complaint? Is there a time when you say, “Let’s take a cross-section of the decisions we made,” and you have senior staff review those for all of those things that you touched on—as a learning experience for the whole organisation?

**Ms Pappas:** We have from time to time had those processes. The case analysis team, in effect, do that for us. I do not have the number of cases that they have reviewed. What they do for us is a very comprehensive chronology of the interaction, and analysis against the research and evidence that says what works and what does not work. It overlays the practice they are seeing in the cases that they are reviewing. They provide a thematic report that says, “Over the past 12 months we’ve reviewed X number of cases. The themes we’re seeing in practice are these five things.” The case analysis team do that for us.

**Ms Cross:** It is probably worth mentioning the strengthening practice committee as well. We have a committee with external members who we then discuss those practice matters with. That team will report to that committee, and we have expertise from outside CSD, outside the ACT, that also give us their professional knowledge and learning so that we can improve practice in those thematic areas as well. That includes people from an Aboriginal and Torres Strait Islander background so that we have their input into the practice that we are examining.

**MRS DUNNE:** How often do they meet?

**Ms Cross:** Every quarter.

**MRS DUNNE:** Do you have a list of the current members?

**Ms Stephen-Smith:** That is essentially an evolution of the quality assurance and improvement committee that was established in response to the Glanfield review. It has then evolved to the next step, which is really around practice support. Having done the quality assurance bit of the work over its first couple of years of existence and really worked with the senior management on that, now it is really about practice support.

**THE CHAIR:** I have a couple of follow-up questions. I have forgotten the name of the other part of CSD that does—

**Ms Pappas:** Complaints? The quality complaints regulation, the QCR. I think that is them.

**THE CHAIR:** You were talking about them earlier in part of the answer you gave Mrs Dunne about some of the oversights that are in place. Are there people that sit there that are former caseworkers in CYPS? What is the skill set for people in that sort of review area?

**Ms Pappas:** I must admit that I do not know who is there at the moment. There have been people from within CYPS that have moved out and gone into QCR. It is always beneficial when somebody understands the content. There is also something about people who can bring a fresh eye and a different perspective to those complaints—a mix. I do not know who is there at the moment, but we have from time to time had people from within, and who bring their own expertise.

**THE CHAIR:** Would it be possible to get an idea of the skill set of the people there? I am not asking for names, just the skill set, so that we can get an idea of the types of skills, to have an understanding of the skills that people have.

**Ms Pappas:** Yes.

**THE CHAIR:** You mentioned the restorative nature of the CYPS that you are trying to build on. We have heard a fair bit of evidence about some of the restorative practices of New Zealand. Have you, minister, had a chance to go and investigate some of the stuff that is going on in New Zealand, in Wellington particularly?

**Ms Stephen-Smith:** Yes.

**MRS DUNNE:** There was also mention of Hull and Leeds.

**THE CHAIR:** I think I have heard in the chamber the minister speak of Leeds and Hull, but I am happy to be corrected there. I was not sure about New Zealand.

**Ms Stephen-Smith:** I have not been to New Zealand but I am looking at that as an option. Recently, there was someone over from New Zealand whose name has escaped me at the moment—Paul—

**MRS DUNNE:** Nixon.

**Ms Stephen-Smith:** Paul Nixon, who was brought over as part of the Canberra restorative network process. I went to a lunch roundtable with him and with a lot of other people, including representatives of the Aboriginal and Torres Strait Islander community, to talk about that. I had a meeting with him afterwards, just to talk about what he is seeing in the ACT and some of the lessons that he thinks we could learn. Obviously, that is not in depth.

As you mentioned, Ms Cross, in her first month, accompanied me on a trip to the UK. We spent a couple of days in Leeds. The Leeds people have also been over here a couple of times. We also went to Scotland and Ireland. Often with these things, you think you can read about it and get an understanding from reading, but it was an incredibly useful trip to be able to talk to a whole lot of people about the different lessons.

There were three important things. It is all about the relationships; that was the key message. There was a lot of really detailed work underpinning how they implement restorative practice. Ms Pappas talked earlier about how people have conversations. There is a whole framework that they have developed around how you have a

restorative conversation, how you have a conversation with a family that empowers them to identify the challenges that they face, what they are going to do about it and to set their own goals.

The other thing was about how long it has taken them to get to where they are now. There is still work for them to do, and they acknowledge that they are still learning and growing; they are still changing their practice to be even better, even though they are probably the exemplar in the world for how you have a child-friendly city and a restorative child protection system.

**THE CHAIR:** Sorry, I was incorrect about Hull, but I knew I heard in the chamber that the minister had been to the UK somewhere. Thank you, minister. I want to ask a substantive question about the CYPS cultural services team, about their role and how that interacts with Aboriginal and Torres Strait Islander cultural responsibilities from a CYPS response.

**Ms Pappas:** The cultural services team is a difficult place for them to work, I have to say. For any Aboriginal people that work in the context of child protection it is difficult. We have a great team, and they really provide mentoring support, guidance and advice to caseworkers about how they can have conversations differently, how they can respond to Aboriginal and Torres Strait Islander families differently, and how they can do that in different ways. They provide advice in terms of a consultation in the office. They can go out alongside a child protection worker. They sometimes go out before child protection workers.

They undertake quite a lot of our cultural planning work. They help us find kin. We are at the early stages of developing a systematic framework around how you find kin in Aboriginal communities. One of our staff members there has just qualified as a genealogist; she is incredibly excited about how she is going to apply her knowledge in finding kin. She is our resident expert. They support us to find different ways to engage with young people who disengage with their families or who are brushing up against the youth justice system. Really they respond in the way that they see that they need to respond.

Obviously, they cannot respond to everything. There are sometimes conflicts of interest in terms of how they get involved with families, and who with, because Canberra is a small town and they come across people in their personal lives and in their communities.

It is a really difficult space for them to work in, but the team are fantastic. Our two Aboriginal staff lead the family group conferencing program that we have, which is our family-led decision-making, absolutely restorative. Families make decisions and make plans to keep their own children safe, and they do that understanding what the bottom lines are in terms of safety for children. People sign off on that, and that is the plan that is implemented.

That is the role. It is broad. We ask a lot of them. They do their work well, but it is incredibly complex and it is incredibly confronting to them as individuals and as human beings.

**Ms Stephen-Smith:** I would like to say something that is really pertinent to the terms of reference for this inquiry in relation to family group conferencing. One of the things we are looking at is this: if not all family members can be part of the family group conference, how do we ensure that the family members who are can share sufficient information, without breaking the law, with other people, to bring them into the support network for those children and families without establishing a declared care team, which we do not necessarily need to do because kids are not coming into care? There are challenges under our existing act around how we ensure that the people who need to share information share, and we are very conscious of that.

**Ms Pappas:** Anne just reminded me also that our cultural services team member sits on our application review committee. With any application that has been considered in terms of going to the Childrens Court, we have an Aboriginal representative for Aboriginal kids that are in that process. Again, it is about advice, looking for some opportunities to think differently about how we might do that. So they are represented in key decision-making bodies across the system as well.

**MRS DUNNE:** Ms Pappas, you said that the people from the cultural services team—

**Ms Pappas:** They do have another name. I just cannot remember.

**MRS DUNNE:** You said that these people lead the family group conferencing. Does that mean that they are the facilitators?

**Ms Pappas:** To be honest, the genesis was that we thought the cultural services team should, but very quickly we realised that that is not the most appropriate model. We source people from the cultural services team; it is a bit of an incubator in terms of how you bring expertise into other parts of the service system. The family group conferencing team now sits separate to the cultural services team, but obviously—

**MRS DUNNE:** But who leads the family group conferencing?

**Ms Pappas:** The Aboriginal facilitators lead it.

**MRS DUNNE:** Where does the facilitator come from? Do they come out of CYPS or are they an independent person?

**Ms Pappas:** They have come out of CYPS, but they were employed into the public service.

**MRS DUNNE:** When they are actually a facilitator in a family group conference, is it someone out of CYPS or is there an independent person who is not currently a leader? Regardless of where they come from, whether they have worked before or whatever, are they seen as an independent, honest broker?

**Ms Pappas:** They are part of the CYPS workforce. They are not in the operational area, so they are not involved in the decision-making. In that respect, they are independent of the decision-making and families. They are part of the workforce, but they sit in a non-operational area.

**MRS DUNNE:** I have asked a couple of questions about review and looking at decisions that were made at various stages. In relation to the application review team taking matters to court, are those decisions reviewed internally further up the line? If you decide to take a case to the Childrens Court, is that process reviewed professionally inside the system?

**THE CHAIR:** Prior to court or after?

**MRS DUNNE:** Both. I presume that the application review team facilitates the making of a decision as to whether or not something ends up in court. Is that correct?

**Ms Martens:** I would say that probably 90 per cent of our cases start in the application review committee, ARC, because emergency actions have been taken. So an application does not have time to go through ARC before emergency action, because it is by definition an emergency, but it is required to go before that committee at the first possible opportunity. It sits every Tuesday afternoon. It is on that occasion that the committee reviews the emergency action and makes a decision as to whether it is appropriate to continue the interim orders that were made, or generally made, and what action to take as a result.

Most of those cases come through because of emergency action. There are occasions where it might be a planned application for a supervision provision or something like that where there has not been an emergency, but generally it is taken in that way. Then, as the matter moves through the litigation process, at different points, if information comes to hand or there is an assessment, it will come back to ARC and ARC then reviews whether the current application is still appropriate or whether it should be amended in some way. Any application that is filed by parents is also brought to ARC as soon as possible to make that determination also.

There has been a jump in revocation applications. Those come to ARC; we look at those and decide what action to take as a result. With those meetings of ARC, each matter is minuted, and the decision-making is minuted and put on our central system. Any senior staff or any staff member who is working on the case could access those minutes and the reasons behind that decision-making at any time.

**MRS DUNNE:** Are the decisions made by ARC, the application review committee, actual decisions? They are not advice; they are decisions for action—

**Ms Martens:** They are decisions, yes.

**MRS DUNNE:** which are then implemented until they are reviewed again.

**Ms Martens:** Yes.

**MRS DUNNE:** After that happens, your staff can have access to it if it is appropriate, but is there internal oversight of those sorts of cases at a meta level? Does that come within the purview of the case review committee or is there some legal oversight or supervision of that work?

**Ms Pappas:** No, there is not; it is a decision-making body. It makes decisions about

which application the D-G will progress to court. The next point of review or discussion is when it then goes into a courtroom.

**Ms Martens:** There is an intermediary step, too, where, if the matter is going to be contested, the matter is briefed to the Government Solicitor's Office. Upon that briefing, advice will be given to the director-general's delegates as to whether the evidence is sufficient and whether it is an appropriate application. There is, in that sense, an external legal eye over it, saying that the prospects of success are either strong or poor or that you might want to get another piece of evidence before continuing.

**MRS DUNNE:** In the case of CP, which is the subject of the first part of this inquiry, when the matter was discussed to be referred, after appeal, back to the Childrens Court, did that go to the application review committee?

**Ms Martens:** Yes.

**THE CHAIR:** I want to follow up on the start of that line of questioning about the cultural area and the cultural services team. You talked about the fact that they work very closely with families. Do they work then on the other side of the ledger with foster carers where an Aboriginal and Torres Strait Islander child is placed in a non-kin related foster system and they are not from an Aboriginal and Torres Strait Islander background?

**Ms Martens:** The cultural services team works across services that are involved with families. I reiterate that they cannot do everything, but they get involved with the things that they can. They work with ACT Together and they provide support, advice. They have developed cultural plans, for example, on behalf of ACT Together from time to time. They have done visits to Aboriginal children in care. The Aboriginal staff within ACT Together and the cultural services team have lots of communication backwards and forwards. My answer is: if there is an ask, the team will see what they can do to support.

**MRS DUNNE:** How is ACT Together's case management externally overseen? Do you supervise their case management or does somebody else do that?

**Ms Pappas:** I guess the same oversights that exist for CYPS exist for ACT Together. All those bodies that the minister mentioned earlier are involved and engaged in and oversee the decisions that ACT Together make. The director-general retains parental responsibility for children who are being case managed by ACT Together. There is a lot of work that happens between the two systems. Sometimes we stumble over each other, I have to say. It is complex. It is sometimes a wobbly, three-legged stool but we try to make decisions, where that is possible, closest to the child. We have to consider who ultimately has responsibility for those kids, and generally it is the director-general.

**MRS DUNNE:** But there is a transparent oversight structure for ACT Together decisions and case management?

**Ms Pappas:** Again, the public advocates attend and are very much involved. They go

out and see children in residential care—the Ombudsman, through reportable conduct notifications; the HRC in terms of complaints and oversight. QCR, again, have taken complaints from people who have been dissatisfied by decisions that ACT Together make. Our own complaints unit can take those complaints. Again, they experience the same oversight as the child protection system does. We have our own processes, but ACT Together are required to make decisions as if they were the employee of the director-general and so it needs to align with decisions, which is why there is so much communication and interaction and information sharing between the services.

**Ms Stephen-Smith:** The other element of the oversight, I would add, is official visitors for children and young people, particularly for those young people that are in residential care. Official visitors also can be quite active. If they are talking to a young person and getting feedback that they are not happy, they will be quite active in then seeking, either through CYPS or ACT Together, to get some action on whatever it is that the young person has expressed their concern about or that they have seen that is of concern.

**Ms Pappas:** I would say that, with the reform of A step up, we are four-ish years down the track and there is quite a lot of cultural change that still needs to be made so that people can feel more comfortable about the new roles and responsibilities that came with that reform, how you get child protection workers to release some of that responsibility and the need to make all those decisions.

**MRS DUNNE:** Along with the information that people are looking for?

**Ms Pappas:** It is not necessarily about information; it is about decisions, because information flows reasonably well between the service systems. Because they are suitable entities, there is no restriction to it. It is about decision-making.

**MRS DUNNE:** That is not what we hear in evidence.

**Ms Pappas:** I am aware of that.

**MRS DUNNE:** Partners in ACT Together are saying it is difficult to get information. I suggest that you go back and reflect on some of the evidence that this committee has heard, because that is not what we hear in evidence.

**Ms Pappas:** I accept that. I did watch some of the hearings. Again, I do not think we get it right all the time. I think there are some really good pockets of work that are happening and really good relationships that are built and information flows. Then there are others where we could do better and there are always more things we can do. But there is a cultural shift that needs to happen.

I was saying how child protection workers need to let go of decision-making and allow that to happen. Then how do ACT Together rethink their responsibility now that we are in this reform and basically on a ship and we are trying to steer it together? It is a different way of thinking; it is a different way of working; it is a different way of interacting. I think we have come some way but we have got some way to go there as well.

**Ms Stephen-Smith:** I would add to that that early on when I came into the job I heard a fair few rumblings about the capacity to share information, that ACT Together was getting children without getting information from CYPS. I certainly have not been hearing that and so I think the system—

**MRS DUNNE:** Maybe they have given up.

**Ms Stephen-Smith:** Not that I have not heard it at all but that discussion has changed. Having had a quick read of the *Hansard* of ACT Together's evidence, obviously there were issues about carers getting access to information as well. I put on record, while I am here, particularly in relation to information for carers from the hospital, that I have taken that issue on board and we will look into that. That may be in relation to how the Health Records (Privacy and Access) Act works as well and making sure that we have got as smooth a process as we can to ensure that carers get access to the health information that they need. But there is an ongoing maturing system. I just wanted to put that on the record.

**Ms Pappas:** The other mechanism that we are building on is the new IT system. We are looking to develop portals which allow children and young people who might be involved in the system or carers who might be looking out for children or mandatory reporters to be able to input information directly and extract certain bits of information as well. That should contribute to how people access information and make what information they are able to access much easier. It takes out the human interaction, and people can just go in and do that. That is a work in progress and we will keep working, building, on that as we go.

**MRS DUNNE:** Minister, there has been a lot of talk today about making the care and protection system more restorative and there has been quite a bit of discussion from the witnesses that this committee has heard from and you have mentioned that we are committed to being a restorative city. What has actually been done in the care and protection system, say in the last two years, that would move towards making the care and protection system a more restorative system?

**Ms Stephen-Smith:** There is quite a lot that has been done, I think, in the training and support for CYPS staff to have those conversations better with family. With the families we have obviously also made some pretty significant investments, particularly a couple of years ago in the 2017-18 budget in relation to increasing the number of frontline staff, which then enables CYPS staff to work in a way that works with families more. But it is then about enabling the staff to do that. A lot of it—and this is what we heard in Leeds as well—is actually about changing the internal culture and training and support for people.

**Ms Cross:** It is a mindset.

**Ms Stephen-Smith:** It is a mindset thing. But it is also, I think, about creating the partner organisations and recognising the importance of advocacy and the voice, whether it is of children or whether it is of carers or whether it is of birth families. As part of A step up for our kids we implemented that advocacy service, with CREATE, for children and young people, which is not a direct individual advocacy but really has helped to get the voice of children and young people into that policy space and the

practice space.

We have put some additional funding into the Red Cross birth family advocacy service because it has been so effective and birth families have really used that service to better understand the system and learn how to self-advocate in the system—similarly for Carers ACT providing carer advocacy. I am certainly not going to say that we are down the Leeds end of this journey. There is a lot of planning to do and there has been a lot of work in implementing A step up as a new system while trying to also deliver some of this cultural change.

**Ms Cross:** I was just going to add that family group conferencing, which has become so important with Aboriginal and Torres Strait Islander families, is an embodiment of the restorative approach, and the intention is for the family to take the decision and develop the plan for the young people. That is what we have seen happening since we have introduced it. The statistics and the data coming out of family group conferencing have been incredibly positive and it is very much a restorative approach.

**MRS DUNNE:** Just a couple of things to take on notice. Can you, minister, provide for us the waitlist for the Red Cross birth family program, because it has been put to us that the waiting list is very long.

**Ms Pappas:** I could answer that, if you want. That is easy.

**MRS DUNNE:** While you are finding that, the other thing is in relation to family group conferencing, over, say, the last two financial years, if that is a reasonable timespan. How many children who are eligible for family group conferencing have come into the system and been able to take advantage of family group conferencing?

**Ms Pappas:** In terms of the Red Cross service, as of 29 January we were advised that there were six families waiting on the waitlist. They have got a process where they do active—

**MRS DUNNE:** That seems awfully small, because we were told it was quite a substantial lead time to get into the program.

**Ms Pappas:** That was the additional investment the minister talked about to address for a waitlist. They have really been working very, very hard over the last six months to bring those numbers down. They have also continued to deliver what they call a preparing for court workshop. They run them every fortnight and they have got their calendar out. What they do in those processes is, for families who want to self-represent or are in court processes, they run them through a workshop about how you do that, how do you engage, how do you interact and how you might get some additional support. They run them every fortnight and they are very well subscribed. That is another way that the Red Cross can hold families while they are going through whatever process they are going through. But as of the 29th there are six; that is what they have advised us.

**Ms Stephen-Smith:** I would just add that, in addition to family group conferencing, I think functional family therapy fits into that restorative approach as well in the sense that it is empowering families to find their own solutions.

**MRS DUNNE:** One other quick question, I hope. It is a quick question; I hope it is a quick answer. The Women's Legal Centre and Legal Aid, I think, and also the Human Rights Commissioner raised it in passing yesterday that there are no published decisions out of the Childrens Court in relation to care and protection in the ACT and, therefore, there is essentially no precedent, no jurisprudence. What is your view about turning that around? We have had one published case in the last few years, which is the CP case, because it went further up the line. That is essentially the only jurisprudence in this area for some time. What is your view about publishing decisions?

**Ms Stephen-Smith:** I would probably defer to Ms Martens in relation to publishing decisions, but I think—no, I will just defer, because I have some very strong views about where we could go next in this whole system. But that is probably not for today.

**Ms Martens:** It is the case there are not Childrens Court published decisions that are publicly available. There are, apart from CP, a number of other appeals that are published. I know Justice Refshauge heard a couple of others and some other judges have too, so we have—

**MRS DUNNE:** But they only get published if they go into the Supreme Court or the Court of Appeal.

**Ms Martens:** If they go to appeal, that is right. As I see it, it would probably be quite helpful to have some way of the court demonstrating its interpretation of the law, its application to certain fact scenarios and the outcomes of those matters. The concern that I see is that this is unlike the Family Court, in that these children who are involved have fairly significant abuse and neglect in their past. They may not want that on the record anywhere, and they may be able to work out that it is them sometime down the track. That is one concern I have. The other primary one I have is the resourcing for the court.

If a magistrate is required to write a decision on every single matter that he or she hears, it is going to take a substantial amount of time. We are already in a situation where we have got one Childrens Court magistrate. When we go to a listing hearing, which is when all the parties come together and say in front of the magistrate, "We are ready to go; all the evidence is filed," we are at a point now where we are already waiting four, five, six months to have a hearing listed. If that magistrate is then required to sit down and perhaps spend a week writing a judgement, that is going to push out the resourcing in the Childrens Court significantly. Whilst I think it could be a very helpful resource, it will have a big knock-on effect.

**MRS DUNNE:** It would come at a cost.

**Ms Martens:** Yes. Absolutely.

**Ms Stephen-Smith:** I think it is an interesting question in the context of the CP matter, though, in the sense of, without going into too much detail about part 1, Justice Refshauge did reflect on the decision that was made in the Childrens Court and some of the written elements of that and the adequacy or otherwise of the explanations that

were made by the magistrate—and that the fact that we do not have long-argued decision may then play into what happens if it is appealed. It is an interesting question, Mrs Dunne, I think.

**Ms Martens:** We do have the benefit of some written decisions in some of the major matters that we do. A decision will be written and some of them are very detailed, up to 80 or 90 pages long, but they are not distributed or generally published anywhere.

**MRS DUNNE:** Who has access to them?

**Ms Martens:** The parties.

**THE CHAIR:** All of the parties involved—or named, I should say?

**Ms Martens:** Yes, but the decision that is published will be anonymised. It will be by initials, so then if somebody accidentally passes it on—

**THE CHAIR:** Yes, I understand that. I just was trying to get a feel for how many people can access that.

**Ms Martens:** In a recent matter we had a decision delivered by Magistrate Cook, and I think it was approximately 80 pages. It was a very detailed analysis and I dare say it would have taken His Honour a very long time to work through all the evidence, the applicable law and then set out his conclusions on each statutory test.

**THE CHAIR:** I have one last supplementary question from ages ago. I know we talked a lot about the cultural side of things from an Aboriginal and Torres Strait Islander perspective, and I am happy if you want to take this on notice and provide it to the committee. What about the culturally and linguistically diverse side of the coin, because we have heard evidence that, where English is a second language, people can also find it a bit difficult to understand how to access information, how they support themselves. I am happy for you to take that on notice.

**Ms Pappas:** No. My response to that is that we do work with people in the community like Companion House and interpreter services and things like when we are engaging those families, but it is an emerging issue for us in terms of the families that come to the attention of the child protection system. It is a body of work that we have got to turn our minds to, but when we get there I want to be ready to have that conversation and have it well. I do not want to do that superficially, because those communities will be very keen to have those conversations and we do need to get to that. That is a piece of work for us, but the staff are very used to working with Companion House, other services in the community, interpreter services.

**Ms Martens:** At court we always say, without fail, if there is somebody who says, “I don't understand,” the telephone interpreter service will be used, so the conference is conducted through an interpreter. It takes a considerably longer period of time, but if everyone understands what is going on, we are going to get places faster. The director-general pays for that interpreting service and then, if matters go to a final hearing, an interpreter is present in person. In families where there are multiple people who have English as a second language, we have multiple interpreters so that there is

a full focus for each person.

**THE CHAIR:** Excellent. Thank you very much. Just a couple of housekeeping matters before we finish up today. When available, a proof transcript will be provided to you so that you can check the transcript and suggest any corrections, if they are required. I note there were a few questions taken on notice. The committee would appreciate the responses to those questions within two weeks of the date of this hearing. On behalf of the committee, I would like to thank you, Minister Stephen-Smith and officials, for appearing today. I now close today's hearings. Thank you.

**The committee adjourned at 5.01 pm.**