



Protecting Victoria's Vulnerable Children Inquiry

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Chair's Opening Statement

28 February 2011

The Hon. Philip Cummins:

Distinguished guests, ladies and gentlemen.

I acknowledge the traditional custodians of the land upon which we meet, the people of the Kulin nations, and pay my respects to their Elders, past and present.

I most warmly welcome you all to this first Public Sitting of the Inquiry.

The purpose of the Public Sitting is to state the processes the Inquiry will follow. Today is a Public Sitting. As it is a Public Sitting, the proceedings including questions you may ask and answers given will be recorded and transcribed and are public. Members of the media are also present and they may publish these proceedings as well. The media understands that filming of members of the audience in the auditorium is not appropriate and that will not occur.

As you know, ladies and gentlemen, the Inquiry was announced by the Premier one month ago today, on the 31st of January 2011.

At that point we had the Panel, the three of us here today. Emeritus Professor Dorothy Scott OAM, was the foundation Chair of Child Protection and the Inaugural Director of the Australian Centre for Child Protection at the University of South Australia until last year when she retired from that position. She has published and taught widely and has worked and advised extensively in the field of Child Protection. She has now returned to Victoria, which is our gain. Mr Bill Scales AO is Chancellor of Swinburne University and Chairman of the Port of Melbourne Corporation. He has chaired numerous Government and private entities including the Industry Productivity Commission and he has been frequently consulted by Governments at all levels. We are fortunate to have Mr Scales.

After the 31st of January, we were soon joined by our CEO, Ms Marion Van Rooden, who at the time of her appointment was Executive Director, International Education Branch, Department of Business and Innovation. In 2008-9, she led a Commonwealth Task Force to establish Fair Work Australia. She is very talented and we are fortunate to have her. She has assembled an able and eclectic Secretariat to the Inquiry and the Panel is grateful for the ready willingness of the Secretariat to address its multiple tasks. We are confident we have a good team.

The Panel has commenced its visits to persons and entities important to its work. We have attended upon Ms Gill Callister, Secretary to the Department of Human Services, Ms Penny Armitage, Secretary to the Department of Justice, and Mr Grant Hehir, Secretary to the Department of Treasury and Finance. We are in the process of attending upon the Secretary of the Department of Education and Early Childhood Development, the Victorian Children's Council, the Child Safety Commissioner, the Victorian Ombudsman, Victoria Police, the Children's Court of Victoria and the State Coroner. We shall attend upon many non-government organisations. We shall meet persons affected, families, children and young people, and front-line workers in Melbourne and the metropolitan area and in Geelong, Ballarat, Bendigo, Shepparton, Wodonga, Echuca, Swan Hill, Mildura, Horsham, Warrnambool, Morwell, and Bairnsdale. In those places, we shall conduct Public Sitings and round table meetings. We are inviting written submissions from all concerned persons and organisations in Victoria. We will consult widely and we will listen carefully. We will take special care in meeting with and listening to children and young persons.

The Inquiry is independent of Government and independent of parties and of vested interests. It will be impartial. It is a public and open Inquiry. These values of independence, impartiality, and openness are important values. There is another important value: the Inquiry will be inclusive and it will not be adversarial.

The Inquiry has power to establish and receive input from an external Reference Group on any matter and we are in the process of determining the ambit and membership of that Reference Group.

The Inquiry already has done much reading of earlier Reports. There are many valuable earlier Reports in Victoria and elsewhere. The point was made when the Inquiry was announced that there had been many earlier inquiries and Reports, so what use was another? - a fair question to ask. To that question, we say this Inquiry

is of a different and of a special character. It is not an Inquiry into past conduct or misconduct or past achievements or failures. It is not an Inquiry into a particular element of the Child Protection system. It is not segmented. It is focused not on the past but on the future. It is focused not on the individual case, serious as every case is, but on the system and especially focused on solutions. Throughout our extensive consultations we will say to individuals, officials, entities and organisations “What are the solutions?” We want to make a difference, to make the future better. And when we submit our Report to the Minister in November, then to be tabled in Parliament, we are confident government will play its part.

There are three groups we especially wish to address. First, persons who have been afflicted by the blight of child neglect or abuse. To you we say, we wish to hear what you say are the solutions. We are conscious that every individual case is of the highest importance. However our Terms of Reference preclude us from investigating individual cases or organisations. That is because the purpose of the Inquiry is not to allocate liability or blame but rather to look forward to solutions. We invite you, with respect and sensitivity, to come forward to this Inquiry.

The second group we especially wish to address are child protection workers and persons on the front line. We know how demanding, stressful and unrelenting your work is. We respect your work. We wish to hear from you what you say are the solutions, the better way for the future.

Third, foster carers and relatives with children in state care, often grandparents. We are conscious of the work you do, sometimes unrecognised and unacknowledged. We wish to hear from you too, with your knowledge and insights.

I would like to take you now to the Terms of Reference of the Inquiry.

The Terms of Reference is the defining document of the Inquiry. It states what we should do and what we cannot do. It is our fixed tablet. At the conclusion of this Public Sitting you will be provided in written form with the Terms and the questions that I will put up now on the slides so you don't need to try and write it all down; you will be provided with them in written form at the conclusion of this Public Sitting.

In the document which is our foundation document, the Terms of Reference, there is a section entitled “The Inquiry Process” which will be distributed to you with the Terms and it came to us with the Terms. Essentially it states that the Inquiry will focus on policy and the service system that supports Government policy and the Panel will not consider or make recommendations regarding the circumstance of individual cases nor review individual organisations. So that is our direction.

The brief is this: to inquire into and develop recommendations to reduce the incidence and negative impact of child neglect and abuse in Victoria.

That overarching brief has eight particular subject matters. The overarching brief has specific reference to the following:-

First, “The factors that increase the risk of abuse and neglect occurring, and effective preventative strategies.” That is Term of Reference number one.

Questions which can arise under this - and with all of these we invite you to tell us in written form what you say arise under this subject matter - are: Given the different forms which child abuse and neglect may take and the very broad range of risk factors involved, what are the key preventative strategies? What strategies should be given different priority? What strategies are the most cost-effective? Do current strategies need to be modified to accommodate the needs of particular groups? And what might be the benefits of introducing a public health model?

First, given the different forms which child abuse and neglect may take and the very broad range of risk factors involved: For example, parental substance misuse, domestic violence, socio-economic stress, inadequate housing, availability of pornography, parental history of child maltreatment, poor parent and child attachment, social isolation. There are more and we invite you to inform us further. So that’s the first subject matter: the factors that increase the risk of abuse and neglect occurring, and effective preventative strategies.

The second Term is “Strategies to enhance early identification of, and intervention targeted at, children and families at risk, including the role of adult, universal and primary services. This should include consideration of ways to strengthen the capacity of those organisations involved.”

Under that subject matter the following questions could arise: What is the appropriate role of adult, primary and universal services in responding to the needs of children and families at risk of child abuse and neglect? Further questions arise as to universal and primary children's services such as general medical practitioners, antenatal services, maternal and child health services, local playgroups, early childhood education and care services, primary and secondary schools and telephone and internet based services for children and young persons seeking information and support. Targeted child and family services such as enhanced maternal and child health services, children's disability services, specialist medical services, child and adolescent mental health services, family support services, family relationships counselling services and Aboriginal managed health and social services. Also, specialist adult focused services in the field of drug and alcohol treatment, domestic violence, mental health, disability, homelessness, financial counselling, problem gambling, correctional services, refugee resettlement and migrant services.

Further, how might the capacity of such services and the capability of organisations providing those services be enhanced to fulfil this role? What strategies should be given priority in relation to the immediate, medium and longer term? And what are the most cost-effective strategies to enhance early identification of, and intervention targeted at, children and families at risk.

They are questions and issues which can arise under subject matter number two: strategies to enhance early identification of, and intervention targeted at, children and families at risk.

The third subject matter is a very substantial one. It is Term of Reference number three: "The quality, structure, role and functioning of family services; statutory child protection services, including reporting, assessment, investigation procedures and responses; and out-of-home care, including permanency planning and transitions; and what improvements may be made to better protect the best interests of children and support better outcomes for children and families?" Self-evidently, a very substantial subject matter.

Over recent years, Victoria has been developing an increasingly integrated service delivery approach to the support of vulnerable children and their families. What are the strengths and weaknesses of this approach? How should any identified weakness be addressed? Providing a quality service to vulnerable children and their families is dependent on having a skilled workforce. What are the strengths and weaknesses of the current workforce arrangements, for example working conditions and training and career paths? How might any weakness be addressed? A significant overarching question under Term number three.

And applying those overarching questions including the significant question of the workforce, first family services: What are the strengths and weaknesses of current services designed to assist families who are at risk of becoming involved in the statutory child protection system, for example, the work of ChildFIRST. How might the identified weaknesses best be addressed? Are there places where some of these services work more effectively than elsewhere? Are there conditions associated with this and how might these conditions be replicated elsewhere in the State, as the Inquiry is State-wide and the regions have special significance to the Inquiry? Is the overall structure of such services appropriate for the role they are designed to perform? If not, why, and what changes should be considered? Do the current services accommodate the needs of vulnerable children and families from diverse ethnic and cultural backgrounds? Are there particular services that best meet the needs of vulnerable Aboriginal children and families?

Statutory child protection services is the next point in Term number three: “Statutory child protection services including reporting, assessment, investigation procedures and responses.” What are the strengths and weaknesses of our current statutory child protection services in relation to responding to and assessing suspected child maltreatment? How might markedly identified weaknesses best be addressed? If there are places where some statutory child protection services work more effectively than elsewhere, what appear to be the conditions associated with this and how might these conditions be replicated elsewhere in the State? Further, is the overall structure of statutory child protection services appropriate for the role they are designed to perform? If not, what changes should be considered? Further, what has been the impact of the Victorian system of mandatory reporting on the statutory child protection services? Have there been any unintended consequences from the introduction of the Victorian approach to mandatory reporting and if so, how might these unintended consequences be effectively addressed?

Finally, under Term number three: “Out-of-home care, including permanency planning and transitions.” What are the strengths and weaknesses of the range of our current out-of-home care services, including respite foster care, foster care of varying durations, kinship care, permanent care and residential care? What supports are offered to young people leaving care? How might any identified weaknesses be best addressed? If there are places where these services work more effectively than elsewhere, what are the conditions associated with these successes and how might these successes be replicated elsewhere in the State? Is the overall structure of out-of-home care services appropriate for the role they are designed to perform and if not, what changes should be considered? What more might need to be done to meet the needs and improve the outcomes of children in out-of-home care and those leaving care regarding their education, health and mental health needs, the needs of children from culturally and linguistically diverse backgrounds, arrangements for developmentally appropriate contact between a child in out-of-home care and members of their family? Further, how can the views of children and young persons best inform decisions about their care? How can the views of those caring for children best inform decisions affecting the well-being of the children in their care? How can placement instability be reduced and the likelihood of successful reunification of children with their families, where this is an appropriate goal, be maximised? How might children who cannot return home and who are eligible for permanent care achieve this in a way that is timely? What are the post-placement supports required to enhance the success of permanent care placements? What are the strengths and weaknesses of the current Victorian adoption legislative framework and practice, for children who cannot return to the family home? Should the Victorian legislation and practice reflect that of other jurisdictions?

So there are the matters which may arise under that very substantial Term number three: “The quality, structure, role and functioning of family services, statutory child protection services and out-of-home services.” We invite your submissions and the benefit of your experience and knowledge on that Term.

The fourth Term is: “The interaction of departments and agencies, the courts and service providers and how they can better work together to support at-risk families and children.”

Under that Term, questions might arise given the very broad range of professions and services and sectors which need to collaborate: are current arrangements for collaboration adequate? What needs to be done to improve the quality of collaboration? Are there models of collaboration which could be replicated? How might professional education prepare service providers to collaborate more effectively? How might the current funding approach be adapted to improve the source allocation and service integration?

The fifth Term is: “The appropriate roles and responsibilities of Government and non-government organisations in relation to Victoria’s child protection policy and systems.”

Under that Term, given Victoria’s distinctive history in relation to the role of not-for-profit community service agencies in caring for children and families in need and the recent emergence of some ‘for profit’ organisations in the sector, what is the most appropriate role for government and for non-government organisations both ‘for profit’ and not-for-profit? What roles can better be performed by non-government organisations? What is the potential for non-government organisations to deal with some current statutory child protection activities? Is it necessary to strengthen the capability of non-government organisations to be better equipped? The next question could keep us in a seminar for months: what is the role of the State in ensuring that community organisations fulfil their duty of care to children? What are the strengths and weaknesses of the current Commonwealth and State roles and arrangements?

Next, Term number six: “Possible changes to the processes of the courts, referencing the recent work of any options put forward by the Victorian Law Reform Commission.”

As you know, the Victorian Law Reform Commission had commissioned in December 2009 an Inquiry into Protection applications in the Victorian Children’s Court, and it reported in its Final Report no. 19 in June 2010. In light of recent child protection legislative changes, trends in other jurisdictions and in particular the options put forward by the Victorian Law Reform Commission, what changes should be considered to enhance the likelihood that legal processes work in the best interests of vulnerable children and in a timely way? Are specific legislative changes necessary? For example, in relation to a protection application by safe custody, where children are brought into care and immediate Orders from the Children’s Court

are sought in relation to a child's placement, should current 24 hour time limit be extended, and if so, what should be the maximum time limit, such as 72 hours?

You will notice the Term is not confined to the Children's Court but is possible changes to the processes of the Courts. So processes in other Courts - which have worked, and which have failed children - are relevant under this Term. The best interest principles are set out in section ten of the Children, Youth and Families Act of 2005, and which apply to the Children's Court and the Secretary and the registered community services under sections 44 and 46. One could ask should these best interest principles be applied more broadly than which is comprehended by the Act, to education, mental health and other broader areas than presently specified? Important questions under the Court question.

The seventh Term is: "Measures to enhance the Government's ability to plan for future demand for family services, statutory child protection services and out-of-home care and to ensure a workforce that delivers services of a high quality to children and their families."

Under that Term, questions which might arise are: Given the resources required to provide appropriate services and care for children and young persons referred to statutory child protection services and in out-of-home care, what is the likely future demand for services and what needs to be put in place to help sustain services and systems and plan for and meet future demand and pressures? Is there sufficient research into child protection matters to support government's ability to plan for future child protection needs? If not, how might government encourage and support sufficient research in this area? How might those providing home-based care and residential care for children be most effectively recruited and supported? What workforce development and retention strategies are required to meet the needs of the child and the family welfare sector in the future?

The eighth and final Term is: "The oversight and transparency of the child protection, care and support system and whether changes are necessary in oversight, transparency and/or regulation to achieve an increase in public confidence and improved outcomes for the children."

There is a range of oversight processes involved in the child protection and care system. Are these processes appropriate or sufficient? What exists in other jurisdictions which should be considered? What changes are required? How will this benefit children? And are there strategies which might increase public understanding of, confidence in, and support for, child welfare services?

So ladies and gentlemen, that is what we have eight months to do. We will be assisted, we are sure, by you.

The Guide to making submissions will be available as you leave the Public Sitting. We invite written submissions, whether they are in electronic form or in printed form. We prefer for management purposes to have the electronic soft copy method but some of you may prefer the hard copy form. Submissions close on the 15th of April 2011.

With the benefit of those submissions, we the Panel will then commence Public Sittings, and when we have worked out the schedule of local relevant entities, we will publish that on the website. You are welcome to leave your details as you leave if you wish to be kept informed. The website which will be continuously updated.

We do welcome submissions from individuals and from organisations. The submissions will be a central part of the material for the Panel to have reference to in its considerations and in its Report. As I have said, and I repeat, submissions from individuals, front-line workers and persons affected by the child protection and out-of-home care system will be treated with respect and sensitivity. Because the Inquiry is non-adversarial and is focused on solutions, we will not, because we are precluded from doing so, inquire into individual cases. Also, in fairness to persons wishing to make submissions, or wishing to provide oral or written information to the Inquiry, particularly members of the public, you should be aware that this Inquiry is not a court of law. That means that the submission or information you provide is not legally privileged and is, therefore, subject to the ordinary rules of self-incrimination and defamation as well as the Privacy Act. If any of you, particularly members of the public, have a concern about the self-incrimination or defamation or privacy requirements we do encourage you to consult a private lawyer. It is very important in fairness to you, that you ensure that you are properly protected in coming forward to this Inquiry which is a public Inquiry and not a court of law offering protection.

We invite submissions on any one or more or all Terms of Reference to the Inquiry. You do not need to address all of it. We will need to address all of it. You might only address one part or more. If you wish your submission to be treated in confidence, please state so at the start of the submission because so far as we can responsibly do so, we will publish the written submission whether in electronic form or written form. Therefore, if you wish your submission to be treated in confidence please state so in the email and we will seek so far as we can to fulfil your request.

We will not receive submissions that are anonymous. If you have a special problem of that kind we will set up a system so that your identity can be retained but separately from the publication of the material. But I am sure you will understand it is just not responsible of us to receive material which is anonymous.

We will not publish an Interim Report because we simply will not have time to do so during the nine months of the Inquiry given the breadth of the Report, but what we will do is we will consult widely.

Finally, and this may particularly apply to the culture of the sector, we will certainly listen to all of the views fairly and give you a fair and full hearing but we will not consult in a continuous way backwards and forwards. We will listen to you carefully once and we will treat you fairly but we will not have a process of continuous consultation, because that is not the way of the Inquiry, and there also is the matter of time.

We are very happy, the Panel and I, to answer questions you might wish to ask. If you wish to ask questions, we would ask that you state your name and, if you are from an organisation, your organisation. So I do invite your questions. We have a roving microphone here and we have got a quarter of an hour.

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