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**PROTECTING VICTORIA'S VULNERABLE CHILDREN INQUIRY**

**THE HON P.D. CUMMINS, Chair  
PROF D. SCOTT AOM  
MR W. SCALES AO**

**MELBOURNE**

**9.07 AM, TUESDAY, 28 JUNE 2011**

MR CUMMINS: Well, ladies and gentlemen, I'm delighted and indeed honoured to ask Auntie Diane Kerr to welcome us to her country.

5 AUNTIE DIANE KERR: Good morning everybody. I'd like to pay my respects to my elders, to my elders past and present, elders present here today and elders of different nations that are here today. I'd like to acknowledge yourself and the Panel and all the special guests that are here today. I'm very proud to be here today. This is the traditional country of my grandmother and mother and ancestors of the Wurundjeri family. I love doing my welcomes  
10 because they help me heal but they're also very important and I think particularly today it's important because you're doing an Inquiry on such an important subject.

15 I've had the privilege of being a retired foster mother - I was a foster mum for about 20-odd years and had lots and lots of children through my home, and I still do unofficially. My house is a safe house for the children of the Dandenong area and I can have basically up to 15 at a time. I haven't had a lounge room for 15 years. Everybody in the community knows that they can come and be safe and I think that's what's important about our communities, is  
20 that sometimes we're so busy in our lives that we pretend to forget to care for each other, and I think we need to do that because our children need to know that they have a place in society and they're welcome in society and that they can speak to an adult without any fear.

25 I hope you have a good day, that you get through a lot, that you have some good information, but before I go I ask each and every one of you to get to know each other, understand each other, hear each other because if we can do that, we can live in harmony. If we can live in harmony, our children can live in peace. So I give you my hand in friendship, in cultural respect and dignity.  
30 May Bunjil my creator surround you and keep you safe (indistinct) On behalf of my elders, I say Wominjeka, which means welcome. I wish to welcome you from the tops of the trees, to the roots in the ground and if you look after the country, the country will look after you. Thank you.

35 MR CUMMINS: Thank you Auntie Diane. I thank you most sincerely for your welcome and for your insights and for your wisdom.

AUNTIE DIANE KERR: Thank you.

40 MR CUMMINS: Well, ladies and gentlemen, we too pay our profound respects to the traditional custodians of the land upon which we meet, the Wurundjeri people, and we pay our acknowledgments to their elders, past and present, and we look forward to having the benefit of their elders also in the future.

45

As you know, ladies and gentlemen, the Inquiry, Protecting Victoria's Vulnerable Children, was established by the government on 31 January this year. Submissions were received until 29 April this year, but we'll still receive further submissions if they're sought to be made, but the substantial body of submissions was in by them and we're due to report to government in November.

As you also know, the Inquiry is a positive Inquiry focused upon solutions for the future. It's an Inquiry looking at the system as a whole. Thus, we are not investigating individual cases or individual organisations; other entities have a proper function to do that, including the Child Safety Commissioner, the Ombudsman, Victoria Police and even, if they were established, Royal Commissions. Those entities often look to allocate liability or blame, as well as looking to the future. We are truly looking at the future. We are briefed not to investigate individual organisations or cases, but of course individual cases can and do inform us about what is our brief; that is, the system as a whole. So that's what we're seeking to do and with your assistance we hope we will achieve and we hope we will achieve a lasting and productive outcome to protect Victoria's vulnerable children. The report, when it's received by the Minister, will then be tabled in parliament.

We do express our thanks to you for the very substantial body of submissions which we have received; it's a most thoughtful and evidence-based body of material. Plainly, you have put a vast amount of work into the submissions and we are indebted to you for that and we will be working on those submissions and we'll study them further to obtain that benefit for the Inquiry and for the report.

The public hearings are an essential part of the process. It is helpful to us to have the enlivenment of personal presentation and we have gone around a number of the regions of the state and will continue to go around other regions of the state sitting in public, as we are doing today. This is, in fact, our first Sitting in the CBD and we're very pleased that you've come to it. Because it's a Public Sitting that means that whatever is said here is in the public domain and can be reported in the media and it's recorded by us and transcribed and it's published on our website, so I'm sure you'll appreciate that it is truly a Public Sitting with those corollaries and you'll no doubt bear that in mind in your oral submissions to us.

It is not a court of law and, as a consequence, the normal protections to speakers in a court of law where you can't be sued for defamation do not apply here - I'm quite sure none of that would apply to you anyway - but the ordinary protections against defamation and self-incrimination do not apply in a public hearing, which this is, although they would apply in a court of law, defamation at least, so I'd ask you to bear that in mind.

Further, as I'm sure you are aware, the Children, Young Persons and Families Act, Youth and Families Act, provides that any persons who have been in the Children's Court process must, even as a witness or otherwise, and certainly as a party, must not be identified outside the court process, so if you are referring to any matters be sure that you don't identify any person, either directly or indirectly, because the court provision is that indirect identification is also not permitted. Again, I'm sure, ladies and gentlemen, you're well aware of that and will bear that in mind.

10

We've found that the submissions that we've heard in the regions at the Public Sittings have been most helpful and we look forward very much to hearing from you today. We've read the material that you have submitted by way of written submission and we look forward to the benefit of your personal submissions today, so I'll just return to the Panel. We're fortunate to have the benefit of two most talented members of the Panel, Mr Bill Scales and Prof Dorothy Scott. They have been a pleasure and an enlightenment to work with and I'll look forward to working with them between now and November. I'll return to my seat and then I'll invite our first presenter.

20

I'm very pleased to invite Ms Marilyn Webster and Dr Lynette Buoy to come forward from the Centre for Excellence in Child and Family Welfare. Thanks, Dr Buoy and Ms Webster. Dr Buoy, we'll take it in whatever order is most convenient to you. As I've said, and I'm sure you also know, we've had the benefit of reading your submissions and you can assume that we are aware of their contents quite thoroughly.

25

DR BUOY: Thank you very much. In starting the presentation today I would like to commence by acknowledging the traditional owners of the land that we meet on here today, the Wurundjeri people of the Kulin nation, both past and present, and acknowledge any elders here today.

30

On behalf of the centre's membership, staff and board, as the CEO, together with Marilyn Webster, the director of research and social policy, I thank the Panel for the opportunity to present today. I would also like to thank you as a Panel for the rigour that you have demonstrated in working through the complex issues that make up the broad scope of issues that our members deal with on a daily basis.

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Established in 1912 as the Children's Welfare Association of Victoria, the more recently renamed Centre for Excellence in Child and Family Welfare has a long and proud history of advocating on behalf of the vulnerable children and families of Victoria. Today the centre has 98 members made up of a significant percentage of all community service organisations who deliver services for vulnerable children and families, either within the statutory system or those at risk of progressing to be of interest to our child protection system.

45

As we move into our 100th year, our aim is to advocate for a greater level of shared social responsibility, a greater level of understanding of vulnerability based on values of social inclusion, personal capital and self-determination.

5 We are also seeking greater levels of transparency and accountability to effect real change. Today our presentation will draw on three key themes included within our written submission to the Panel titled “It's Their Outcomes That Matter.”

10 The three key themes are those that propose the creation of a statewide vulnerable children, young persons and families strategy; a governance structure that clarifies roles and responsibilities and focuses on improved outcomes for children and young people; and strategies for ensuring that the voice of vulnerable children, young people and their families have a stronger  
15 presence across the system.

In developing our submission, the centre drew on a number of processes. Throughout 2010, the board of the centre held a number of strategic planning  
20 processes to establish key priorities and focus areas that have greatly informed their submission. Early 2011, with a focus on the Inquiry, our biannual member CEO survey sought direction on the actions CEOs perceived would make the most difference. Post the release of the Inquiry terms of reference, the centre held a foundations workshop attended by targeted member  
25 organisations, Create, VACCA and two additional peak bodies with the purpose of informing the submissions directions. We have also sought ongoing input from our membership through our inquiry blog and have also stayed close to our board, ensuring consistency with priorities.

In calling for a vulnerable children, young persons and family strategy the  
30 centre does so acknowledging building a strategy for addressing vulnerability cannot be established without continued investment in a strong promotional universal service platform. However, we believe if a strategy is not developed to specifically highlight the true status and need of our vulnerable children, then their outcomes will continue to be lost within broader reporting  
35 mechanisms. The centre believes to truly progress a solution-based focus that a statewide strategy which has multi-partisan support across government, government agencies, community sector and community is required and to truly improve the way in which the State of Victoria addresses vulnerability will require shared leadership from the highest level of government, the  
40 community sector, community and service users.

As stated in our submission, it is our belief that the responsibility for developing and oversight should be held by the Department of Premier and  
45 Cabinets with a secondment of a cross-sectorial leadership team to construct and draw up a strategy that will: develop an agreed definition of vulnerability

and its measures; openly build a true understanding of the degree of vulnerability that exists across Victoria, regional locations and population groups; a statewide plan that articulates, through an agreed outcomes framework, transparent data and annual reporting processes; and a statewide  
5 plan that enables a local area approach to planning and service delivery and enables critical population groups such as those in our care system, Aboriginal children and families and CALD populations to be specifically supported and to monitor our progress in improving their outcomes.

10 We believe a strategy that creates a different way of doing business is needed, one that is built on a true commitment to outcomes and enables a shift from contract management to capacity building and moves beyond targets to outcomes and enables statewide priorities to inform local action. We believe a  
15 strategy that crosses the promotion, prevention and protection continuum is required, one that incorporates the ongoing assessment of real needs of vulnerable children and families and one that can inform an outcomes funding approach for local area networks of service providers. We further believe the development of this new approach should take place over a two-year period. With a strategy embedded, we would envisage that the responsibility for  
20 ongoing oversight, reporting and ongoing development would be delegated to the Department of Human Services. Essential for the creation of a statewide plan will be a commitment to effective data collection and reporting across the state, local and individual levels and is critical if we are ever going to be able to assess if our allocated resources are improving outcome.

25 The centre, however, holds significant concerns regarding the state's current capacity to effect interoperability of existing data sources. Across the state and nation there are a number of data sources and commitments to outcomes approaches such as the National AEDI, DHS's Children and Family Services  
30 Outcome framework, the UNICEF Child Friendly Cities, COAG's National Framework For Protecting Children, and Victoria's Outcome Framework For Children and Youth. There are also many other individual data sources such as: literacy rates, mental health indices, public housing users and early pregnancy rates, to name a few. What is safe to say, however, is that there is a  
35 multiple of data sources that do not currently talk to each other well, if at all.

The second point that we wish to raise today, as raised by our membership, is the real and perceived conflicting roles currently held by the Department of  
40 Human Services. These conflicting roles have been stated as: conflict between registration and governance, conflict between registration and funding of services, conflict between guardianship and funding of services, conflict between forensic investigation and guardianship, conflict between case review and guardianship roles. However, the greatest concern is the ultimate impact of these conflicts on the needs of children in care. Comments received by our  
45 members have similarities to those as reported by the Ombudsman in May

2010 where he noted the conflicts of functions.

5 In summary, discussions across our consultations have highlighted the emphasis of target over needs, the rationing of resources to the detriment of children and, at times, concerns of cumulative harm caused by system pressures. Our submission calls for an independent office of the children and young person's guardian. We call for and acknowledge that this would result in a significant change to our current system. We call for this because there is one thing that we believe all of us agree on, it is their outcomes that matter, and we further believe that the pressures of our existing care system unintentionally impede its true focus, and that is to improve the outcomes of children who are removed from their families in their best interest.

15 Evidence tells us that in Victoria children in care across our education system continue to have below average literacy and numeracy skills, with a 50 per cent chance of scoring below average in numeracy and literacy, along with reported delays in personal, development, social and behavioural skills and frequent episodes of truancy and school expulsion. 6.3 per cent of children and young people in out-of-home care attend school only part-time, while 45 per cent aged 15 and above are not attending school at all. 31 per cent end up in homeless accommodation on leaving care and in 2010 the Youth Parole Board reported that 30 per cent of juvenile justice claims in custody had either current or previous Child Protection involvement.

25 Health issues are also problematic with vision difficulties across 18 to 33 per cent of children and young people in out-of-home care; hearing difficulties recorded between 24 and 26 per cent; eating disorders at 24 per cent; and expressive or receptive language delays affecting 57 per cent. We also know that 35 per cent of children reported to Child Protection are re-reported. Over 40 per cent of children in our out-of-home care system are separated from their siblings and up to 84 per cent of siblings are separated from at least one sibling. Only 39 per cent of young people aged 15 to 18 in out-of-home care in Victoria have a leaving care plan and as little as half of them have a copy of their plan and, alarmingly, Aboriginal children continue to be hugely over-represented in our child protection system with Aboriginal children up to 130 times more likely to be in care than other Victorian children.

40 These statistics have been derived from a number of sources. It's difficult to know the full extent, hence our call for a statewide plan and outcomes framework. The centre does acknowledge that there are also good outcomes for some children in care and our own tertiary scholarship program can testify to that with completion rates of tertiary studies by a small number who have participated exceeding the state average. The centre and its members also acknowledge the positive impact that the investment in therapeutic services is having on children in our care system. However, we need to keep this very

much in perspective in that only 10 per cent of children in residential care currently have access to such services. If we combined the whole out-of-home care system, this is reduced to only 4 per cent of children and young people receiving therapeutic services. There is much talk about therapeutic approaches; however, an approach and access to therapeutic services are different.

We believe to effect change to improve outcomes that an independent guardian is required, including a role for a guardian for Aboriginal children and young people. We believe an office that is able to work in partnership with community service organisations and key health education and support services is critical to ensure assess needs are prioritised, making the system more accountable to children and young people.

Our call for the guardian is derived by the express concern that without significant changes, we will continue to see the outcomes that we have just outlined. The role of the guardian and its office will be to have responsibility for all children placed on orders in the Children's Court; responsibility for care processes such as case planning, case management and case review; and the holding and allocation of brokerage money for the purchases of services for children and families and having oversight of the placement of young people leaving care plan and independent living support.

The office would be subject to annual review by the Children's Commission, along with specific case reviews where required. With the ongoing development of this role, it is further envisaged that strategies for community service organisations to take on a larger role, such as the supervision orders, delegated custody and guardianship actions at a local level could be considered. To support the office, guardian workers would be appointed to take on case management of children and young people similar to the post-court role of DHS workers. However, the focus of their role will be through the lens of guardianship and the care of children and not forensic investigation.

Finally, we'd like to draw to the attention of the Panel the need for greater inclusion of voice across our system. Research indicates that empowerment of individuals in systems is best led through the voice most closest to its impact and delivery. Further to this we also note that if we are to shift from a welfare parent arm to that of a shared social responsibility approach then we must fully commit to the inclusion of a voice of children, young people and their families and that we within the system must be held more accountable to listening to these voices. We do acknowledge that some provision for the inclusion of voice does exist, such as the provision for child representation in the court and the provision in community service registration audit processes where children, young people and families are asked to comment on services.



We further acknowledge that there is a series of practical barriers that to date have appeared to restrict further inclusion. However, we would recommend that within the development of a statewide vulnerable children, young persons and family strategy, that the inclusion of the voice of children, young people and their families should be considered a critical element in its design. Obvious strategies for inclusions could include advisory committees, committees of management, service planning and service reviews, and through the resourcing and supporting of the establishment of family advocacy and self-help groups.

We believe to fully acknowledge the importance of including a voice, that the Children's Commission's Office should be resourced to develop strategies and skills to direct a deeper understanding of the role of voice as a tool of empowerment. At its most basic level, a commitment to develop strategies and frameworks for the inclusion of voice will contribute to greater levels of transparency and accountability for us all.

In closing, I again thank you for the opportunity to present today. The centre looks forward to continuing to contribute to the Inquiry. In our role as a peak body, over the next few months we will be launching three issue papers focusing on local governments and outcomes frameworks, national and international models of out-of-home care, and strategies for including the voice of children, young people and families across the system and holding a series of forums to generate further discussion around these papers.

In moving forward, we are of the strong view that a statewide plan that focuses on outcomes has the capacity to bring a new way of working together that will be of benefit to vulnerable children and families across the State of Victoria. We can no longer view the outcomes for children in our community and in our care system as all be or they can achieve. Parities with their peers will require additional resources and new strategies, but it must be our collective goal. We also believe that we should listen more closely to their voice to understand how we can all do it better. It is their outcomes that matter and that should be what drives our work. Thank you.

MR CUMMINS: Thanks very much, Dr Buoy. Listening to the voice and outcomes that matter, thank you indeed. Ms Webster, do you wish to say any further matters?

MS WEBSTER: No, I'll support any questions.

MR CUMMINS: Thank you so much. Prof Scott.

PROF SCOTT: Thank you for your very thoughtful submission. What you're

proposing is, of course, a very significant change. If we think historically about child welfare in this state, then up until 1985, if I'm correct, the pre-court roles were performed by the police and to a minor degree by the Children's Protection Society, and the post-court role by what we would now call  
5 Department of Human Services. So you're actually suggesting that we return to a structure where there is a major institutional separation between the pre-court child protection role and a post-court child welfare role or child protection role.

10 I'm wondering what you see as the possible disadvantages of that, as well as the advantages you've outlined, in terms of the increased complexity of coordination between those two bodies, particularly where the guardian may be administering a court order which is different from that which they may have seen as in the best interests of the child, and would they then wish to go back to  
15 the Children's Court to change such an order? But also issues such as the job satisfaction of those who may now have the flexibility of working across that whole spectrum from protective assessment through to working with children in care and how an institutional separation of those roles would reduce the breadth of the role of a child protection worker and then how they may actually  
20 be competing for the workforce. So I'm just wondering if you do see some disadvantages and how they might be addressed, but also if there are other jurisdictions where you've seen such a split separation between pre and post-court child welfare functions perform effectively.

25 DR BUOY: Just a second to digest that question, it's a fairly long one.

PROF SCOTT: Yes.

DR BUOY: I guess, you know, I start from the premise that what drove the  
30 view of our membership and our response was around the outcomes and clearly while there has been a system that's been in place since 1985, we would suggest that the outcomes for children currently remain poor and have been poor for quite some time as a result of the way the system actually operates, so we believe that the system is actually creating the poor outcomes for children  
35 and young people and so if the system remains as it is, that we can expect to actually continue to see these levels of outcomes. (To Ms Webster) Would you like to pick up on that?

40 MR CUMMINS: Just take a moment between yourselves if you just want to have a little chat.

MS WEBSTER: The initial driver, as I understand it, for the reform of  
45 1985 was the desire to see those that were doing the investigations have the repertoire of skills in social and family assessment that weren't normally associated with the skills that the police brought to investigation, although I do

5 have to say that my own experience of the police and their skills at that time, there were some very experienced police women doing that work, so I don't think the drivers are present today in that respect. I think we have a very highly skilled workforce and a workforce that can be drawn on to provide that investigative function.

10 In terms of what that might do for workforce satisfaction and outputs - I do concede that the mix of responsibilities between forensic and case work and case management does assist in staff retention - but there are confusions for families when workers are undertaking both an investigative function with a function that is actually around working with a family in terms of case management and support and it is this division that our proposal addresses. In terms of the other jurisdictions, South Australia does have a children's guardian, although that role is very similar to the Children's Commissioner that we would understand here.

20 PROF SCOTT: If I may ask a very specific question in your written submission and that relates to permanent care where you advocate a separation of permanent care from adoption. There is so little adoption in this state, particularly in relation to children in state care, that one wonders if adoption has a place and there is no mention of the place of adoption in your submission. In other jurisdictions, including that of New South Wales, adoption has a significant place. For that group of children, who in this state would be seen as eligible for a permanent care order, I'm wondering if your members perceive adoption as having any place in the Victorian child welfare system in relation to children who are not going to be returning to their birth families, and whether you see a role for the dispensation of parental consent to adoption in such cases?

30 DR BUOY: In the discussions that we have had in relation to adoption and permanent care, the issue that focused around that was that for stability of care for the children and the sense that that provides. Certainly we've discussed that with a number of members who both support permanent care and adoption processes and they felt there are a whole range of system reasons as to why those aren't taken up within the State of Victoria and certainly the shift from permanent care to adoption is a systems issue as opposed to a view that adoption shouldn't occur and that there are difficulties around families and the engagement of the parents to move to the opportunity to discuss that and move that to adoption. They were the views that were expressed by our members.

40 PROF SCOTT: Thank you.

MR CUMMINS: Mr Scales?

45 MR SCALES: A couple of questions. First of all, you've got a very broad

definition of "vulnerability". In fact, the definition is primarily around broader socioeconomic characteristics. Are you actually suggesting that there should be some form of statutory intervention once those vulnerable characteristics are identified, not necessarily the same form of statutory intervention that we see  
5 under the current arrangement, but I suppose I'm trying to understand what is the link between that, that broad strategy based on sort of broad socioeconomic characteristics and the ability to do something about it in a way that might be aligned with some sort of statutory intervention?

10 MS WEBSTER: I think we would make a distinction between a statutory intervention and government responsibility, so in terms of that continuum of care that we talk about - promotion, prevention and protection and the role of government in the promotion of wellbeing - we would see a government role in addressing issues of poverty. We are very mindful of the limitations of the  
15 data that we have in terms of the profile of children coming into care, but we do know that the Allen report did provide some profiling and we know that nearly 80 per cent of the families are sole mothers and a very significant proportion of those are in receipt of Social Security, so we really are dealing here with issues of poverty prior to issues of vulnerability that might emerge.

20 MR SCALES: The only reason I raise it is that on page 12 you actually go a bit further I think. You actually say the child, family or community low score on a set of resource criteria and so on - I'm paraphrasing here - and then they are defined as being disadvantaged or vulnerable. I think the implication of  
25 that whole section of your submission seems to indicate that that should solicit some action in relation to the family, not just the general question of addressing poverty, and that's what I was trying to understand from your submission. Are you actually saying that solicits - I'm not suggesting it should be some heavy-handed intervention - but that seems to be the direction which you're  
30 going with this new strategy, that it does solicit an intervention by a body, a government body to say, "Let's do something about this level of vulnerability" as you've defined it. That seems to be the logical direction in which you're heading. I mean help me to understand that. Am I getting that right or am I going too far?

35 DR BUOY: I think I feel a sense of nervousness about the word "intervention", but more that there should be support for families who are experiencing vulnerability and poverty.

40 MR SCALES: Well, let's use the word "support" just so we don't get caught up in the nomenclature.

DR BUOY: Yes.

45 MR SCALES: Are you suggesting, therefore, that the support should

automatically arrive if less criteria is determined about a family?

5 DR BUOY: I think what we would suggest is that if families are experiencing those levels of disadvantage and vulnerability and that there is an identified need to support them, then we should have services available to support them. The current system as it exists, those families who experience early levels of disadvantage, there are a very thin amount of services available to them and what we're suggesting is by not having that level of support for them, they end up elevating up to the system where they have high levels of vulnerability and then we have to intervene with those families in a different way, so we are very much promoting the early intervention and promotion view that if we can work with families much earlier then we can actually stop things escalating to the point that they come to the attention of much more intensive service needs.

15 MR SCALES: So the idea of the strategy is that the government then make them available so that if families decide they want to use them, then they are available for them if they wish to do so?

20 DR BUOY: Indeed.

25 MR SCALES: Can I go also then to page 26 where effectively you layout a systems governance map. You didn't include in that map anything to do with health, education and housing, and yet I did notice that in your introduction you did mention health and education in particular, not housing particularly, but was there a reason why you didn't have that in this map?

30 DR BUOY: Probably, Bill, it is actually in where we talk about the local area, children and young people, persons and families network at that local level, the mix of services, the multi-service approach in there. I also acknowledge that the print is very small in the map.

MR SCALES: Yes, I can see mental health there, which is different to the point I think.

35 DR BUOY: Well, our intention is that it is a multi-service approach, so those services that you just mentioned previously would be part of that local area network.

40 MR CUMMINS: So we read it in that light?

DR BUOY: Yes.

45 MR SCALES: Although the reason I raise it is that in your submission you are very clear about trying to make sure that the appropriate responsibilities are allocated in the appropriate way, and you make it clear that people should be

held accountable, which is fine, and I was trying to get a sense of why you didn't take the same approach with, say, education in relation to children who were in care, for example. I think you made a number of quite sensible points about the number of children in care, using that as an example, who are not getting the sort of education which is required and I was wondering why it was that you didn't see that as being a specific part of this map, this systems governance map. I only use that as an example, one could also take the same approach with a range of health issues, for obvious reasons.

MS WEBSTER: We're very conscious of the role that universal services have in addressing the needs of vulnerable families and we do make the statement that universal services have to be capable in respect of those families.

MR SCALES: Sure.

MS WEBSTER: Clearly, in our strategy we believe that those universal services should be part of the strategy at the highest levels of government in its development.

MR SCALES: But are they different? I mean the thing that I think you've said in your introduction I think, and it's coming through in some of the other submissions, is that they are not really universal services, they are almost tertiary services and they seem to be tertiary services aimed at and required by vulnerable children, particularly those in care, for the reasons that you mentioned in your introduction. I mean it is this difference between having - I mean that in a way, isn't it the problem that it's the universal services that aren't providing the services for kids, for example in care, that's part of the problem and we have to almost go from universal services, don't we, to tertiary services in some of those areas in a way which we haven't talked about?

DR BUOY: So our concern is around the way the system has happened over time is that those secondary services, which we see critical for early intervention strategies around vulnerable families have actually disappeared, so they've disappeared because of pressures in all different ways and demand needs as they've occurred. So we actually believe, as Marilyn has stated and as we've commented, that we're not suggesting that at the expense of universal services there is a secondary layer of services targeting vulnerable families, but we say that they need to exist as well as the universal services and if they don't exist then exactly the point you that made, you go from universal services to tertiary services with nothing in between and that's what we believe is having that detrimental impact on early intervention and prevention strategies.

We believe that universal services and universal services across the state are there for that purpose and that we can't just assume that they can pick up vulnerable families and work with them. The people who are employed in

those services are not familiar with the role of vulnerability or the skills to actually address it. We need to make sure we have a strong system in the secondary service so that we can - and in our work we've talked about that as the prevention stream - so we believe that that needs to exist and that it doesn't exist strongly enough now.

MR SCALES: Thanks for that clarification. Can I ask two other smaller questions?

10 MR CUMMINS: Please.

MR SCALES: In your recommendations you make the point about the Children's Court and you actually say there shouldn't be any changes to the Children's Court, and yet you then go on and suggest that the Children's Court - sorry, I'm just trying to find your recommendations, here we are. If you take recommendation 26, you make the point that, "Family group conferencing should be mandated and appropriately resourced." Now, that does seem to be very different to what you're actually saying in 13, which says, "The functions and powers" - and admittedly that's what you're focused on - "of the Children's Court should remain unchanged." I'm just trying to make sure that I don't misinterpret what you're saying here, so give me a sense of what you're meaning by that. It's the confluence of both of those ideas should remain unchanged and yet we should go to a family conferencing.

25 MS WEBSTER: Perhaps I can assist with that. We believe that the powers of the court itself should remain unchanged, but we believe in supplementation of its role and functions in two key ways that we've outlined. One is through the additional resourcing of family group conferencing - that option is already available to the court - but its take-up over the past years has been limited through lack of resourcing, so we've highlighted that. The other area that we've highlighted and have drawn on the Scottish model of tribunals for local decision-making, for that repertoire of cases that we've identified as perhaps being of less severity and that might be able to be dealt with at a local level and might result, if there is an incident in the making, of a supervision order rather than an order that changes the status of the child in respect of the family.

MR SCALES: One last point of clarification. On recommendation 23 you make a point, you say, "Funding and service agreements should respect the independence of community service organisations," and then you say, "and not impose conditions associated with the general operations of the funded organisations beyond those essential to ensure the delivery of agreed funding outcomes." What were you trying to say there? I couldn't find any elaboration on that in any detail in the report. You're trying to send us a message and I'm not quite sure what it is.

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MS WEBSTER: This is a message I think that is felt fairly strongly by the sector. It refers to the powers to intervene in the governance of community service organisations that do reside now with the minister and the strong feeling on behalf of the sector that where there are issues of performance and quality, that that should be addressed through non-performance under the funding and service agreement, rather than intervention in the governance processes of the organisation, and it's a statement that's made particularly by organisations that receive a variety of funding through different funding streams from State Government and other government and, indeed, other sources.

MR SCALES: Thanks.

DR BUOY: And it refers to a section of the Act where it actually states in the Act that those responsibilities that exist - sorry, I've got confused here - that within the Act, I can't remember the exact section, but that is the part that has been a concern since the Act was actually put into place and was opposed at the time when the Act was being put together by the Centre For Excellence as well, so it's been a long-term concern.

MR SCALES: Thanks very much.

PROF SCOTT: I'm sorry, is it possible to ask one more question?

MR CUMMINS: Certainly.

PROF SCOTT: Yes, and that's further on from Mr Scale's point about the Children's Court and decision-making. In relation to the tribunal idea, I note that you see such a local area tribunal as comprising a Children's Court, magistrate and practitioners in child and family welfare and community welfare. The Scottish model, as I understand it, would not have a Children's Court magistrate on such a Panel. It would seem that this proposal is a duplication of the function of the Children's Court if one is also to have a Children's Court magistrate on such a Panel and, in fact, by having a Children's Court magistrate, plus others to deal with less serious cases, it would seem that more resources and expertise are being brought to bear to deal with less complex cases rather than with more complex cases. Others, including some of your member organisations, have recommended that a tribunal completely replace the Children's Court. Can you say something about the duplication of function in relation to such a tribunal where there would be a Children's Court magistrate on it, and then would those decisions be appealed to a Children's Court?

DR BUOY: We're looking at each other thinking the answer for that. We might actually take that a little bit on notice to come back to you about that and



to give that a little bit more further consideration, Dorothy, so thank you for your observations.

MR CUMMINS: You're welcome to do that.

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PROF SCOTT: Thank you.

MR CUMMINS: You're welcome to do that. Dr Buoy and Ms Webster, thank you very much for your oral presentation and we've been most assisted by the presentation of the Centre in its written form as well, so we're obliged to you for that.

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DR BUOY: Thank you very much.

MR CUMMINS: Thank you both. Next, I'm pleased to call upon Mr Jason Doherty for Playgroup Victoria. Mr Doherty, take a seat and we'll be very pleased to hear you in the sequence that is convenient to you.

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MR DOHERTY: No worries. Thank you.

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MR CUMMINS: We have read the material, so thank you for that.

MR DOHERTY: No worries. Firstly, I'd like to acknowledge the traditional custodians of the land, the Wurundjeri people, and pay my respects to their elders, past and present.

25

Thank you for the opportunity to provide a verbal submission to the Inquiry. I wish to specifically address terms of reference 2.1 by highlighting the role of supported and intensive playgroups as key components in a suite of targeted services for vulnerable families and children, and also terms of reference 2.2 through recommendations on effective delivery of playgroups in a child protection early intervention framework.

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Playgroup Victoria is a statewide organisation which has been operating since 1974 to achieve outcomes for all Victorian children, parents, families and communities through the platform of playgroup. Playgroups are a powerful mechanism to promote attachment and build parenting capacity for the zero to two-year-age period and they prepare children for more formal learning institutions and environments. They are particularly powerful in engaging vulnerable children and families and act as soft entry points into the service support system, as well as platforms to maintain families' involvement in family support and more intensive individual services. Playgroups occur in three main forms: community, facilitated and intensive. Community playgroups are organised and led by parents, usually at a local neighbourhood level. These playgroups are critical in building community relationships and

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capacity.

5 Playgroup Victoria supports over 17,000 families who attend these playgroups across the state each week. These are universal services. The targeted playgroup types, the facilitated and supported playgroups which are organised and led by professional workers attached to an organisation, these playgroups focus upon vulnerable children and families and provide structured programs and experiences through playgroup. These groups can occur in caravan parks, shopping centres, local community halls and they engage families who may be less likely to engage with the more traditional welfare services. These playgroups are also platforms used by many human service agencies to impact on parenting capacity. These playgroups work with children and parents on children's development, parenting capacity and confidence, linkages of families to support services and, most importantly, they work to keep families involved with their therapeutic services.

20 Playgroup Victoria supports over 250 supported playgroups across the state and it also conducts many of its own. Intensive supported playgroups are playgroups that provide intensive intervention with vulnerable children and families. These families would usually be at the higher end of child protection concern. They are staffed with a playgroup coordinator, family support worker and peer support person to provide extensive support to assist often isolated and disadvantaged families. Examples of these playgroups include therapeutic playgroups for clients undergoing substance abuse or other treatment programs and playgroups for families with complex needs such as homeless families engaged in housing services or families where there is unstabilised parental mental health concern.

30 Playgroup Victoria delivers three key messages to the Inquiry and these are: supported and intensive playgroups are a cost-effective intervention in the zero to two-year age bracket for highly vulnerable families; they are a targeted suite of engagement and developmental services which can commence building children's development experiences and parents' capacity and competency from birth; they can link parents to much needed individual support, whilst assisting parents to maintain contact with services when they are being challenged; they help to prevent disengagement of vulnerable families from the service system.

40 Victoria requires a statewide facilitated and intensive playgroup program which services the continuum of playgroup need from the high end of child protection where parents require ongoing, intensive support to the lower end of wellbeing concerns where parents and families can feasibly transition to community playgroups and be supported in their community. Playgroup is not just about play and it cannot be picked up by case workers or therapists who think it's a great idea to deliver services via playgroup. Family support, housing and other professionals require the training and input in the delivery of

playgroup to ensure that the best outcomes are achieved for children and parents. This is the role that Playgroup Victoria plays.

5 The evidence base for facilitated playgroups is clear, and I don't mean to repeat it here in detail, but I would cite however Sure Staff and Initiatives in Canada and the United States indicate that local community-based initiatives are attractive to families and sustainable in that they provide the ability to increase parents' knowledge and skills around parenting, communication and play.

10 (indistinct) found that programs that target the child and the parent have stronger outcomes for the child's long-term development than those that focus on the child only. ARTD consultants evaluating New South Wales programs that supported playgroups in 2008 concluded that they contributed to children's socialisation, parenting attachment, community connection and skill  
15 development and family use of services.

Supported and intensive playgroups provide a unique opportunity in the first year of a child's life to engage parents, families and children, keep them  
20 engaged with more interventionist services, such as family support, child protection and health services and, most importantly, build skills and competencies for life. Playgroup is uniquely positioned to provide parent and child support and development from birth. There are no other consistent, continuous service platforms that exist in this state for this purpose. They are the glue that meshes a service intervention system around a child and their  
25 family.

I therefore finish with the key recommendation that a comprehensive statewide facilitated and intensive playgroup program be developed to work in  
30 collaboration with targeted intervention such as family support to engage and support children zero to two, their parents, the carers and families. This program should not be a one-size-fits-all and should recognise that some families will require intensive support throughout the first years of their children's life, whilst others with a measure of support will be able to transition to a community playgroup. Thank you for the opportunity to present to the  
35 Inquiry and we look forward to supporting the outcomes of the Inquiry in the future.

MR CUMMINS: Thanks, Jason. Just stay there for a moment, if you would.  
40 Prof Scott?

PROF SCOTT: Yes, I'm wondering in relation to the facilitated and supported playgroups where you say that Playgroup Victoria supports over 250 supported playgroups across the state and it also conducts many of its own, in relation to the 250, how many roughly different organisations would be involved in  
45 delivering those?

MR DOHERTY: There are many. There are some funded by the state, there are some funded by Federal Government, there are some that are funded by philanthropic foundations and institutions and there we would support our own.  
5 There would be probably 50 to 60 that Playgroup Victoria would run. The rest would be delivered by other institutions.

PROF SCOTT: In relation to those other institutions, approximately how many? Are we talking about a dozen? About 50?  
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MR DOHERTY: Yeah, I mean the state-supported program is delivered through local government, so there are 29 sites for supported playgroups currently out of the 79 municipalities and they would deliver the majority of those supported playgroups. What we're advocating for is the fact that we need  
15 that program in every municipality in the state.

PROF SCOTT: Could I also just ask about cost-effectiveness, this terribly difficult area of course to determine, but you can make an assertion about it being a cost-effective intervention, and I guess there are others with which it might be compared. Is there any Australian data which evaluates the effectiveness of playgroups for very vulnerable families and children and, in addition to that, is there any cost-effectiveness data that you may have available?  
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MR DOHERTY: I'll take that on notice and supply that to the Inquiry. There was a separate Centre For Community Child Health evaluation done on a recent playgroup project that we had, which we'll be able to provide. It was only in a certain area of the state, but that will be able to give you some idea of the cost-effectiveness of the program.  
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PROF SCOTT: Thank you.

MR CUMMINS: Mr Scales?

MR SCALES: Mr Doherty, thanks very much. Who do you see developing this statewide facilitated intensive playgroup program? Who would do it?  
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MR DOHERTY: In conjunction with the Inquiry and the government, we would, Playgroup Victoria. We are a service deliverer, so that is what we provide. We support the current program across the state. While it's delivered through local government, we support that program on behalf of the Department of Education and Early Childhood Development. So it's our belief that we have the knowledge and expertise to be able to - - -  
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MR SCALES: What would be the basic characteristics of such a program?  
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Give us an outline of what it might look like?

MR DOHERTY: The characteristics of playgroup is that it's very flexible, so we'd actually be able to detail in each area what is required and the program  
5 would be funded to support facilitators, training of those facilitators, training of  
parents to support children and then to run playgroups. The playgroup, the  
model is that you only need three families to start a playgroup, so it's very  
localised, very neighbourhood orientated and the supported program can be  
10 exactly like that with a facilitator that can support those families who may be in  
need in a very localised area, so the flexible model of playgroup is that  
basically you can set it up in any way you need to in the area.

MR SCALES: So one element would be the need for flexibility?

15 MR DOHERTY: Yes.

MR SCALES: To maintain flexibility?

20 MR DOHERTY: Yes.

MR SCALES: Would you see it having some philosophical underpinnings?  
What might they be?

25 MR DOHERTY: I think the key element of playgroup is the parent is  
involved in all instances and I think that is the difference to institutionalised  
care at the moment, that the parent is involved and that is the philosophy of  
playgroup, is that the parent and the child are able to build a community  
capacity, I suppose, of those people, of the parents within that facilitated or  
supported playgroup.

30 MR SCALES: In your mind, would it be aimed primarily at vulnerable  
families?

35 MR DOHERTY: I think in the first instance while this is obviously vulnerable  
children, the family is the core unit of the playgroup, so we would be  
advocating that the parent and the child receives the support from the  
playgroup, which even in community playgroups, which are parent led and  
parent run, the parent and the parenting support that we provide them, and also  
the government provides them, is paramount in terms of supporting the child.

40 MR SCALES: How would you see this then being linked to the other services  
which become part of the support that you quite articulately discuss in your  
submission? How do you see that working?

45 MR DOHERTY: Playgroup Victoria is not a silo organisation. We are

already partnered with research organisations, evaluation organisations and also with support in terms of the statewide program at the moment, the municipalities who have other entities involved as well so we would partner with the people and the organisations and the services within those areas that are actually already there. We don't intend that the program would be we would walk in and go, "Don't worry about anybody else." We would need to partner and support the organisations and services that are already existing in those areas to better utilise the playgroup program. We've always done that. We will continue to do that. There are people already on the ground doing this work that this program can support in getting the outcome of ensuring a better life for children and families.

MR SCALES: This might be a difficult question, and it might even sound provocative - I don't mean it to be - but would you also see that those who were running the programs would feel that they would abide by all of the statutory requirements of advising, for example, DHS if they come across a family that they felt was so vulnerable or a child was so vulnerable that they ought to be reported to the Department?

MR DOHERTY: I think in the cases that we have intensive support playgroups already, that that is part of the process for that program and that those people are trained in the proper realities of what they need to do in terms of reporting and support and that is why we target the services that are already there to ensure that we fulfil what we need to do and also then support whoever needs to do a job next to us.

MR SCALES: Would you be worried if you had - I mean I'm not trying to tie you down to this model by the way because we're just having a chat about it - but are you worried that that might change the nature of the playgroup itself, in a sense that families could feel as though they could come along knowing that there was no pressure or no concerns?

MR DOHERTY: I think it's the job of our organisation to train the facilitators and to train the other organisations to ensure that the message of playgroup is paramount and that the investigation or the Inquiry that may happen around that is secondary. I think that's where we need to make sure that that's the playgroup model.

MR SCALES: Thanks.

PROF SCOTT: Yes, could I ask a further question and that is again in relation to intensive playgroups and perhaps some supported playgroups, so playgroups that you might in a broad sense say are serving vulnerable children and families. Are there particular local government areas in Victoria where that works well with the maternal and child health services, which in Victoria are

also a local government service, and also as part of that service first time parent groups are offered, which are typically eight weeks, eight sessions and very early in infancy.

- 5 Given the potential for duplication, how do you see that as currently working and are there models which could be built upon to fulfil the vision you have of a more universal service across all of the local government areas, but where the risk of duplication is reduced and would you see, particularly with very vulnerable families, but not those with Child Protection involvement directly, that someone like a municipal maternal and child health nurse or enhancement maternal and child health nurse would be an appropriate case manager, given that such families may have a number of needs?

15 MR DOHERTY: Currently, we work in conjunction with Maternal and Child Health. Our program is basically set up that a mothers' group works into a playgroup session so in most instances Maternal and Child Health are our advocates I suppose for playgroup, that scenario. In terms of we are part of the Key Ages and the Stages project with the Department to ensure that they give information out for playgroup, so I would see that the maternal and child health nurses continues to be imperative.

25 We don't I suppose have direct consultation with those parents and families until after the maternal and child health nurse does. They are basically the first port of call and we sort of are the link after mother's group where people turn around and say, "What do we do now? Where do we go?" and the maternal and child health nurse actually advocates for playgroup and then, in most instances, we would work back the other way and the maternal and child health nurse would support the playgroup, and if there are a number of different issues or needs they end up being the caseworker. So in future I would see that there would continue to be the relationship between the maternal and child health nurse and the playgroup worker in terms of managing specific needs of parents and families. In most areas in Victoria it works effectively already.

35 PROF SCOTT: May I ask with that group of families who are least likely to join first time parent groups, and they are the most vulnerable families, how would you engage with those families?

40 MR DOHERTY: Currently with one of our programs that we have, we work with the maternal and child health nurse to identify those families and we actually do the casework on behalf of the maternal and child health nurse because we have a number of workers who can do that, which may be an option, but we would rather the maternal and child health nurse be the first port of call, as it is I suppose the culture of Victoria to do that, but in some instances the flexible model needs to provide that we have the people on ground who are trained to be able to work in conjunction with the nurse to identify those

families and in the current one we have we actually do playgroup as two sessions a week and we do home casework as well with families.

5 PROF SCOTT: Is that in a particular municipality?

MR DOHERTY: It is.

10 PROF SCOTT: Perhaps you could give us - not now, but later - a little further information about how that model works.

MR DOHERTY: Certainly.

MR CUMMINS: You can send that in. That would be good.

15 PROF SCOTT: Thanks.

MR CUMMINS: Mr Doherty, the Playgroup Victoria submission was a most positive contribution and, if I may say so, it's been very clearly presented by you today.

20 MR DOHERTY: No worries.

MR CUMMINS: So thank you very much. Thanks, Jason. Next, I'm pleased to call upon Ms Julie Boffa to come forward. Just take a seat, Julie, and settle yourself in. Whatever is the most convenient way for you to proceed, we'd be pleased to hear you.

25 MS BOFFA: Okay. I brought along a small handout today. I don't know if you got that.

30 MR CUMMINS: Got that, thank you.

MS BOFFA: I'm here representing the North East Metro Child and Family Services Alliance, so that's a partnership of nine agencies supported by the North East Child First as a central intake to them.

35 MR CUMMINS: Yes, you've got the nine set out so we've got that, thank you very much.

40 MS BOFFA: You can see that, fine. We have provided you with a written submission, and I don't intend to go over that.

MR CUMMINS: We've read it.

45 MS BOFFA: Thank you, good. I hope you then have some questions for me,



I'd be very happy to answer. So I just for the purpose of today picked a point of relevance to us right in the here and now, which is demand pressures and how we manage them and the associated issue of the effects on thresholds and the question of who gets service either within Child Protection or Family  
5 Services and how that, in turn, impacts upon the effectiveness for us to do our job well, which is to provide support services to families within a secondary service range.

I just grabbed some statistics because I find it quite easy to just start with some  
10 numbers and to tell a story out from there which I presented in the handout that I gave to you, and it was particularly focusing on what's been a real pressure for us this year, which has been actually quite a strong and marked increase in the child protection referrals within our wider mix. So at the same time in  
15 2010 we had 25 per cent of the total Child First referrals coming from Child Protection. This year, it's 43 per cent, so we've had an increase in Child Protection referrals this year.

At the same time - I won't say associated - but at the same time we observed a  
20 decrease in the actual numbers of referrals allocated and we've found over time, which I did discuss in the written submission, that Child Protection referrals tend to become allocated at a lesser rate than community referrals. The issues of engaging families at the Child First point in voluntary services can be quite difficult, even with assertive outreach techniques. That's not to  
25 say that a significant group of Child Protection referrals don't engage and engage well, but there is an increased difficulty compared to community referrals. You see that, therefore, reflected in the did not engage rate again in the statistics I showed you. This time last year there was 33 per cent recorded in Child First as not engaging of the cases that they closed. For the same  
30 period this year, we had 46 per cent.

Probably the statistic of greatest interest to me and what I want to talk about is  
35 the final one and that is that in this context where we're saying in this five months last year, January to May, we saw 25 per cent of Child First referrals coming from Child Protection, the overall rate of complexity that we just look at as a simple indicator from our database had that rate at 94 per cent and this  
40 year, similarly, while we have 43 per cent of Child Protection referrals, we have 93 per cent complexity rate. I think this is really, really important in terms of what the great benefit Child First has added to our continuum of support for really vulnerable families in that child protection is one source and one way and a very, I would think, risk-centred way in which families come to  
45 the attention of the human service sector.

What Child First has done is opened a really important secondary gateway for  
45 families for community referrals referred directly in at these high levels of complexity. Now, when we talk about complex IRIS issues - it's straight off

our database and again it was in my submission - but for the benefit of others, it includes those factors that are understood as quite high risk: family violence, mental illness, disability, drug and alcohol and we also include sexual assault and Juvenile Justice and Child Protection involvement itself.

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So as a first port of call you would imagine that the presence of any of those factors is going to leave children in a compromised position in terms of their development - and this is the very important point - that particularly in our catchment, north-east and the north and west as a whole, which includes 11 of the most 14 disadvantaged local government areas in Melbourne there is, it appears, a very wide pool of vulnerable families, many of whom do not come into contact with Child Protection and whom Child First is effective at engaging into secondary support services and our evaluation of our engagement data also shows strong engagement outcomes and strong responses to the services offered by those families and, indeed, again at a greater rate of engagement and from our limited capacity to comment on service effectiveness than many of those Child Protection referrals. Again, I need to say that there is a subgroup of Child Protection referrals within that that can respond very well and probably more anecdotally than from a statistical evidence base. We would say that the factors of readiness to change and the timing of the referral are really critical factors in the capacity that families have to take up services.

Specifically, I'd said that the trigger point for where I was starting today was demand issues. We have had this influx of Child Protection referrals in particular over the course of this year and our catchment, like many of the others in north and west who are experiencing similar difficulties, has had to restrict our intake in Banyule Nillumbik over the last month beginning 2 June. We have the five LGAs which we work as four different networks, so Banyule Nillumbik is the one that's under extreme difficulty. We've managed to keep intakes and allocation capacity flowing in the other LGAs despite the difficulties at the moment.

I think the difficulties we experience in Banyule Nillumbik which have been extended over the life of our project are interesting because most often demand issues in Victoria are associated with growth corridors. Banyule Nillumbik isn't a growth corridor, it's just entrenched disadvantage, very centralised around some particular postcode areas and it's very hard to get any attention to and profile for the needs of families in circumstances like that. It doesn't fit into the high profile issue of growth, so that in itself is a problem.

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The other thing I just wanted to turn the discussion to is this question of the impacts on thresholds and decision-making under demand pressures. I think it's been well recorded in different child death inquiries and Ombudsman's report, feelings that Child Protection at times closes cases prematurely or doesn't investigate cases when they might think that you could do that, and

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demand is a real and critical issue there in terms of what you can and cannot do. But the effect for the secondary service range of that is that the secondary service range is increasingly being asked to work with families at greater and greater levels of risk and it's very true that those families need support and that  
5 needs to be held in there, but there is also questions about how far down that continuum of need families have moved and their capacity to engage with and work effectively and constructively with the services. I think that that remains still an unanswered question for a portion of the client group that we're being asked to work with that in other eras would well have been deemed children in  
10 need of protection and deemed part of the child protection system. Again, there is definitely a role for family support services within those families, but there is questions we think within the alliance around issues of collaboration and where the statutory role sits alongside the support need.

15 We also have another issue that comes up regularly around families who we do work with for extended periods of time, but there is insufficient change to feel really comfortable that the developmental needs of children are being met and that is in fact putting it positively. Most often people fear that there is ongoing cumulative harm for children in those circumstances and it is again very  
20 difficult to find a terrain to work in and we would look for the development of more specific child-focused services to work alongside the family services, whether within Family Services or Child Protection, to assist children's development in those areas. I could end there, I guess.

25 MR CUMMINS: With the written submission and what you've said I think that's been very well focused, if I may say so, Julie.

MS BOFFA: Thank you.

30 MR CUMMINS: Prof Scott?

PROF SCOTT: Thank you, and thank you for the data; it's very refreshing to have some hard data. I'm wondering if more can be done to identify, apart from readiness to change timeliness of referral, which are difficult constructs,  
35 if more can be done to identify the subgroup of DHS referrals where engagement has been more successful. I've got a second question, and can I say both at the same time?

To what extent might some of the referrals coming from the Department, but  
40 also from the community, but particularly coming from the Department where there are parental substance misuse, parental mental health problems, say a parent with an intellectual disability, to what extent might such families be served by adult specialist services if they were more child and family centred in their way of working? Is it possible to take both those questions, or I can  
45 repeat the second after the first. So the first one is a tighter examination of the

group of DHS families referred where engagement is more likely to be successful and, therefore, to reduce the wasted resources in repeated attempts to engage families where it's less likely that that will be successful.

5 MS BOFFA: I can really only speculate. I think you'd need to do detailed qualitative analysis of the family circumstances to see if you could nail down some particular aspects, but I also think it is highly subjective and that those woolly issues of readiness to change and timeliness and the associated issues of consent and voluntary service all come into play there and it is very much a  
10 question of someone, a professional, a change agent being able to join with the family around some sense of hope or aspiration that the family themselves holds and it's when families are at that point that the most effective work tends to happen. You see it in case audits and the words workers use to describe change in families, so I'm not sure that any amount of analysis will pinpoint  
15 specific factors.

There is a certain amount of trial and error that is completely permissible when you're trying to work at that end. Like a lot of the overseas research around completion rates in child abuse prevention programs don't have great  
20 outcomes, it's really hard work to try to get families to change once problems have become that established. Again, that's why I think we need to at the same time keep our eyes on whatever we can do to bolster children's development at the same time, so I can't be more specific than that.

25 PROF SCOTT: No, that's helpful, thank you. The second question was the capacity to build the capacity of the adult specialist services to work more effectively with families where there is parental mental illness, drug and alcohol abuse, a parental intellectual disability. I'm really trying to think about how the wider service system could be employed to work with some of the  
30 families currently being referred, but not able to be served by Child First.

MS BOFFA: I think there's plenty of room to improve the child-focused nature of adult services and even just setting, you know, some basic parameters, like almost at the most simple level, at a check list level of are the  
35 children immunised, are they attending maternal and child health, are they attending preschool, are they attending school - and we like to slip in does every family have a library card for their local library - but reaching across that type of just basic level of developmental need.

40 In an ideal world I think different services do bring different foci and our attention within family services is very much parenting, the parent/child relationship, child development. Adult services have different focus, but I think importantly - and again it relates to where the client is coming from and what they're seeking from a service - often the service that they're involved  
45 with actually reflects their most pressing need and that is in fact what they're

prepared to work on. So while there might be children in families in drug and alcohol services, if parents are in a particular state within their own dependency or recovery, then they become the dominant issue. So again it's when the timing is right to be able to move from the adult-focused issues into the child-focused issues that makes a difference, so in an ideal world you will look at multidisciplinary responses and you will look at flexible transition between services based on need and specialisation, I think that does make sense, but at the same time it's really important to ensure that the adult services are child-focused and can at an absolute basic and minimal level always push into those areas of minimum children's developmental needs around schools and so forth.

PROF SCOTT: Thank you.

MR CUMMINS: Mr Scales.

MR SCALES: Can we start where you started, which was the demand issue.

MS BOFFA: Okay.

MR SCALES: It seems to me that there are two levels of this demand story: there is the demand story for Child First or the lead agency, that then allocates the various cases to the other agencies, and then there is the question about the capability of those other agencies to have the capability to meet the demand. Can we start with the very first issue, which is the lead agency, if you like. How do you do your - I know this sounds like a very detailed question - but how do you do your planning in any one year about what you think you might need in terms of the resources, the people, the capability for any subsequent year around planning for what might be the requirements of the lead agency?

MS BOFFA: There is minimal planning that can be done without any capacity to have control over increasing resources in the face of your belief about what the demand might be, so you've basically got a finite number of resources to work with, and systems seem to be incredibly sophisticated at calibrating themselves within available resources to get the absolute most out of them.

MR SCALES: So let me try and tease that out a bit more. Would the Department ever come to you and say, "Over the next 12 months, two years and three years we expect, given the growth in this particular area or the level of vulnerability which we know is likely to emerge, this is what we expect will be the requirements of you over the next 12 months, two years or three years."

MS BOFFA: The Department certainly produces statistics for us around particularly the growth corridors and the amount of growth that's projected, and most often they would dearly love to come to us in the position you've just

stated, but most often they're coming from a position of saying, "And there is no new resources on the horizon so how are you going to get smarter, leaner and more targetted in what you're doing?"

5 MR SCALES: Let me ask it from the reverse perspective then. Do you feel as though you are in a position to do the reverse; that is, with your own board and leadership team, sit down and say, "We think that on the basis of our knowledge and understanding over the next 12 months, two years, three years we believe these are the resources that we will require and what do we need to do to get them? Is there a sort of bottom-up rather than a top-down approach?"

MS BOFFA: We do that in small ways within particular localities; for example, in 2009 Whittlesea had extreme demand pressures and, mind you, so did Banyule Nillumbik, but again Whittlesea had the advantage of being in a growth corridor and Whittlesea Council got on board with the alliance around some advocacy issues that certainly got heard in head office and when that 77 million was announced back then, a portion went to Child First, and Whittlesea did quite well out of that, got an additional two EFT that really did help impact on their capacity to meet demand. So on a local level you do that, but I think there tends to be quite a divide between the capacity to create, you know (indistinct) bids or go into government looking for funds, which the Department tends to do and the sector is less organised in relation to that - I say less organised, I don't even understand if the sector has got capacity to do that, I mean I understand it from my previous roles in government, what happened with government - but I've never been a part of a sector bid in that manner for funds. We are reliant on the Department understanding and interpreting our needs and advocating up, which they do do effectively but it is one step removed.

30 MR SCALES: Thank you. You can see in a sense if we're trying to create a professional response to vulnerability, that requires - boring though it might sound - planning, thinking and understanding what is the demand and a way by which that's brought together in a coherent way and I think I'm hearing you say - please jump in if I've got it wrong - that that's not working as well as you think it ought to be. Am I interpreting that correctly?

MS BOFFA: Yes, that would be completely reasonable. We have detailed data on what our capacity to meet demand is. We have less data because it's harder to quantify on what unmet demand is, but at the same time we can only use that in pinpoint advocacy-type strategies, not a really careful planning process like you're suggesting.

MR SCALES: Would I be again going too far in suggesting that in response to the question put to you, somewhat rhetorically, what are you going to do to meet this demand with no more resources? Do you go further up the

vulnerability chain, if I can call it that - - -

MS BOFFA: Yes, exactly.

5 MR SCALES: - - - closer to that pyramid at the top, is that what you're describing?

MS BOFFA: Exactly. Exactly. I say that Whittlesea, for example, did well and got two additional EFT and last year we were never called upon to restrict  
10 intake because of allocation problems there, which was so different to 2008 and 2009. But at the same time when you look at that indicator we use of the complex plus significant wellbeing concern rate of families allocated in Whittlesea over 2010, there wasn't a single family that didn't have those characteristics allocated. So we have the threshold right up, and nobody has  
15 given an order to do that and that's what I think the really interesting thing about the insidious effect of demand and threshold is. Nobody actually says outright, "Put the squeeze on," but the intake team and the workers and everybody else just seem to automatically move into that scenario, so that that was the outcome and when I did the stats last year and looked at it, I couldn't  
20 believe it.

MR SCALES: Is it possible that what we're observing, however, is a maturing of Child First to a point where it's operating best at that high vulnerability end and what we now might need to think about doing is creating something that  
25 provides the opportunity for what people thought Child First might be doing, which was operating at the secondary and maybe even a universal services level. I mean is it possible that that's what we're observing?

MS BOFFA: Yes, in part, but I think there is two questions in there and the  
30 one is about is Child First operating really well in the patch that it's now fallen into occupying, and the second one is around the true early intervention services.

MR SCALES: Let's stick with that first for the moment and let me be a bit  
35 more explicit about that then. If we are observing what I've suggested, then that would almost demand that we think differently about the capability of even members of the alliance within Child First to be able to meet that need, wouldn't it?

40 MS BOFFA: Yes, it does. I'm thinking of multiple things, so again - and where I started in terms of Child First's opening of this really important other gateway for very high need vulnerable families from the community, a number of which have had previous child protection involvement themselves, that's really important and, as I said, our engagement data shows that we are able to  
45 engage with a clear majority of them and work quite well, we believe.

5 MR SCALES: Yes, but it does require - sorry to jump in, let's have a discussion about this - but it does demand then, if we actually are operating at that more vulnerable end, it requires a much closer relationship between the organisations that are meeting the needs of that child/family with those multiple vulnerabilities than we might have if we thought that they could be handled discretely.

10 MS BOFFA: Sorry, if they could be handled?

MR SCALES: Discretely. For example, if we had a situation - - -

PROF SCOTT: Separately.

15 MR SCALES: That's right, separately, that's a better way of describing it.

MS BOFFA: Separately by single organisations?

20 MR SCALES: Yes.

MS BOFFA: Each agency still deals separately, discretely with the family. Once it's allocated to an agency, it belongs to that agency within the partnership.

25 MR SCALES: Yes, but I think you were quite sensibly, it seemed to me, describing a level of complexity which doesn't neatly fit within that framework. It's not dissimilar to the criticisms of government departments who have silos and are trying to meet the needs of families with complex needs.

30 MS BOFFA: Well, Family Services itself works in a sense multidisciplinary, as does Child Protection, because you have to work across whatever the presenting problems are, so if you've got drug and alcohol, you work with that; if you've got family violence, you work with that, so that works well. Look, I think Family Services has moved right up the continuum and does that really well, but I do want to leave that question mark around some of the really high end tertiary-type families that have had Child Protection extensive involvement and I think how anybody works with them is a real challenge, Child Protection or Family Services, but I don't think we've got it right at the moment and the  
35  
40 Child Protection thresholds are pitched particularly high and that does leave a problem for the secondary services to do their job well in our domain because we're getting that overflow, so there is that at that end.

45 Then in terms of, you know, where does it leave Family Services, who were traditionally a family support early intervention very voluntary service, given



that they've been pitched up that end, and where are the other support functions that the second half of your question asked? I can say wholeheartedly that our nine agencies would dearly love a return of government funding, state government funding to be able to work in that earlier domain and they would  
5 also see it as helping their workforce to maintain case mix, sort of like the issue Dorothy was talking about before in relation to pre and post-court. It is the same within Family Services in relation to the high vulnerability and the lower vulnerability families, like our workforce now doesn't work with lower  
10 vulnerability families in an ongoing way. A few might creep in at different bits in time but, as I said, it is extremely minimal, certainly in the north-east LGAs so, yes, we would really welcome a return to capacity to work at the early intervention end and with a lower end of vulnerability and we believe it also helps sustain the workforce.

15 MR SCALES: Can I just ask one last question. In your submission, as distinct from the verbal one, you made the point about the sort of Aboriginal acknowledgment and in some ways talking about the broader Aboriginal question. Do you think there might be a case for having very separate Child First alliances which really are dedicated to Aboriginal indigenous questions/.

20 MS BOFFA: I think there is a question of what that exactly means. I think it would be really interested - and I know VACCA are actually asking similar questions themselves at the minute so they'd be very interested to have a conversation with you about that - but what does it mean to integrate services  
25 for Aboriginal children where there is worries, so there is a number of different programs operating at the moment like Restorations and Family Coaching, Family Services and then more generic support, the health centre types of services, you know, what would it mean to try to co-ordinate up some of that more specifically.

30 But the critical issue here and what's been a great advantage of how we have worked with VACCA in our alliance is that - and let me see if I can remember the stat - yes, so of the referrals that have come in through Child First, 38 per cent in 2010 were actually allocated into VACCA and 62 per cent were  
35 allocated to the mainstream agencies, so there is a lack of capacity within VACCA to meet the need of Aboriginal families. There is also Aboriginal families that have particular relationships with Aboriginal orgs. at different times who prefer to work with the mainstream service themselves or prefer to work closer to home or whatever, so there is an aspect of choice in there but,  
40 you know, the majority of families would work with an Aboriginal org. given the choice, but there isn't capacity in terms of both the amount of resources and then there is issues of the difficulty of working with those families and the personal capacity of workers to do that work as well and that's why we introduced the Aboriginal liaison worker at the beginning of the reform.

45

That actually started in the north-east catchment and has grown out from there to become pretty much recognised statewide. That was a way of trying to bridge the cultural gap for Aboriginal families when working with mainstream agencies. So again in an ideal world I think where we've gone to supporting  
5 Aboriginal families within mainstream agencies within the mainstream system is really important and is one pathway, but strengthening a dedicated Aboriginal pathway would certainly, I would think, be really beneficial as well.

MR SCALES: Thank you.

10

MR CUMMINS: Ms Boffa, thank you so much. That was most thoughtful and we're most obliged to you.

MS BOFFA: Thank you.

15

MR CUMMINS: Next, we're pleased to invite Dr Gaye Mitchell and Ms Janet Williams-Smith to come forward, also with Dr Lynda Campbell and Dr Debra Absler. Please take your seats. Dr Mitchell, or whichever of you would wish to present first, we'll take it in whatever order you'd like.

20

MS WILLIAMS-SMITH: I'd like to acknowledge the traditional owners of the land and pay my respects to the Wurundjeri people of the Kulin nation.

DR MITCHELL: Thank you for the opportunity to make this presentation.  
25 I'm Dr Gaye Mitchell. Janet Williams-Smith is also going to speak and Drs Debra Absler and Lynda Campbell are co-authors of our presentation. Lynda apologises, she's got family commitments as a new grandmother and is unable to be here today and it's very pertinent to what we're saying, so I'm sure you understand.

30

MR CUMMINS: Certainly.

DR MITCHELL: Today we present the case for a model of early intervention for families we call excluded families. Excluded families have complex,  
35 multiple, entrenched, intractable problems that appear across generations. Excluded families are excluded from society by society and because of their fear of the service system, also exclude themselves. We estimate that they take up a large proportion of resources in the child and family welfare system and often we fail to help them, as Julie was talking about I think in the previous  
40 presentation. Their children continue to enter child protection and out-of-home care, in turn, across generations in these families.

This submission is supplementary to the written submission from Dr Campbell and me. We focus on early intervention with excluded families because we are  
45 convinced of its effectiveness. If we are right, early intervention will save

much human unhappiness and many millions of dollars as fewer children from excluded families enter child protection and out-of-home care.

5 We will discuss one early intervention service shown by a recent evaluation to be low cost, while achieving important outcomes for mothers and babies in excluded families. The service, called Mentoring Mums, is provided by the Children's Protection Society, or CPS, and Janet is its manager. The evaluation was conducted by Dr Absler and me, with Prof Cathy Humphreys as consultant. Mentoring Mums recruits, matches and carefully supports  
10 experienced mothers in the community to mentor new, vulnerable and isolated, inexperienced mothers with at risk infants. All mothers referred into Mentoring Mums are eligible for referral to integrated family services. The mentors are highly skilled and experienced women. They act to change the family culture of isolation and survival, to reduce the terrible loneliness  
15 experienced by the mothers, strengthen their parenting capacity, help them play and provide stimulation to their babies and promote healthy infant and child development.

20 Mentoring Mums is an example of one part of the suite of services Dr Campbell and I recommended be established for excluded families - a summary of that is on page 3 to 4 of the document that we have provided to you - that of network builder to tackle the debilitating effects of exclusion, alienation and loneliness and to build supportive, nurturing social networks around very vulnerable families. Just to outline the presentation - and we're  
25 now on page 4 of the document that you have.

MR CUMMINS: We've got it here, thank you.

30 DR MITCHELL: Janet will place the Mentoring Mums program in its CPS context and give CPS's perspective of the program and I'll conclude by presenting some findings of the evaluation of Mentoring Mums.

MR CUMMINS: Thanks.

35 MS WILLIAMS-SMITH: Thanks, Gaye. CPS is a non-government organisation with a vision that all children thrive in safe families and communities, an ambition to perforate intergenerational cycles of abuse and neglect and improve the life chances and choices for all children.

40 CPS has in the last four years made significant investments in developing programs to work with very young children and this is in line with our strategic priorities around prevention and early intervention. Mentoring Mums is one of a suite of services that CPS offers in this arena. CPS has set up a focused early education and child care service offering a priority of access, child care and  
45 early education service to the most vulnerable at risk children in the north-east

region of the metropolitan part of Melbourne, which is the Child First catchment that Julie was talking about, and the Mentoring Mums program sits within this centre.

5 CPS has significant investment in the Mentoring Mums program as it adds enormous value to the services that we currently offer. The mentoring role complements and supplements professional services, such as family support and maternal and child health nurse services and it focuses on community connection, reducing isolation and building the confidence of new mothers in  
10 the first few months of their babies' lives. This is a very different role to that of a professional within the child and family welfare system. Mentoring Mums brings a focus on building the mother's capacity to support a quality, nurturing experience to her baby. Supporting these relationships will have a strong impact on how the child develops and responds to life's challenges. One  
15 coordinator can manage up to 25 matches. This amounts to 25 families receiving visits and support for at least one hour a week. Aside from the social benefits, you can see this has enormous cost benefit.

MR CUMMINS: Yes.

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MS WILLIAMS-SMITH: Mentoring Mums is a program that utilises and strengthens the existing community protective factors, enabling strong, stable parts of our community to become active in supporting vulnerable and excluded members of the community. It is a primary prevention program that  
25 intervenes early in the life of a child and early in the pathway of an emerging problem.

One of the key features of this work is that it links vulnerable excluded women and young babies into primary community services that already exist and are  
30 available and utilised by most people, but least by the people that will benefit the most. For example, I'm talking about things like libraries, story time, local community, playgroups, community health centre services, leisure centres, even shopping and public transport. These are all very daunting experiences for many of the families referred into this program and many wouldn't utilise  
35 them without support.

We know that early life experiences have far reaching impacts on future life participation, contentedness and contribution. We know that most vulnerable children and families don't participate in services that are available to all, and  
40 I'll give you an example of what I mean by that. Victoria has around about a 96 per cent attendance rate in four-year-old kindergarten programs, which is outstanding, but the 4 per cent that are not attending are likely to be the most vulnerable that would gain the most.

45 This kind of program facilitates links and connections to community very early

in the family life, so offers children the best possible starts when they do eventually reach the kindergarten or school gates. What better investment could we make than a greater start to a school career? This program encourages excluded families to become participant consumers of the community services that are universally available but out of reach to the most vulnerable in our community.

Research shows us that social connection is imperative to a new mother's sense of wellbeing. Socially connected individuals are on the whole better equipped to deal with life's challenges and social connection acts as the protective factor against anxiety and mood disorders that may compromise parenting. In designing this project we're also informed by our work and practice knowledge here at CPS. Our experience with clients shows us that women who are accessing parenting support, family support services often have very tenuous or difficult relationships with their families and rarely have supportive social networks. Mentoring Mums provides that social connection missing from so many vulnerable women's lives. Thank you.

MR CUMMINS: Thank you very much. Janet.

DR MITCHELL: Now I'll highlight some of the main achievements of the program, and I'm on about page 7 of your document. First, Mentoring Mums is a very workable and achievable early intervention program suitable for excluded families that could easily be added to current program models in family services and early childhood services. Voluntarism is alive and well if CPS's experience is anything to go by. CPS recruited more than 40 very committed, very competent and compassionate volunteers into Mentoring Mums. The mentors form sympathetic understanding of the new mothers, despite differences in their respective life experiences. The new mothers felt at ease and formed positive relationships where they were able to take in and learn from the experience of the mentors.

Second, as Janet said, Mentoring Mums is a very low cost program involving the employment of one professional for 25 matches. In the document we've provided to you today on about page 7 and 8 we identify the necessary components of the program. First, we would emphasise that mentoring programs must be linked to family services to guarantee case management and case work services and to protect the distinctive mentor role. Qualified professionals are needed to assess and manage risk, to provide casework and counselling and to manage the variety of specialist services that excluded families always need.

Mentors, on the other hand, are governed by norms and values of friendship, equality and experienced mothers helping new mothers and care. Mentors are unpaid and visit only because they care. If we want them to provide this

distinctive role, we must protect them from becoming quasi-professionals through lack of involvement of professionals with families. Mentoring programs can be located in early childhood services or family services, but we advocate seeing them as a component of each integrated family service  
5 throughout Victoria, targeted to early intervention for excluded families at the birth of their first child. We emphasise especially this highly skilled role of the coordinator. Finally, the evaluation demonstrated that Mentoring Mums was effective with a range of families and specifically with excluded families. The evaluation showed that about half the mothers were in excluded families. They  
10 had been involved in Child Protection in their own childhoods. They had mental illness and no support from their extended families. They all had severe difficulties with parenting.

For example, one mother was actually holding her baby at arm's length to feed  
15 the baby and she was speaking about him in a very derogatory fashion, suggesting the beginning of serious attachment difficulties. Another mother was suffering schizophrenia and in her third trimester of pregnancy and had not attended any antenatal appointments. The babies of these two women were at very high risk of neglect, emotional abuse and cumulative harm. Mentoring  
20 Mums managed the risk and helped the mothers. For example, the mother feeding her baby at arm's length was able to hold her baby close and cuddle him while she fed him after just a couple of visits from the mentor. That particular infant was thriving, according to the assessment of the maternal and child health nurse.

25 The mother not attending antenatal appointment was able to attend through the efforts of the mentor. The mentor showed her how to prepare for the appointment, pack a toy, food and spare clothing bag for her older child. She took the mother to the first appointments. She knew many parents in this  
30 particular community felt ill at ease with professionals and that this mother was terrified of hospitals, doctors and professionals, who she felt always judged her harshly. The mentor also helped because she understood how difficult it is to manage public transport with a toddler when you're heavily pregnant. After such kindly and sympathetic help and support the mother was even able to get  
35 herself to some appointments. The mother's mental health also improved dramatically because with the mentor's support she kept her psychiatric appointments and took her medication. This mother looked forward to the birth of her child with hope that she would do a better job of parenting with this baby. The suspicion, hostility and defensiveness that so often interrupt the  
40 helping process with excluded families was no where in evidence.

Evaluation data from the maternal and child health nurses supported a positive view of the outcomes achieved by Mentoring Mums. In fact, the data suggested that the excluded family mothers were doing as well as any group of  
45 mothers seen by these nurses. The mothers' feedback about the program was

extremely positive. These are some of the comments of the mothers about their mentors and the program and others are included in the material we've given you.

5 MR CUMMINS: Yes.

DR MITCHELL: "When I found I was pregnant, I was freaking out. I didn't want the baby and I thought I'd be the world's worst mum." "She was a godsend. I adore her. She brings joy to everything." "She showed me how to  
10 look after my baby. When I first met her, I was seven months pregnant and hadn't been to see anyone. She said, 'I must go,' and made sure I did. She gave me light at the end of the tunnel."

In conclusion, we're arguing the case for special attention to the needs of  
15 excluded families through additional program models tailored to their needs. Preventing children in excluded families entering the child protection and out-of-home care systems can be achieved through careful design and implementation of early intervention services such as Mentoring Mums. Early  
20 intervention volunteers provide one crucial component of our model, the integrated services for excluded families, that of network builders.

At a crucial stage of family formation that offers a rare opportunity to shift  
intergenerational culture and patterns, they help combat loneliness, lack of  
25 confidence, incompetence and corrupted social mores through wise and friendly guidance and social contacts. While the field does not need yet another one-size-fits-all approach to program model development, mentoring  
30 programs are low cost, are effective in achieving substantial change and are well-accepted by excluded family mothers who have proved in the past to be very difficult to engage. Mentoring Mums should be regarded as a high  
priority addition to Victoria's integrated family services platform. We thank  
you for giving consideration to this group of families.

MR CUMMINS: Thank you very much. Debra, do you wish to add  
35 anything?

MS ABSLER: No.

MR CUMMINS: Thank you so much. We're most obliged to each of you.  
40 Prof Scott, do you have any questions arising out of that?

PROF SCOTT: Yes, there are some questions, if that's okay. In your written  
submission you make reference to the challenge of engaging fathers.

DR MITCHELL: Yes.  
45

PROF SCOTT: And, of course, our shared mentor and teacher, Dr Lynn Tierney, who pioneered in the post-war period this understanding of excluded families long before the term social exclusion came into being - - -

5 DR MITCHELL: Indeed.

PROF SCOTT: - - - had a deep concern about men in excluded families.

DR MITCHELL: Yes.

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PROF SCOTT: I recognise that in some of the families served by Mentoring Mothers there may not be at present a male figure or a father figure, but it may well be that in many of these families such male figures will come into the life of that family over time.

15

DR MITCHELL: Indeed.

PROF SCOTT: Can you comment on how Mentoring Mothers has been able to work with families where there has been a father present from the beginning, or where someone in a father-like role may have emerged in the life of the family over the period and how those challenges may have been met in a way that actually broadens the focus from the mother and the child to include him?

20

DR MITCHELL: I'll respond briefly and then my colleagues might come in and add more. There were certainly some men involved in the families and in several cases the presence of the friendly mentor also was able to reach out to the men and have them also see what the mentor was doing with the mother and encouraging with the mother. This was set up as a Mentoring Mums program. I think it is possible to conceive of mentoring programs that have a family focus as well.

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MR CUMMINS: Janet?

MS WILLIAMS-SMITH: I think my experience in managing this program is that the mentor is, you know, a kind of warm, comfortable, wise person who tends to come alongside the mother and in my experience to date we've had about 49 referrals and matches through the process at the time. The experience of the fathers has been quite positive because it's a non-threatening role and there are some real obvious benefits to the mother of the child in the process of the relationship. There have been some fathers that have engaged with the mentor alongside the mother, but predominantly my experience has been that the father has just approved in a way and actually been quite grateful for the opportunity of informally coming alongside mum and looking at things like play and feeding. There has been some things - like engagement process is important too, so things like providing some equipment for babies, like many

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of the mothers didn't have the right equipment and some very practical things like that really helped to engage some of the fathers, just that practical assistance around, "Well, why don't we think about a car seat," or, you know, things like that, so there has definitely not been an aversion from the fathers, but not a focus, it's a focus on the mothers.

PROF SCOTT: Thank you.

MS ABSLER: Can I just support that. There were certainly examples where the father was able to be engaged, and particularly engaged to attend some of the external appointments, like the maternal child and health nurses and appointments and those sort of things, but I think it's an important point about the importance of always trying to engage significant others. I think the other focus, probably expanding more from the original model, was also realising where there were extended families involved, the importance of bringing in the (indistinct) as well and I think that that occurred for a period of time with the pilot (indistinct)

DR MITCHELL: If I could just add one little thing. In another mentoring program that I evaluated back in 2000 called Companion Families, which was run by MacKillop Family Services, that mentoring program recruited families to match with families and there was a definite focus on men and that also proved to be very effective in engaging the men and providing support within the families.

PROF SCOTT: Thank you. My second question was about antenatal engagement and whether you could roughly estimate the proportion of the families that have been in the program who have been engaged antenatally and your thoughts on whether if this type of service were to be scaled up, to use that sort of language, there would be a case for prioritising antenatal engagement, particularly now in the light of the legislation which allows an antenatal notification of an unborn child who may be at risk, whether a service such as this, enhancement maternal and child health nurse or both might be built into the potential consideration of an antenatal notification, perhaps as an alternative to, but perhaps in conjunction with?

DR MITCHELL: That was originally the idea of the Mentoring Mums program, that they wanted to be involved antenatally. Janet might want to comment on the extent to which that's happening now. There seem to be some barriers in actually getting that to happen in terms of getting referrals into the program antenatally. In the case example I gave, it was a clear example of what can be done and how the health of that mother and the focus during that last trimester of pregnancy on to the baby was actually extraordinarily constructive. So I would agree with you, I think that's an important focus, but it's probably a question of getting some closer links between hospitals and

programs such as Mentoring Mums to make sure that you get those referrals in antenatally.

5 MS ABSLER: It's probably also important to say that the highest percentage of (indistinct) did come from the Mercy Hospital from the (indistinct) Department at that point in the process, so there was a very sizeable number of referrals that came through at that time. Again, the Mercy Hospital social workers must be commended because they used the mentors very creatively in a range of other ways to support the mothers, some of the mothers during their pregnancy, so again it's a good example of how people used (indistinct)

10 MR CUMMINS: Excellent. Mr Scales.

15 MR SCALES: Can I talk about your submission, if you wouldn't mind?

DR MITCHELL: Yes, certainly.

20 MR SCALES: You talk in your submission about - I'm on page 2 I think of your submission - where you talk about the various characteristics of excluded families and you seem to be making, if I'm reading your submission right, you're making three broad points. You're making a point that says, "We need to identify that excluded families are there, they've been there a long time, they've been ignored. We need to do something about it, number one."

25 DR MITCHELL: Yes.

30 MR SCALES: The second point you're making is that there are a number of possible clinical interventions that can be made, most of them are going to be high, intense clinical interventions and it is cost-effective for a community at large and in the interests of vulnerable children that we do something about that, I think is what you're saying.

DR MITCHELL: Yes.

35 MR SCALES: Then I think you're saying that there are also organisations that are capable of being able to provide those high, intense clinical services in the way in which you have described them to excluded families. Would that be about right?

40 DR MITCHELL: Yes.

45 MR SCALES: If that's the case, let me take them one-by-one. How might we sensibly identify these - I think you talk about it as anything up to 20 per cent of the number of families who might enter into the system broadly defined who might be part of this - how might we identify those in a way that can allow us

to be able to intervene in a way that's other than ad hoc and how might that happen and what might be the method by which we might identify?

5 DR MITCHELL: I think a good professional assessment can very readily identify excluded families. I think Julie Boffa was actually talking about excluded families when she talked about that group of families that Child First is struggling to work with and I don't think they are struggling to work with them because they're not skilled enough, I think they are struggling to work with them because the program models are very limited and say for the most  
10 intensive family, "You've got about two hours a week over the course of a year." Like that's the sort of amount that's budgeted to work for the most intensive kind of families, so excluded families need more intervention than that and I think that's one of the reasons that the field struggles to work with them.

15 I think in the submission I spell out in a table I think on page 4 the characteristics of excluded families and I think most workers can pretty readily pick up those characteristics when people walk through their door because there is always the multiple problems, they are always the serious ones, they  
20 are the ones Julie talks about as complex IRIS issues coming up in their database and workers are aware that this family will have had a lot of contact with the child and family welfare system over time. I think the one defining characteristic usually is that there is intergenerational involvement in the child welfare system and I think as soon as you see that, the red flag goes up that this  
25 is the sort of family that you're dealing with.

MR SCALES: Yes, I can understand and I accept that table, but I thought you were going one step beyond that and you were really trying to argue that the entry point ought to have associated with it a form of evaluation which then  
30 triggers a form of intense intervention.

DR MITCHELL: I think intake workers in family services are able to assess the presence of excluded families if we were using that word. The problem is that as a field we don't necessarily use this term or focus on this group. We  
35 will talk about the most vulnerable and I'm arguing for a specification of the characteristics of these families and I think if we do that, the majority of skilled workers in family services can assess and assess accurately.

MR SCALES: I accept that, but I thought you were going to the point not of  
40 saying they can, but they will and should and are required to.

DR MITCHELL: Yes, they would need to if we had the services that you could then tailor to them. The trouble is at the moment what you have is workers trying within the constraints of existing program models to do their  
45 very best for these families, but the families need more.

MS WILLIAMS-SMITH: I'd like to go back to your point, Dorothy, too  
around partnerships and relationships with birthing units and primary universal  
services. So if programs like this were linked to birthing services and primary  
5 universal services - and when I say "universal" I mean available to all, not used  
by all - and this program is available to those services then we do identify at  
six, seven, eight-month pregnancy stages vulnerable women that birthing units  
are concerned about, that community midwives are concerned about and we  
have an opportunity to make an intervention very early in the process and very  
10 early in the piece that is a supplement and a complement to secondary services  
like, for example, Family Support, Child First and then we get to tertiary child  
protection services. Many of the families that come into the Mentoring Mums  
program were clients in Child Protection as children themselves, they're about  
to have a baby that we could prevent from being in the child protection service  
15 if we have enriched services available before the child is born.

MR SCALES: Yes, but that's not in dispute, is it? I mean isn't the question in  
dispute about to what extent we should intervene? Not that the services are  
available. It seems to me that that's where you're sort of heading. I mean you  
20 make the profound case that these excluded families are very different and they  
have - because your table says this - they have multiple needs, but we seem to  
be a bit squeezey about saying, "But let's be a bit careful about how much we  
intervene," and yet you're making the very substantial case that this requires  
substantial intervention.

25 DR MITCHELL: Yes, for excluded families you require substantial  
intervention.

MR SCALES: I'm not trying to put words in your mouth here, but there is a  
30 sort of a logical step in this process, isn't there, that it's not the sort of  
traditional statutory intervention where they are required to do X and they are  
required by the courts to do it, but you seem to be looking for some  
intermediate way by which we can almost say, "If you don't do this and if you  
don't participate in this then we might have to go to the next step somehow." Is  
35 that what you're trying to - - -

DR MITCHELL: I think the experience of services that have intervened  
successfully with excluded families is that the relationship between the worker  
and the excluded family is the key. That some programs do use a bit of a stick,  
40 but when you talk to the workers involved, it's building the relationship that  
really matters. So when I visited the family intervention projects in the UK  
that were targeted very much to these kind of families, although they had the  
stick element, the workers were saying, "It's the relationship we build. That's  
where we get the buy in from the families," and I think the Mentoring Mums  
45 program supports that finding that these friendly, compassionate, sensible

women reaching out to these excluded family mothers, that was what got the mothers involved in the service system and open to receiving help. They are just so used to being judged and being hit that it is really building this relationship. It is a very skilled process, but we do have a lot of skilled professionals who are able to reach out to these families.

MR CUMMINS: Before we move on, Debra, did you want to add something?

MS ABSLER: I think you've actually raised two very interesting questions in what you've just asked. I think what you are asking also is about whether there are specific assessment tools that are being developed to assess or identify.

MR SCALES: Yes.

MS ABSLER: The answer to that is yes, we actually have done that as part of this evaluation and other evaluations that we've worked on, so we have developed those tools. But I think the other question you're asking is, what is the pathway to begin to work with, or to have intervention with these families. I think the point that Gaye and Lynda made in their paper is that these families are already involved with a great many services, so they already are known to the whole continuum of services. It's about professionals learning how to identify them and respond to them.

MR SCALES: Yes, but you're actually putting another point and that is that once they're identified, then they carry with them a resourcing package in a sense, aren't you?

MS ABSLER: Yes.

MR SCALES: That says these services will be costly, they'll be long-term, all of those things, so it's another step beyond saying that they are in the system. They are in the system and they're identified with these particular characteristics and what then happens is that there is a resourcing package that goes with them for all of the things that you've described. That's right, isn't it?

MS WILLIAMS-SMITH: Quite often they're not in the primary system so, you know, that's already existing services that these families don't access and participate in because they're socially excluded and they're isolated. For example, you know like we said before, things like community playgroups and things like libraries and leisure centres, they're already in existence. What this program is about is trying to link those families into what already exists. There may be a package that's required for these families, which is an intervention package, secondary and tertiary, but there is a lack of primary connection with a lot of these families into what already is already paid for and they don't use them and they're the people that would benefit the most.

MR CUMMINS: Can we most warmly thank each of you and we're indebted to you and also for your written supplement today and for your full presentation, so thank you so much to each of you. Ladies and gentlemen,  
5 we've been going since 9 o'clock so I think in fairness to you all we should take a break. We'll have a short 20-minute break and then we'll have Dr Tsantefski immediately after the break from Odyssey House, so we'll see you in 20 minutes, ladies and gentlemen.

10 **ADJOURNED** [11.22 am]

**RESUMED** [11.40 am]

15 MR CUMMINS: Ladies and gentlemen, we will resume, if that's convenient for you. We'll commence with Dr Tsantefski. Thank you, I'm sorry we're a little bit late, doctor, but I thought after a couple of hours people were entitled to a short break, so thank you for being kind. We've read your submission, which is most helpful, and we'd be pleased to hear you verbally.

20 MS TSANTEFSKI: Thank you. I'd like to thank the Panel first of all for the opportunity to make this verbal submission in which I'll be augmenting three submissions: the first, the need for a new approach for excluded families by Dr Gaye Mitchell and Dr Lynda Campbell; the second one, children exposed to  
25 parental alcohol and drug misuse by Prof Cathy Humphries, Dr Lynda Campbell and I; and the third one, which will be probably the one I'll focus on the most, is children exposed to parental alcohol and other drug misuse by Odyssey House Victoria.

30 MR CUMMINS: Yes.

MS TSANTEFSKI: Today I'll be speaking as a practitioner rather than as an academic. I'm a former employee of Odyssey House and I'll draw upon my years of experience in the agency, but the opinions I express today will be my own.

35

MR CUMMINS: Yes.

40 MS TSANTEFSKI: I'd like to read only the first part of my submission, my verbal submission, and from there on I'd prefer to engage in a discussion about four key outcomes of the Counting The Kids program.

I'd just like to say, as Dr Gaye Mitchell noted, excluded families have entrenched, intractable, multiple, serious and complex problems that occur across generations. These problems, of course, increase risks to infants and  
45 children and become more difficult to address in the context of parental

substance use. This group of families is repeatedly notified to Child Protection, frequently without resolution of family problems and there is an increased risk of child removal and long-term placement in out-of-home care.

5 In the submission I'd like to argue the importance of engaging substance  
dependent excluded families and to demonstrate the types of outcomes that can  
be expected by specialist programs within alcohol and other drug treatment  
services. As I mentioned, I'll draw upon my own experience in providing  
10 in-home support and managing a home visitor program to families with  
significant histories of incarceration, homelessness, loss of children to parental  
care, unemployment and other forms of marginalisation. I'll present a model of  
working with families that not only supports parents and children, but that also  
assists child protection workers to undertake a more comprehensive assessment  
15 of risk and protective factors for highly vulnerable infants and children, one  
that reduces hostility towards workers and costs associated with the Children's  
Court.

The Counting The Kids program at Odyssey House, now known as the Kids In  
Focus program, will be used as a case study. So Counting The Kids program  
20 ran for five years from about 2005 to 2010. It provided intensive, long-term  
support to families affected by problematic substance use and, as I mentioned  
in the Odyssey House submission, the program was FaHCSIA funded without  
specified throughputs. As funding arrangements were flexible, the decision  
was made to support the most excluded marginalised families and to refer other  
25 families to generalist services. Approximately 90 per cent of the families  
presented with a dual diagnosis. The functioning of a small number was  
severely compromised by acquired brain injury, this was often as a  
consequence of substance use, intellectual disability, depression anxiety and  
other mental illness. These families had never successfully integrated with a  
30 community or engaged with service providers, and there was one mother who  
very poignantly stated that the only workers she had previously encountered  
were prison guards.

Engagement was a slow process, sometimes requiring assertive outreach by  
35 experienced workers, so the program really had a mix of less and more  
experienced staff to help really less experienced workers re-engage with  
families. Considerable worker time and other resources were required to  
reduce risks to children by frequent supportive monitoring of risk and  
protective factors and to produce positive outcomes for families.

40 These outcomes included a significant reduction in the likelihood of infant and  
child placement in out-of-home care; increased links between families and  
schools and improved school attendance rates; improved stability and  
household practices and reductions in alcohol and other drug use; more  
45 effective ways of working with Child Protection, including less reliance on an

adversarial legal system. So I'd really like now to speak about those last four points and I'd very much appreciate just an open dialogue.

5 In the first three years of its operation, and that's the only period I had figures with me, the Counting The Kids program provided in-home support to an average of 28 families in each six-month period and of these approximately 17 were continuing across periods. On average, about 13 new families were taken into the program in any six months. I think one of the most significant outcomes of this program was the extremely small number of children that left  
10 parental care and that remained safely with their parents.

15 One infant was removed from parental care soon after birth, so that child had never been cared for at home; two siblings were temporarily removed and placed in foster care; and one family was supported to voluntarily relinquish care. Given the numbers of children and the gravity of the problems their parents faced, I think that's a remarkable achievement and I think it was possible because we weren't governed by throughputs.

20 The second one, the importance of connection to school for children I think can't be underestimated. Many of the parents ceased attending school by the time they were about twelve years old. They were often quite illiterate and very anxious about connecting. Workers were able to support families to engage with teachers. We were able to increase children's school attendance rates and parents and teachers both reported significant improvements in the  
25 relationship between the family and the school. I think again that was only possible because of the amount of time we were able to spend with each family.

30 The third point, improved stability in household practices and reductions in parental substance use I've put together because to me in my mind they belong together. As I've noted, many of the parents had been homeless and often with entrenched alcohol and other drug use and histories of crime. For some of these families they attained permanent housing for the first time through Odyssey House's supported accommodation program and for many of them  
35 this was a golden period. Odyssey House's supported program has spot purchases, so these are not properties that belong in Office of Housing estates. Families tend to be there for about 12 months and in that time we're able to do a lot of really good work with families in a really safe environment. When that 12 months is up they have to move on to an Office of Housing property as one  
40 becomes available. There is really no choice where they are placed after that.

45 For some of our most vulnerable families, the ones that really impressed us and whose stories will remain with us for a lifetime, we witnessed these families going from their golden period to rapidly spiralling back down into drug use, crime and really the only reason that those children still remained with their



parents and the parents remained in the housing was because of the support of the program, so we were aware that while families were doing well in supported accommodation, we knew enough about these families to know that they would be at a point of vulnerability when they move and we were able to remain engaged with these families because of our flexible funding and to help get them back on track. For some of them, they never reached quite where they were in the spot purchase. They would be beset upon, particularly one young woman comes to mind. She was located in an environment of housing that was mostly occupied by very substance-affected men. She was a sole parent with a little baby and she really struggled in that environment.

The fourth point I'd like to make is possibly the most controversial and I'd like to talk about more effective ways of working with Child Protection. The relationship between these families and Child Protection is often fraught, and I think that's no secret. Stigma, fear of scrutiny and the potential for infant and child removal does result sometimes in hostility towards service providers, and particularly the mandatory Child Protection Service.

Many of the clients, as Gaye Mitchell mentioned, have been child clients themselves of the Department and it's hardly surprising that when family violence is present in combination with substance use, child protection workers have been known to visit these families least, not most, even though children are probably at greatest risk.

What Counting the Kids did was model a collegial relationship with child protection for families. We were able to reduce parental anxiety and fear of judgment and we witnessed the reduced hostility towards workers as families became more comfortable with Child Protection in their homes, so we had joint home visits and parents were supported to engage in honest discussion about family problems and possible solutions. Now, this required a high level of trust in Counting The Kids staff, which we were able to establish because of our long-term involvement with some of these families, but it also required transparent practice by Child Protection.

A positive working relationship between our service and Child Protection enabled the cancellation, for example, of a five-day contested hearing in the Children's Court. The parents weren't disputing there were problems, they knew that there were serious problems and that Child Protection would seek an order and that their children were at risk of removal, but when we got to court it was quite evident that the parents were really prepared to comply with whatever was requested of them, to make the necessary changes to improve the lives of their children and themselves and that they weren't really in any dispute. So given that there was no dispute, what we did was encourage a dialogue between Child Protection and the parents.

45

We met at the Child Protection office, we discussed the conditions on the order. The only point of dispute was that Child Protection wanted a 12-month order, I suggested a six-month order and both parents said they were happy with a 12-month supervision order, so there really was nothing to contest. The parties went forward; that is, the parents and the child protection workers went before the magistrate at the Children's Court, and the supervision order was made. What it did was reduce the stress for workers in the Children's Court, it facilitated a productive working relationship between the Department and the family. I think it must have resulted in quite a cost saving for the court and it still ensured the safety of the children because the order was made and the parents were assisted to comply with the conditions. Those children remained with their families after that.

Now, my feeling is that the Children's Court is a source of enormous stress for child protection workers and they do often say that the reason that they leave the workplace is because they can't tolerate the stress of the court. I firmly believe that by engaging solidly with this small number of substance-affected marginalised families we are able to support a relationship between Child Protection and the family and in that relationship I believe we can foster a productive relationship between these two groups.

In conclusion, I'd like to say that the number of clients assisted by programs such as Counting The Kids is by necessity small, but I do believe that the costs are offset by savings in involvement with the tertiary child protection system, including out-of-home care - never mind the costs to children emotionally, physically and in every other way. I admit the long-term benefits are difficult to ascertain without empirical studies, but there is enough theoretical evidence to suggest that the life trajectory of these highly vulnerable children will be improved through increased stability and a supportive home and community environment.

I believe that these programs could be delivered by generalist family support programs or by specialist alcohol and other drug providers; but regardless of which sector provides this service, I believe that programs for marginalised families must be based on recognition of the fact that complex problems cannot be fixed without intensity and duration of service provision. I'd like to thank you for listening to what I have to say.

MR CUMMINS: Thank you very much, Dr Tsantefski. You've covered quite a bit of ground in your four matters that you've raised. Prof Scott.

PROF SCOTT: Yes, thank you. If we think about the alcohol and other drugs sector, I'm wondering what your thoughts are on what would be required to build the capacity of that sector to perform a function similar to Counting The Kids or, sorry - - -

MS TSANTEFSKI: Now Kids In Focus.

5 PROF SCOTT: - - - Kids In Focus - this may not be something that you have got access to - but the strategies that were required to help Odyssey House evolve in that direction and what might be the levers that would help bring about a more systemic change in the alcohol and other drug sector?

10 MS TSANTEFSKI: I will use Odyssey as an example. I had approximately, I think it was eight to ten years in the agency. In that time it was really the beginning of home-based support to children. Odyssey has operated a family program, a residential program, for 30-odd years, but in my time there we provided the first outreach services and I think what enabled that was, first of all, some research that looked at what was happening to children in the  
15 community and around that we designed the Counting The Kids program.

I think what enabled us to do that was FaHCSIA funding that saw a family support program for the first time, to my knowledge, embedded - actually, it's not the first one because there was SAFS at MacKillop - but it allowed for a  
20 family support program which has been traditionally a program provided by family support agencies to come from an alcohol and other drug service. I think the FaHCSIA funding, the flexibility of that funding, allowed us to deliver that service safely.

25 I think if we were forced into a situation of short-term work, we would not have been able to work with these families effectively. Odyssey has spent a lot of time skilling up its staff to be child sensitive and child-focused, but that is an ongoing issue. The agency keeps having to revisit that. As new staff come on board, they have to be acculturated into that way of working because they tend  
30 to think, "I'm an adult provider. I work with adults. The children are not my problem." So the culture in the agency has been changing.

Odyssey has also done a lot of training to the sector and still delivers a lot of presentations. We've had a lot of secondary consultations to other agencies and  
35 there is a telephone support line for workers in the family relationship services. They can call and receive a secondary consultation around the physiological impacts of different substances and their effects on children and the likely risk and protective factors that will be there for children, so I think it's a combination of having a specialist service coming from an alcohol and other  
40 drug service that knows the client group well, that has demonstrated an ability to work with that client group, that keeps education of workers at the forefront and I think that this model can be disseminated more widely and I think that the benefits of such a model would have ripple effects by supporting parents to work effectively with Child Protection and by supporting child protection  
45 workers by having another set of eyes and ears, somebody to assist with

monitoring.

I understand that there is the danger of threatening the relationship. A  
therapeutic relationship is often what alcohol and other drug workers come  
5 back to. "If I talk to Child Protection, you know, I risk the engagement." My  
experience is that that is actually not the case. It's a rare parent that means any  
harm. The parents know when there are problems and if they can be supported  
to work well with Child Protection, they will be honest. I don't have  
rose-coloured glasses. I have worked in this sector now for a long time. I do  
10 believe that this is a better way of working because it encourages the parent to  
be honest and then if Child Protection can also work transparently and  
collaboratively then we have the makings of a process that is a better one.

15 PROF SCOTT: Thank you.

MR CUMMINS: Mr Scales.

MR SCALES: In both your Odyssey House and your own submission you  
make the point that you're presenting a model of working with families. I'm  
20 just wondering whether I've got the model right, if I could read out to you what  
I've tried to construct is I think the model.

MS TSANTEFSKI: Yes.

25 MR SCALES: You're saying the model is flexible funding?

MS TSANTEFSKI: Yes.

MR SCALES: You're saying it's monitoring the risk to children?

30

MS TSANTEFSKI: Yes.

MR SCALES: You're saying it's daily visits to the family?

35 MS TSANTEFSKI: When necessary, yes.

MR SCALES: When that's required?

MS TSANTEFSKI: Yes.

40

MR SCALES: You're saying that it's maintaining the child's contact with the  
school - - -

45 MS TSANTEFSKI: Yes.

MR SCALES: - - - for the reasons that you mention in your submission, and then I think you're also saying that the model includes - these are my words, not yours - but specialist facilitation of the relationship with Child Protection and, by implication, DHS.

5

MS TSANTEFSKI: Mm'hm.

MR SCALES: Are they the fundamental elements of the model?

10 MS TSANTEFSKI: The model now includes Mirror Families and it includes respite care.

MR SCALES: Respite care, sorry, I should have added respite care, yes.

15 MS TSANTEFSKI: Respite care is really important because with respite care we've been able to get children safe quickly. We have had times when we've realised there has been an escalation in the parent's drug use. The warning signs are usually quite obvious and we've tended to - well, not tended to - we have responded very quickly, very promptly and talked to parents about  
20 helping us, working with us to get the child safe quickly and sometimes these parents have no extended family support. Sometimes they do. Sometimes they don't. By utilising respite care we've been able to get the parent into detox and place the child in respite care. The two are brought together after that.

25 There are times when we can see that, you know, it's not going to work with a parent. I mean admittedly there was just one, but this parent was able to voluntarily relinquish care of that child. The child had been in respite care to begin with and the parent made the decision that the child should stay in respite care and respite care has since become permanent care for the child. She is in  
30 foster care. That outcome came with the child being kept safe, with the relationship between the child and the parent being supported. Child Protection did become involved because we had to go through the child protection system in order to place the child in long-term care. The parent voluntarily relinquished care, so respite care plays an important part.

35

The importance of respite care to this model is that if it's only available to the tertiary end of the child protection system, then nobody else has access to it and when you're dealing with this client group you need access to respite care. You also need long-term support for these families, which is costly. So how  
40 the program has evolved has been to include Mirror Families, which is not quite a mentoring scheme. What it is is I would say formal support, formal intervention in the naturally occurring informal network, and when that's not possible it's augmented with formal support through mentors. So the idea is that you work out who's in the child's family and start building relations  
45 between the nuclear family of parent and child and grandparents, aunts, uncles,

siblings, cousins, neighbours, friends, whoever it is that is important to that child.

5 The Mirror Families program describes it as a heartfelt connection. Who has a heartfelt connection to that child? One of the designers of this program once pointed out that children finish up in foster care or in out-of-home care because there is no-one to help their parents. How Kids In Focus works now is that it still provides home-based support to families, only now there is respite care available as a secondary intervention service rather than a tertiary service only, and it has Mirror Families that it is building up around its client families which we'll hopefully see a reduction in the need for formal services as the informal network becomes strengthened.

15 MR SCALES: If I could then go on, taking the model itself that you've described, if I think about what might be the critical success rate of that model, it's the caseworker, isn't it?

20 MS TSANTEFSKI: It's not an individual caseworker. These skills can be learned. It's values, skills, knowledge. These are all transferable. These can be taught.

25 MR SCALES: I'm sure they can be taught, but they require a fair amount of teaching because I think if I read your submission, the daily visits are more than daily visits, aren't they?

MS TSANTEFSKI: At times.

30 MR SCALES: I mean given the complexity of the group you're talking about, which are excluded families, I mean by implication, given what we've heard earlier, I mean these are substantial interventions and they require a whole lot of skills, you know the point I'm making.

MS TSANTEFSKI: Yes, they do.

35 MR SCALES: So I suppose I'm trying to understand - we're thinking about what this might mean in terms of the way in which one would structure such a model - you really do need, it seems to me, high quality individuals that can work with that and I presume, as I think you've also said, you also need relatively small numbers of cases per worker.

40 MS TSANTEFSKI: Yes.

MR SCALES: You're saying three or four or so.

45 MS TSANTEFSKI: Yes.

MR SCALES: So that's another element of it. I just wanted to clarify that. Then you actually go on in your submission and you say that there is actually evidence of this being cost-effective.

5

MS TSANTEFSKI: Yes, there is.

MR SCALES: Can you tell me off the top of your head what this evidence is and how you might measure that cost-effectiveness?

10

MS TSANTEFSKI: Yes, the best evidence comes from the US in the work of David Olds. Olds has the data. Last time I looked, I think he was up to about a 15 or an 18-year follow-up of children referred or infants, newborn infants referred to a program that actually used nurses to do home visiting. I don't have the figures with me, but the outcomes are really very interesting in that there is a reduction in the number of children born into the families, so there were much higher rates of employment of parents. I believe there was, if I remember correctly, a reduction in juvenile crime among these infants. The only area I recall where the program didn't seem to make much difference was unfortunately in the area of family violence. The last report I read, Olds and his team couldn't account for why, but the reduction in the number of children leaving parental care, involvement with the juvenile justice system, reductions in births, higher employment of parents are all areas where there would be significant savings.

15

20

25

MR SCALES: Do you know if there are any Australian variations of the Olds' work?

MS TSANTEFSKI: To the best of my knowledge there is not.

30

MR SCALES: Thanks.

MR CUMMINS: Dr Tsantefski, thank you so much. We're most obliged to you.

35

MS TSANTEFSKI: Thank you.

MR CUMMINS: Ms Judy Small. Ms Small, thanks for your patience. I'm sorry we're running a bit late. It's good to see you.

40

MS SMALL: Thank you, Mr Chairman.

MR CUMMINS: We've read your material so you can assume that we're familiar with that and we'd be very pleased to hear your oral submission.

45

MS SMALL: Well, as the Panel knows, I appear before you as the director of Family Youth and Children's Law Services at Victoria Legal Aid and I just want to draw out some of the themes that we'd like to make clear to the Panel, but before I do so I would like to pay my respects to the traditional custodians of this land, the Wurundjeri people of the Kulin nation and pay my respects to their elders, both past and present.

Victoria Legal Aid is in a unique position, we believe, in relation to the representation of children in legal proceedings. We are by far the largest provider of legal representation services for children in this state. We provide them across a range of jurisdictions which gives us I think a very broad view of children's needs in the legal area. We provide legal assistance to children in the family courts where their parents are in dispute about their care arrangements; we provide that representation of course in the Children's Court where child protection is the main issue; we provide it in the very rare cases, as Prof Scott said earlier, in the County Court in adoption proceedings; and we also provide representation of children in ADR services in family law before court so when there are no court proceedings, we provide that and the child focus of our family dispute resolution service is a major part of that service, and of course now with the new model conferences we also provide representation of children in ADR services as part of Children's Court proceedings.

The major things that I'd like to draw the attention of the Panel to are the issues of collaboration between practitioners in the child protection sector, particularly in the court, and that is of course collaboration between child protection practitioners and the lawyers who represent families. That has been an area of some tension historically and as you will have seen in the submission, there are since the taskforce recommendations were released in February of 2010, there has been considerable work done between the Department of Human Services and Victoria Legal Aid and the Children's Court to try and change that culture. Of course it's a very long-standing culture and culture changes, as I've heard many times, is a bit like trying to turn the Queen Mary, but what I'd say is that those in the bowels of the Queen Mary, when it's turning, are not always aware of the turning and although the turning is going on it may not always seem obvious to everyone, but there have been great leaps and bounds taken in the last year.

First of all, Victoria Legal Aid has seconded a lawyer to the Department of Human Services policy unit, to the Child Protection policy unit, and that has been an incredibly important and valuable bridge between lawyers and child protection workers. Those two lawyers who have so far been seconded have undergone the Beginning Practice program, which is the first stage of the training undergone by child protection workers because we believe that one of the answers to this problem is a true understanding of each other's roles.



The two professions are not antagonistic in their goals. Everybody is in this to find better outcomes for children at risk. It's not that lawyers think that DHS are the problem or DHS think that lawyers are the problem. We're all in this for the same purpose, but we have different roles, and it's important for both sides to understand the other's roles, so the secondment of a lawyer has been part of that. Out of that has come a memorandum of understanding, which is almost ready to be signed by the secretary of the Department and the managing director of VLA; a code of conduct for practitioners in the Children's Court, for legal practitioners that is in the Children's Court, that is at the moment with the court for comment before being rolled out and signed by parties; and the third thing that has happened as a result of the taskforce is the two-day conference which was held the week before last where over 200 child protection practitioners and lawyers and magistrates of the Children's Court gathered together to talk about roles and to talk about the tensions between them in a first step of rolled out and ongoing training which we hope will help to ameliorate the tensions between them. That conference, I have to say, was an enormous success with participants on both sides saying that they had learnt much of the other's role and that they all looked forward to having continued training in the future.

MR CUMMINS: It's a very valuable exercise.

MS SMALL: It was indeed. It was indeed, Mr Chairman, and paid for by the Department of Justice, for which we are extremely grateful.

So the knowledge of roles and the collaboration between practitioners is a major theme. A second theme is the role of alternative or appropriate, whichever one, dispute resolution in child protection proceedings. At the moment, that dispute resolution happens at two stages, one in what results in what's called voluntary agreements between families and DHS, and the second form, which is an informal sort of dispute resolution, and then there is the formal dispute resolution of the new model conference and the dispute resolution conference as part of the legal proceedings.

Our position on ADR is that it is the most valuable way to resolve disputes within families and between families and others. We have seen the success of that in our family law dispute resolution - and while we acknowledge absolutely that this is not the same thing, when the state intervenes in a family it is not the same thing as two family members or two parents being in dispute - we have learned that something like 87 per cent of cases in our family dispute resolution have resulted in a settlement, either a full or a partial settlement after a well prepared and lawyer-assisted family dispute resolution conference. We therefore were involved in the development of the new model conference.

The new model conference is of a similar structure in that it is lawyer-assisted to help the parties. Lawyers' roles in ADR are very different from the roles that they play in the well of the court. In the well of the court they are representing people, it tends to be more adversarial because that's the nature of the court. In ADR, it's very different. In ADR it's the parties who are doing the negotiation and the mediation. The lawyers are there to give advice, to advise on things like whether a particular outcome being proposed is in the client's interest, whether the particular outcome being proposed, how that compares with a possible outcome and a likely outcome at court and roles such as that. It is really the parties who are engaged in the proceedings and we see that as a very important feature of the ADR process.

We would say that the agreements that are made between DHS and families early in the process, the breach of which usually leads to a protection application, would be strengthened. Those agreements, those voluntary agreements would be greatly strengthened by the assistance of lawyers at that stage in the advice and option providing way that they do in formal ADR processes. We certainly don't want those processes becoming adversarial in the way they would in the court, but in our view an agreement is more solid if both parties know their rights, both parties know what options are available to them and they make those decisions on the basis of proper and sound and realistic advice, and we believe that if particularly in cases where the outcome of the agreement is likely to result in a child being removed from its parents or somebody being excluded from the home, so the more serious cases, that if there were lawyers available to assist those parties, particularly the families, but also DHS, then those agreements would be more robust, they would be more durable and that can only be in the best interests of the children who are involved. So early intervention ADR we absolutely support. We think it would be strengthened by the assistance of lawyers at that stage.

The third theme that I would like to address is that of the participation of children in the legal process. As I stated, Victoria Legal Aid is probably unique in its breadth of experience in representing children in these sorts of proceedings. We are expert in both the direct model of representation on instructions and in the best interests model which is used in the Family Court and, in very rare cases, in the Children's Court.

Nobody wants to see children at court unnecessarily and we would say that it would greatly assist the children and the lawyers if there were to be a third place that they could meet that was not at the court. I'm sure that the Panel is well aware of the atmosphere in the Children's Court. There are about somewhere between five and 15, around ten cases initiated by safe custody each day, which means that there are at least ten families in great distress at the court, as well as all the others who have come for mentions and directions hearings and final hearings, so it's not the kind of place that you would want a

child to be. It's fraught with emotion, emotions are indeed running very high at that point.

5 We think there should be a separate place that is child friendly, that children  
could meet with their lawyers to have the position explained to them so that the  
lawyers could then go to the court - it would need to be fairly close to the court  
- and in that respect Victoria Legal Aid has collaborated with the Department  
in the town of Shepparton so that children are now seen, children who are  
10 taken into safe custody, are now seen by their lawyers at the VLA office, which  
is about 150 metres from the court which means that we have interview rooms  
that are not feeding into corridors filled with people, and of course in the  
country it's worse because it is not only the Children's Court, it is the  
Magistrates' Court in general. So the provision of that kind of child friendly  
15 space for lawyers to see children would be, we believe, a much better way of  
doing things. Whether a child is represented on direct instructions or on a best  
interests model, the child's voice needs to be heard. These proceedings are  
about children. It's not just because it's in the convention of the rights of the  
child or because it's in the legislation, it's because it's good practice that  
20 children about whose lives proceedings are happening should have a voice and  
we would say that that voice should be heard no matter how old that child is  
and the weight to be given to it should change depending on how old and  
mature that child is.

25 We believe that the removal of a child from its family is one of the most  
serious actions that a state can take in relation to the freedom of its citizens  
and, therefore, when a child is proposed to be removed from a family there  
must be some sort of oversight. This system is governed by an act of  
parliament and the steps in that system should be overseen by, we believe, a  
30 court, by the Children's Court and that the Children's Court, being a specialist  
court, is the best place to oversee the actions of the Department and to hold the  
Department and the state in general accountable for its actions. We all need to  
be accountable for our actions and when the state intervenes in a family in this  
way we believe that it ought to be held accountable for the actions it takes.  
That's not to say, of course, that we don't think that the state has a right and,  
35 indeed, a duty to protect children when their families are unable to, just that  
when they do interfere with a family they ought to be accountable for that  
action.

40 There is a suggestion we'd like to make in relation to the increasing number of  
cases that are being initiated by safe custody. I think it's now up to something  
like 80 per cent in the metropolitan area, rather than by notice. We take the  
example of the Youth Referral and Independent Person Program, commonly  
called YRIPP, which is in progress in the criminal division of the Children's  
Court whereby a child who is taken into custody has access to an independent  
45 person and some advice and information about the situation they find

themselves in.

We would suggest that such a process could be of great assistance in the family division of the court if we were to have such a service where once a child is  
5 taken into safe custody then a YRIPP-type program was notified so that - and  
the threshold protective concerns were notified to VLA - we could provide that  
service separate to our in-house practice so that no conflicts would arise  
indeed, in the same way as our ADR services are separate, but it would mean  
that DHS could then provide the same papers that they provide to the family, to  
10 lawyers, who would then be ready and understand what the problem was and  
what the process was about and be able to advise clients in a much more timely  
manner than is currently the case where they might meet the client the first  
time at the court in the morning with no information whatsoever about what's  
happened, so that's one of the things that we suspect might help.

15 That's really all I have to say in terms of additional or drawing out things. I  
think there is one more thing and that is in relation to the 24-hour time limit  
between the taking into safe custody and appearance at court. In our  
supplementary submission you'll notice that we argue for the retention of that  
20 24-hour time limit. That's not on a legalistic basis, I might say. If we were  
thinking purely as lawyers we would probably want more time to prepare  
cases. It is a very child-focused position.

If you look at research that talks about attachment, then removal of a child for  
25 more than 24 hours can be quite damaging to a child and in circumstances  
where a child is 50 per cent likely to return home after the first mention. In  
50 per cent of cases children return home after the first mention, so for those  
50 per cent of cases the 24-hour time limit is quite critical. For the other  
30 50 per cent of cases who are going to remain in care, it's perhaps not so critical,  
but for those ones who are going home it's quite critical. But the real issue is  
not just the time, the issue is that the people who are representing the families  
need to know what it is that DHS is concerned with and the issue is about the  
information that's given, not just the timing. So that if DHS could provide, as  
35 we've suggested in fax form or even in email form a copy of the concerns that  
they have when the child is taken into safe custody, then the issue of how long  
it takes becomes less important because the 24-hour time limit would then not  
be so onerous I guess on the families because they would have some advice  
when they first went to court.

40 I'm conscious that there is a perception in DHS and, indeed, it's borne out in the  
DHS document Case For Change, which was published I think only last month  
or the month before, that the experience of child protection workers in court is  
not a very pleasant one. I would say that it's never pleasant for litigants going  
to court, whether they're represented or not, in any court but there have to be  
45 ways that we can make this better, not only for the child protection workers but

for the families and for the court system itself and certainly VLA wants to be part of any system that is going to change that.

5 MR CUMMINS: Thank you very much for that. It's very pleasing, Ms Small, to hear the positive steps that have taken place and are taking place since the taskforce report, as you have outlined at the very start of your verbal submission and it is undoubted, as you mentioned at the end of your verbal submission, the importance of the nature and quality of the experience of protection workers in the court process, so you are obviously astute to that.  
10 Prof Scott.

PROF SCOTT: Yes, thank you very much, very helpful. I wonder if we could talk a little bit more about best interests representation and if we think about some jurisdictions, for example within the United Kingdom, that a guardian ad litem would perform that function perhaps - I've forgotten whether  
15 immediately on a child coming into care that function would be performed - but certainly in terms of a child not mature enough to give direct instructions, that their best interests would be presented by a non-lawyer in most instances. What would be the case for that being performed by a lawyer, compared with  
20 someone whose professional expertise might be specifically related to children?

MS SMALL: I think when you're in a courtroom the lawyer's training obviously is about courtrooms and representing people and representing their interests and representing their instructions. When one acts on the best  
25 interests of a child it's a very different process than acting on instructions and I agree that social science knowledge is of great use to lawyers acting on best interests models. One of the things that's happening, as you also know, is the development of the children's law specialisation accreditation at the Law  
30 Institute and that that process now will have social science input into that training and that accreditation process, so I don't deny for one moment that a social science background and social science training is of great value in representing children.

35 I would say that in court proceedings the representation of a child is under the act, that it's governed by the law and that I would say that a lawyer properly trained and properly resourced is in a better position than a social worker and in a sense - I don't mean for one moment to denigrate social workers - but in a sense the Department is the social worker acting in the best interests of the  
40 child and if you're going to have a separate representation of the best interests of the child I would simply say that in a court situation it is a - I'm not even going to say better, I'm going to say more appropriate to have a lawyer representing those best interests and being able to make forensic investigations about those best interests in a way that a lawyer is trained to do but perhaps a  
45 social scientist is not.

PROF SCOTT: That wouldn't be a duplication in terms of going beyond discussion with the child or observation of a preverbal child to looking at the risk factors in order to be able to glean what was the child's best interests?  
5 Would it essentially be repeating a child protection role?

MS SMALL: I think that the child protection role is a very different role from the role of the best interests advocate. Once proceedings are initiated, the main question - and I've said this before, you may have heard me say this before -  
10 but it seems to me that we're asking the wrong questions by the time we get to court. That once the court proceedings are initiated, the questions that the child protection officers are asking themselves are, "What do I have to prove to prove my case in the court? What are the elements of the lack of protection that I have to prove to prove my case?" The lawyers are asking, "Well, what  
15 do I have to do to hold the state accountable for its actions in removing children or wanting to remove children?" It seems to me that the questions we should be asking is that everybody should be asking the same question, "What do we together have to do to keep this child safe?"

20 In situations where the child is preverbal or even where the child is verbal, the difference is that the DHS is not just acting in the best interests of the child, they are a litigant in the proceedings. They have a case to prove, if I can put it that way. Whereas an independent children's lawyer does not have a case to prove, they are completely independent of the court, of the parties to the  
25 proceedings and their job is to find out information that the others either might not be able to find out, or might not have an interest in finding out, in order to put that evidence properly presented in front of the court so that the court can decide what is in the best interests of the child.

30 PROF SCOTT: Thanks.

MR CUMMINS: That's very clear.

MR SCALES: Although isn't there a potential sequencing here?  
35

MS SMALL: I'm sorry, I didn't hear that.

MR SCALES: A sequencing set of issues. Isn't there a sequencing between what is in the emotional, physical best interests of the child and what is the  
40 right of the child and the parent, depending on who might be the client of the lawyer?

MS SMALL: Yes.

45 MR SCALES: So how should we make this sequencing happen in a way

which is logical and doesn't confuse the two issues? It seems to me that if one sequences it in a particular way; for example, thinking about the right of the child and what is in the best interests of the child, it doesn't seem necessarily logical that you need to have a lawyer involved in that process, but it might be  
5 logical to have a lawyer involved in the second part of that sequence, which is now that we've decided what might be in the best interests of the child, what are the rights of the child and the various clients of the lawyer? How might you respond to that?

10 MS SMALL: I'd respond to that by again - and I am a lawyer so that's the way I think - but this process and the best interests of the child are defined by the legislation and what is in the best interests of the child I would say under the act can't be decided without reference to the rights of the child.

15 MR SCALES: Yes, except we can change the act.

MS SMALL: Well, of course you can, yes.

MR SCALES: Let's not rely on being a lawyer.

20

MS SMALL: Okay.

MR SCALES: Let's not rely on the act.

25 MS SMALL: Okay.

MR SCALES: Let's ask ourselves a separate question, what's the right thing to do? Let's ask ourselves a question that says, "Absent the act, what should we do?"

30

MS SMALL: Absent the act, what should we do is ask ourselves what do we have to do to keep these kids safe? What it seems to me we have to do to keep these kids safe is to ensure that the children's rights are preserved, their right to be part of their family. It's a commonly accepted - and forgive me for saying  
35 this - but it is a commonly accepted situation that the family is the unit of our culture and our society and our community, so the right of the family to its own privacy and protection is a very fundamental right. That right, of course, has to be subjugated to the right of the child to be safe and the right of a child to be a child.

40

So when we're looking at what's in the best interests of the child, it's not just their physical safety, it's not just their emotional safety, it's the whole of the child and what is in their best interests is their physical safety, of course, must come first - there is no point in talking about any other kind of safety if a child  
45 is not physically safe - but once a child's physical safety is established then the

right of the family comes into play and the right of the child to be part of that family comes into play. So I would argue that you can't actually talk about what is in the best interests of the child without talking about the right of the family and the rights of the child.

5

MR SCALES: But isn't the rights of the family subjugated by the right of the child to be safe?

MS SMALL: Yes, it is.

10

MR SCALES: So, therefore, let me go back to the point that I tried to make. If one was trying to determine the right of the child to be safe, why is it necessary to have a lawyer in that discussion? Why wouldn't it be more appropriate or as appropriate to say it ought to be a set of paediatricians, a group of appropriate social workers - and I could go through a whole list of people - psychologists, psychiatrists, why is it so necessary to have a lawyer at that point in the middle of that important discussion about the safety welfare of the child?

15

20 MS SMALL: One would hope that those professionals are involved in the early part.

MR SCALES: No, it's not about whether they are or not. You were arguing that the lawyer ought to be really the centre of that rather than these other professions.

25

MS SMALL: No, I don't think I'm saying that.

MR SCALES: To paraphrase you, you were saying, "I don't want to denigrate social workers."

30

MS SMALL: No, not at all. I actually studied to be one once. But, no, I'm not saying that at all. I'm not saying that they shouldn't have a part - of course they should, they're the experts in that field - what I'm saying is that when you're talking about removing a child from its parents and you're looking at the best interests of the child at that point, then a lawyer's forensic skills in making the Department accountable for that and the lawyer's training in that is vital.

35

MR SCALES: Yes, that's my second point, isn't it? I mean that's the second part of the sequence, isn't it? I mean nobody is going to disagree that once you get to the point of that, that the system must be held accountable in all of its forms.

40

MS SMALL: Yes.

45



MR SCALES: But that's secondary, isn't it? I mean if you make the right of the parent, the right of the child in a sense subjugated to the safety of the child, I'm just trying to get that balance and about how you think about the balance.

5 MS SMALL: I don't think there is anyone that would disagree with that. I don't think any lawyer would say that the right of the child is subjugated to the right of the family, but the child is part of the family at the same time and in some ways the current system does exactly what you're saying, it is the social scientists, the child protection workers who decide what is in the best interests  
10 of the children in removing the child and then they are held accountable in the court system, so in a sense the current system does have the sequence that you described.

MR SCALES: Although what you're saying about the appropriate dispute resolution procedure is that I think under your model the lawyer should be  
15 moved in that, and yet it's not necessarily nor universally accepted that the lawyer ought to be involved in that.

MS SMALL: The reason we say that lawyers should be involved in the ADR  
20 process early is because there are legal ramifications for people signing those voluntary agreements. The voluntary agreements or the breach of them or the alleged breach of them is what usually leads to the legal proceedings taking place in the first place and what we would say is that where there are legal consequences, legal advice is necessary before signing those agreements. We  
25 wouldn't dream of asking people to sign legally binding agreements in any other sense or in any other forum without legal advice.

MR SCALES: No, but there's a difference between them getting legal advice before they sign and them being involved in the centre of the alternative or  
30 appropriate dispute resolution procedures, isn't there?

MS SMALL: I think what our submission actually says is that lawyers should either be involved as advisers within the process, or at least to provide advice before those agreements are signed because otherwise we say they're not truly  
35 voluntary agreements unless people understand what it is their signing. I mean there is an example in our paper that talks of a woman who signed a voluntary agreement, not understanding what it was she was signing, and we say that where very serious consequences arise from the breach of those agreements, or the agreement is to remove a child or to exclude someone from their home, that  
40 those are the situations in which legal advice should be necessary.

MR SCALES: So you would be comfortable as long as advice was given before the signing of a document?

45 MS SMALL: Yes.

MR SCALES: I want to go to your point about cultural change, I think you almost started off with the question of cultural change and what I'm going to ask you is not addressed in your submission, so I'm going to go a bit more wider than what's in your submission here.

MS SMALL: Yes.

MR SCALES: But you do talk about it - and stick with me just for a moment - you talk about the fact that there are I think 700-plus lawyers that are associated with Legal Aid in some form or another.

MS SMALL: No, I don't - - -

MR SCALES: 775 independent children's lawyers.

MS SMALL: That's the number of independent children's lawyers that were appointed and funded in the family law courts.

MR SCALES: So that's my question, is that the number that you deal with on a regular basis?

MS SMALL: No, that's the number that we fund.

MR SCALES: Okay. How many would you deal with on a regular basis?

MS SMALL: I think our market share is about 10 per cent of those all up.

MR SCALES: So you wouldn't regularly deal with - - -

MS SMALL: No, I'm sorry, no, that's not true. This is in the Family Court. I'm getting confused between the two jurisdictions. The market share in the Commonwealth courts is about 30 per cent, so Legal Aid in-house lawyers would deal with about 30 per cent of those.

MR SCALES: In terms of the number of lawyers who you contract to represent, how many lawyers would you have involved in your pool of - - -

MS SMALL: We have a specialist panel. Not anybody can represent children. You know, no lawyer can just come along and say, "I'm going to represent children." If we're funding them, they have to be on our specialist panel.

MR SCALES: How many would that be? What would be the number in the panel?

MS SMALL: In the family law courts, what we call our section 29A independent children's lawyer panel, which is the family law court's panel, I think there are about 20, something like 20, and in the Children's Court I think on the panel is around the same.

MR CUMMINS: If you wanted to pick something up, you can.

MS SMALL: (To Ms Savvas) Is that about right?

MS SAVVAS: About 24.

MS SMALL: About 24 on the Children's Court panel.

MR SCALES: 24 on the Children's Court.

MR CUMMINS: You're welcome to come up.

MS SMALL: This is Elecia Savvas, my colleague.

MR SCALES: Please come forward. What would be their caseload?

MS SMALL: The caseload of the private practitioners, you're talking about?

MR SCALES: Yes, of that 25 or 24.

MS SMALL: That 24 or so lawyers, well, I can tell you that the top ten firms dealt with just under two and a half thousand cases in 2009-10.

MR SCALES: I'm trying to do the arithmetic here. What would be the average caseload at any one time?

MS SAVVAS: Per day, I would say lawyers could carry between five and maybe 12 files a day.

MR SCALES: That's a big caseload.

MS SMALL: It is a very big caseload.

MR SCALES: Are you of a view that they can manage that caseload?

MS SMALL: There are some concerns, I have to say, about the ability of some practitioners. We don't have any concerns about their in court advocacy, their in court advocacy is not in question. We do have some concerns about their ability to carry the kinds of caseloads that they do. They conduct overall

in the Children's Court, the private practitioners conduct almost 90 per cent of the work.

5 MR SCALES: I suppose I'm trying to join the dots in a sense that if we're saying that the lawyer has such a critical role in the Children's Court of providing good advice, yet it seems, if I'm interpreting you correctly, they have such a substantial caseload - QED, isn't it - that how can they possibly provide this sort of advice with such a caseload?

10 MS SMALL: Well, there are two panels, if I can put it that way. The people who are doing the duty lawyer work are on roster to do just that, to do duty lawyer work. So the ones that come in first, as first mentions, will have a duty lawyer to act for them and that duty lawyer will almost always become the lawyer for that case. So for the ten cases that come in that day by apprehension  
15 or by safe custody, the ones that we don't have a conflict with, the in-house practice will take. The ones that we do have a conflict with, the private practitioners will take.

20 MR SCALES: I suppose what I'm trying to ascertain is to what extent is the market, for want of a better word, operating well enough so that you have a robust number of well-qualified lawyers to appropriately represent families and children in a way which gives us the ability to be able to protect vulnerable children and I suppose that's what I'm really trying to get to. To what extent, in your professional view, have we arrived at that situation, or do we have to do  
25 some more work to get there?

MS SMALL: I think we definitely have to do some more work to get there, in the same way as we have to do some more work with child protection workers to make sure that every child has a caseworker and it is a question of resources.  
30

MR SCALES: Okay. Then what do we need to do about that? I mean you can see how this is going to feed on itself, can't you?

35 MS SMALL: Yes.

MR SCALES: People with large caseloads then become pretty short with child protection workers. Child protection workers - - -

40 MS SMALL: With large caseloads, yes.

45 MR SCALES: - - - and so on, so it builds on itself. So what do we have to do to try and find a way by which we get a much more appropriate, efficient, effective system where there are enough lawyers to be able to do their job well in a way which is professional with all of the players in this very difficult circumstance.

MS SMALL: It's both a question of quantity and quality and in terms of quantity - well, both in terms of quantity and quality really - it's very difficult for Victoria Legal Aid to have the same kind of oversight of private  
5 practitioners as we do of our in-house practice, but one of the ways we can help or try to ensure quality is by resourcing people at the front of the queue, if you know what I mean, at the beginning of the proceedings rather than at the end. We have the ability, for instance, to move money around. We've just done that in our family law service where we've taken a deliberate policy decision to  
10 move money from parents to children - not entirely, but to have a shift in emphasis so that it's the children who get funded rather than all of the parents - and we do have that opportunity and that ability to do that in the Children's Court. However, the volumes in the Children's Court really are, as you know, quite enormous.

15 One of the ways we can attempt to control quality is by resourcing lawyers better. We know that the money that they get, the actual fees that they get, are actually minuscule. We accept that. We acknowledge that that's not probably the best way to go about resourcing those lawyers, but the point you make is  
20 well made and well taken; that the more cases you have, the less time you're going to be able to give to each case, and therefore the more resourcing of lawyers at that stage - you see we would say that if we have a more robust system at the ADR stage and we have more robust and more durable voluntary agreements, then there will be fewer people ending up at the court and the  
25 lawyers at the court will be able to take care of that in a much better way. That's certainly been the result in the family law situation, so we would say that extrapolating from that, we think that that would be the result in the Children's Court.

30 To be perfectly blunt about it, it is a question of resourcing and money. If a lawyer needs to have so many cases in order to make the money to live, then that is going to make a difference to the quality of the service they provide. All of the lawyers on our panel are specialist lawyers. They are all people who are dedicated to this kind of work. Nobody goes into this kind of work because of  
35 the vast amounts of money to be made from it and nobody goes into this work because it's easy. People go into this work in the same way that child protection workers do. They all go into this work because they have a passionate concern for the safety of children and families and because they want to make a difference and they want to find better outcomes, and it seems  
40 to me that one of the ways that we can ensure that quality is by resourcing them better and encouraging them to spend the time by doing that.

MS SAVVAS: May I just add something as well. It might just be useful to draw a distinction between when matters do come to court, so not looking at  
45 the ADR stage, but when they initially come to court for apprehensions, what

VLA does have control over is the duty lawyer service and how that functions is by a roster system. So the private lawyers, when they are needed to take on new matters, they have to be available for that, so we have some control over it at that stage. After that, Legal Aid's role is just as a funding body beyond that, but that's where we have our initial control.

MR SCALES: Can I ask another question?

MS SMALL: Yes.

MR SCALES: Does Legal Aid have a process by which it assesses the quality of the performance of its lawyers?

MS SMALL: Of our lawyers, our in-house lawyers?

MR SCALES: No, not your internal.

MS SMALL: The private practitioners?

MR SCALES: The private practitioners.

MS SMALL: As I said, the panel is an exclusive panel. You have to be on the panel to be able to represent children and families in the Children's Court. The quality of that representation, in fact the quality of all Legal Aid's private practitioner partners is an issue that the organisation as a whole is addressing at the moment. One of the things that we have in mind is, for instance, over a period of time, to give people time to do the course, that over a period of say three cycles of the children's law specialisation course, that we would make it a requirement to be on the panel to be a children's law specialist.

We do provide training for those practitioners in the same way as we provide ongoing training for our own staff and we certainly involve the private practitioners in the multidisciplinary training that we have in mind with the child practitioners, the child protection practitioners. But, of course, as I said before, it's not very easy for Victoria Legal Aid to have a policing function over independent lawyers who have their own firms. We can certainly do that to a certain extent and the code of conduct is one of the ways, one of the things that is designed to address that problem. One of the things that we're also considering is that when the panel opens again, which will be we think in the first half of next year, that panel members will have to sign the code of conduct in order to be reappointed to the panel, as well as either doing the specialisation course or undertaking to do it within a certain time.

MR SCALES: Have there been any private lawyers taken off the panel?

MS SMALL: Not that I'm aware of. There have at times been people suspended from the panel, not for behavioural issues as far as I am aware, but for funding, for lack of compliance with grants-type issues.

5 MR SCALES: But not for the quality of their legal advice?

MS SMALL: No, not for the quality of their legal advice or their legal - one of the problems is that it's difficult to get people to complain about anybody as well. It's not easy to get a practitioner to complain about a fellow practitioner.  
10 What we hear is vague stories about people yelling at each other in corridors. It's very difficult to deal with that on a complaints basis if it's not a specific complaint about a specific person at a specific time.

MR SCALES: But most organisations set up process to allow that to happen,  
15 don't they?

MS SMALL: And certainly in the legislation in the Legal Aid act there is provision for the removal of people from panels and we have certainly had occasion to write to practitioners to ask them to explain themselves but  
20 nobody, as far as I'm aware, has ever been removed from that panel for misconduct.

MR SCALES: Thank you.

25 PROF SCOTT: Mr Chairman, sorry to bring up one more question, and that's relating to the extended family members of children, particularly grandparents, in whose care a child may be. The plight that we've heard about grandparents being unable to access Legal Aid, often perhaps because they own their home but their income is actually very low, and both in relation to the Family Court  
30 and in relation to the Children's Court, what's your view on whether we have adequate legal representation of the people who actually in some instances have been caring for a child for many years?

MS SMALL: For many, many years.  
35

PROF SCOTT: And whose voice is often silent in these processes?

MS SMALL: One of the things that I will say is that until January this year, the equity that one was allowed to have in the family home before Legal Aid  
40 would cut out was only \$100,000. In January this year that was lifted to \$300,000, which allows a lot more of those people in, and there is a case I think for looking at our means test in terms of those people where children are at risk. Children at risk are the top priority. If you look at Victoria Legal Aid's strategic plan, children at risk are right up there at the top and I think there is a  
45 case for grandparents who might have, you know, a \$400,000 equity. I mean

the theory is, of course, that someone with an equity of that level can go to a bank and borrow against that equity, but if the grandparent is on a Social Security benefit, that's unlikely to happen.

5 We do have a system where of course we have an obligation under the act to preserve the Legal Aid fund and to administer that fund responsibly and one of the things that we do do on occasion is where people do have equity in a house, we will take an equitable charge over that so that if and when they ever sell that house or refinance it, they can pay back those moneys, but we don't ever force  
10 them to do that. We don't ever force the sale of the refinancing for them to do that and that just means that people who can down the track afford to pay back that money can, it's effectively an interest-free loan in that sense.

MS SAVVAS: And part of the problem where I imagine grandparents and  
15 other carers, extended family members, probably feel like they're not getting a voice in the court process, it goes one step further back, is that Legal Aid can only fund people if they are a party to the proceedings and very often they're not.

20 PROF SCOTT: Yes, I understand that, yes.

MS SAVVAS: But that said, we do give a lot of advice to grandparents who often ring up our advice service.

25 MS SMALL: And, of course, in the Family Court they almost always are. If they're the carer of the parent, they are the litigant so they do get funding, yes.

PROF SCOTT: Thank you.

30 MR CUMMINS: Let me just conclude by going back to the matter raised by Mr Scales of the sequencing of best interests and of rights. Ms Small, what do you say to these two propositions: first, that securing the best interests of the child inherently and necessarily includes securing their rights.

35 MS SMALL: Yes.

MR CUMMINS: And the second proposition is lawyers have specialty in identifying and articulating rights.

40 MS SMALL: I agree with both of those propositions, absolutely.

MR CUMMINS: Thank you so much, both of you, and we're most obliged to you. Ladies and gentlemen, it's 1 o'clock. We were going to take an hour's break for lunch but we're a little bit behind, so we'll stop at 1 o'clock, start at  
45 1.30, if that is suitable to people, and continue on at 1.30 with Ms Kaur from



the University of Queensland and then the Post Place Support Services after that. So we'll stop now at 1 and we'll commence at 1.30, ladies and gentlemen.

**ADJOURNED** [1.00 pm]

5

**RESUMED** [1.33 pm]

MR CUMMINS: Thank you very much, ladies and gentlemen. Once you've taken a moment to settle in we'd be very pleased to invite Ms Jatinder Kaur to come forward. Welcome. Ms Kaur, thank you very much for your written submission and for the material you have been kind enough to provide to us and you are most welcome to proceed in whatever is the most convenient form to you.

10  
15 MS KAUR: I'd like to thank the Inquiry Panel for allowing me the opportunity and time to make a verbal submission to this Inquiry.

MR CUMMINS: You're most welcome.

20 MS KAUR: I'd also like to acknowledge the support of Care With Me, a not-for-profit organisation here in Victoria who approached me to present my research to this Inquiry today. I'm here today to advocate on the needs of culturally and linguistically diverse children who come to the attention and involvement of the child protection system, so not just in Victoria, but across  
25 Australia.

MR CUMMINS: We've had the benefit of hearing Mohamed when we were in the regional cities, and that was most helpful.

30 MS KAUR: So I will talk a little bit about the submission that I have prepared for the Inquiry, which is in a written document, but also some of the dot points. So currently across Australia there are more than 35,000 children in out-of-home care and in Victoria there are more than 5,000 children in care or subject to a child protection order. However, the number of children and  
35 young people from culturally and linguistically diverse backgrounds coming to the attention of child protection authorities is unknown, so that's across Australia, not just in Victoria.

40 Now, this is not because culturally diverse families are not being reported to authorities, it is predominantly because departments do not record demographic information of CALD families, yet they are able to record the status of Aboriginal and Torres Strait Islander families. So across Australia there is limited research and information regarding the interface between child protection authorities and culturally diverse families, so it is unknown whether  
45 there is an underreporting or an overreporting of culturally diverse families to

the child protection system.

5 Now, Australia is a multicultural society with one in four Australians born overseas and with Victoria being one of the most culturally diverse states with 23.8 per cent residents being born overseas. So in my written submission I talk a little bit about the multicultural policy framework just to give you a bit of an idea because there are two policy frameworks: one is a child protection policy framework and one is the multicultural policy framework.

10 Victoria has been one of the leading states in comparison to all states and territories in that it actually introduced legislation in 2004 which brought in a multicultural commission and legislated some provisions around working with multicultural communities, so it was one of the leading states in comparison to some states.

15 The second part of what I'm wanting to talk about is why am I raising this issue around culturally and linguistically diverse communities. There are a number of vulnerable factors that impact on culturally diverse communities and there are a number of stresses that impact on those families and these include very  
20 diverse child-rearing practices. There are a lot of different barriers that they face: language barriers or low English proficiency, there is racism, discrimination, there is different traditional gender roles, fear of authorities in government services and a lot of culturally diverse families are not aware of the role of the child protection system as in their country of origin a child  
25 protection system does not exist, particularly for those families who are from non-western countries.

There is a lot of socioeconomic disadvantage: parenting conflict, limited family and social support, so in the written submission I've broken it down to  
30 cultural barriers, structural barriers or service-related barriers which relate to lack of awareness of government and social services, culturally inappropriate service delivery and some of the stress factors include migration, acculturative stress, a displaced sense of belonging and cultural identity, socioeconomic disadvantage, intergenerational conflict and limited family social supports.

35 There is further, adding on to culturally diverse families, newly arrived refugee families face a number of challenges as well. A lot of refugees who have come from war torn countries such as Sudan, Iraq, Afghanistan as part of the recent intake have experienced significant trauma and torture, witnessed war,  
40 persecution, imprisonment. They have very different cultural views of child-rearing practices, different culturally accepted views around domestic violence, there is lots of social isolation, limited awareness of a different system. I think one of the key vulnerabilities that exists for refugee families is that fear of authorities in comparison from their former experience on their  
45 country of origin, that they've lived in very oppressive regimes so they don't

know whether to trust the system because they don't know what the system is.

Those are some of the factors and I was going to talk a little bit about some of the examples just so that you have an understanding about what does it have to do with diverse child-rearing practices. One the examples I had is in some African cultures it is acceptable for the eldest child to take care of younger siblings, but yet if that was viewed within the western lens of assessment, that would be deemed as neglect or supervisory neglect and the parents would be brought in or notified to the Department. In some diverse cultures physical harm or physical abuse is an accepted disciplinary measure and yet in Australia that would be deemed as a criminal offence to physically discipline your child, so I'm just giving you some examples of diverse child-rearing practices, so this is a real challenge for culturally diverse families who are unaware of the Australian child protection system and then notified to the Department.

The challenge for CALD communities is their ability to navigate the child protection system and be able to identify their needs to policymakers for increased and improvement in service provision. However, the voice and needs of culturally diverse communities is often not heard by governments, as you will see throughout my written submission. So in recent years there have been a number of child protection inquiries and the reason why I brought that into comparison - I mean I've come down from Queensland to present here and I wanted to sort of highlight that in recent years this is the third child protection Inquiry that's occurring.

To give a bit of context, in Queensland the CMC, the Crime Misconduct Commission Inquiry was held in 2003-04 and received a significant number of submissions and public hearings. Despite the extensive scope of the CMC Report and the subsequent blueprint, there was no reference made to the needs of culturally diverse children and families, despite the numerous attempts by multicultural agencies to address this issue with policymakers at that time, so that's on the public record. In New South Wales in 2008 Justice Woods's report on the Special Commission of Inquiry into Child Protection highlighted that there was an omission of any submission to the Inquiry that directly attended to the needs of CALD families or culturally diverse families, so hence why I have travelled down here today.

MR CUMMINS: Very good, thank you.

MS KAUR: So basically my main, key objective here today is to raise this issue on the needs of child protection authorities to recognise the needs of culturally diverse children who become involved in the child protection system and are placed in out-of-home care. I also wanted to raise this issue and put it on the public record because I do believe that it is probably timely and important to now raise this within the public discourse.

So to give you a bit of background as to why I am coming here and presenting this is in 2006 I conducted a research project which looked at the assessment issues faced by child protection officers when working with culturally and linguistically diverse families in the Queensland system. At that time, I was employed as a frontline child protection officer in the Queensland Department of Child Safety and I was able to observe a high number of culturally diverse children coming into the attention of authorities and frontline staff struggling to deal with the complex cross-cultural issues. So at that time, when I explored the research available, there was no published research in Australia that explored that topic.

In conjunction with my supervisor at UQ, I designed and developed the cross-cultural child protection survey, which is a survey instrument tool that actually explores cultural competence within the child protection setting. As an exploratory study, it was a very small study, it was done across ten service centres in south-east Queensland, there were 66 participants that participated in the study. In the documents you've received I've attached two of the published articles so you've got that for your reference.

MR CUMMINS: Yes.

MS KAUR: As an exploratory study, the research identified key concerns in the provision of child protection practice, policy and service delivery when working with culturally and linguistically diverse families in the child protection system. The research highlighted the need for child protection officers to have the opportunity to attend CALD specific training and also a need for the development of cross-cultural competence training specific to child protection, so that was back in 2006 and we're in 2011 now. So over the past five years in various forms I've been advocating for the needs of culturally diverse communities with various states and territories, responsible child protection and that's been done through, you know, conferences, meetings and through publications.

In 2009, when the National Child Protection Framework was released and endorsed by all states and territories I felt obliged to write to Minister Macklin, who is a Federal Minister for FaHCSIA, highlighting that there was a key omission in the national framework in that it made no considerations for culturally and linguistically diverse communities in the national framework across all states and territories.

As part of that advocacy and a consequence of that advocacy FaHCSIA agreed to undertake a feasibility study by the National Child Protection (indistinct) on collecting data on CALD children in out-of-home care and also for the national research agenda to include a project to explore the underrepresentation or

underreporting of CALD children in the child protection system, and also as a consequence I was invited to become a member of the National Child Protection Framework CAARS taskforce to provide advice on developing cultural considerations for CALD communities who have come to the attention of child protection authorities. However, the National Child Protection Framework does not include any strategies to meet the needs of culturally diverse children and families even today, so that's something that I wanted to put on the public record.

As you will notice in the written submission, one of the key points I guess that I felt obliged to sort of - child protection inquiries do provide an opportunity for governments to examine current practices, policies and legislative provisions and influence child protection policy making. As I've mentioned, over the past five years, I've been trying to advocate and raise this issue in different forms.

One of the key responses I have received from government has been, "We don't have the data or evidence to argue for a specific strategy to meet the needs of CALD communities in the child protection system." So governments have found that because we don't have the data, we don't actually have to do anything. My argument is that that's not good enough and you need to be more proactive in collecting the data, you need to recognise this is a whole section of the community that you are not meeting their needs and you're not changing the practice.

Some of the preliminary research that has come out in 2008, the New South Wales Multicultural Services Unit estimated that 15 per cent of children in the child protection system spoke a second language, LOTE, so 15 per cent, and then from some of the evidence from my research was that half of the child protection workers came into contact with CALD families between once a week and once a month when they were conducting investigations and assessments, so that's still evidence to show that there is a significant proportion of culturally diverse families coming to the attention of child protection authorities to validate that governments need to do something to change their service provision.

My aim and objective as part of this policy proposal was to present this evidence to this Inquiry and also persuade this Inquiry to consider developing a multicultural child protection strategy so that this will then meet the needs of culturally diverse communities who come to the attention of child protection authorities. As part of this policy proposal I have made a number of recommendations, as you will see in appendix A.

What I did in developing this policy proposal was I actually examined all the current publicly available documents from the Department of Human Services

website, including legislation, policies and procedure guidelines and examined the provisions that were currently also within the Victorian multicultural legislation and policy framework. Some of the key areas that I'm wanting to I guess recommend that DHS do is to improve their data system and capture  
5 CALD status as a priority and to ensure that systems are developed to capture ethnicity, religion, language on notifications and children placed in out-of-home care; for DHS to work with refugee settlement and migrant services to develop culturally appropriate information and awareness programs for CALD communities, including migrants and refugees; to ensure that they  
10 are aware of the child protection laws and provided with the knowledge of Australian accepted parenting practices upon arrival, so there are a number of resources that are still available across the jurisdictions that Victoria could utilise; DHS to undertake an evaluation of current family services to assess whether they are culturally responsive to the needs of CALD communities  
15 based on the population demographics, so given the population demographics of Victoria, it's quite diverse. I'm sure there would be different pockets and different suburbs and locations where there are high migrant or refugee communities in those locations, so what I would want to look at or for the family support service is to actually explore are they reaching out to those  
20 vulnerable communities in that location.

When I did explore DHS's legislation, there were a number of provisions within the act that looked at ensuring that the cultural identity needs of children that came into the system were met, especially the best interests principle. My  
25 main concern was that it was unknown how those principles that are embedded in the legislation are being followed and adhered to by frontline child protection practitioners and whether they were familiar with those legislative provisions. When I looked at the Victorian Child Protection practice manual I could not find any procedure guidelines that existed, so one of the  
30 recommendations is that they need to develop some procedure guidelines for frontline staff in how would they engaged with culturally diverse families incorporating those legislative provisions.

One of the other areas was looking at my research, when I conducted that,  
35 looked at cultural competence and the consequent research that has come out from South Australia and then New South Wales has highlighted that one of the key areas that child protection authorities can do to ensure that culturally diverse families don't come into the system unnecessarily is to build in cultural competence training and having cultural competent practice for frontline  
40 workers. One of the recommendations that I put forward is that the Department to provide mandatory cultural competence training for frontline staff to ensure that they have those guidelines and have an understanding of that working with culturally diverse families.

45 Also, the second side of it is to do with the out-of-home care system. Currently

in Victoria there are more than 5,000 children in care. Those are the figures that I was able to find. We don't know how many of those 5,000 children in care are from a culturally diverse background. Then, for those children that are from a CALD background, how many are placed with kinship placement, culturally matched placement, or in a generalist placement? How are those needs, cultural needs, being met while that child is placed in out-of-home care? So those are some of the strategies, I guess, in keeping in line with the terms of reference and the guidelines that we put forward. This is what I've sort of come up with at the moment. Luckily for me, having been a member of the national framework, I was also able to get some of the interstate initiatives and I've included that in appendix B.

MR CUMMINS: We've seen that.

MS KAUR: Yes, so from my perspective I do believe that New South Wales is leading the way in actually building a very cultural responsive system in different waves and forms. I did receive Victoria's information, but that was on Friday last week so I wasn't able to actually analyse that information with what I have proposed. That's it.

MR CUMMINS: That's most helpful. You've rightly identified data as an essential step to proceed and it's actually been most valuable that you've come forward because the matters you have identified are very important. Prof Scott, any questions?

PROF SCOTT: Thank you. Yes, I'm very interested in this and was involved with the South Australian study. I'm interested in broadening it beyond statutory child protection services and whether you have thoughts about the wider service system for children, including vulnerable children across early childhood education and care services, early internal child health services, practice in obstetric hospitals, primary schools, preschools, thinking very broadly about the needs of children and families in the community. Would you extend some of your comments about the child protection systems to other parts of the service system, which is of interest to this Inquiry?

MS KAUR: Yes, it's interesting that you ask that. I guess for me one of the areas that I'm looking at in my PhD proposal is to look at the help-seeking behaviours of CALD communities and how did they navigate the system of human services. Certainly with my work with (indistinct) on the national framework and on the early childhood development strategies, part of my I guess role has been to advocate for the needs of CALD communities. So what I found with the early childhood development strategy was that a lot of the literature, a lot of the research, a lot of the evidence really did not capture the vulnerabilities that existed for CALD communities, and especially if you look at the Australian Early Development index and some of the outcomes and the

published report, I had a look at what was published in March this year, there is a significant vulnerability that exists for CALD communities in actually reaching the numeracy, literacy levels and some of the developmental milestones.

5

I think what I have found is that because they are different Departments, they are different Ministers. In government - and I am a former public servant so I do know a little bit about government - and the policies is that there is a huge disconnect and I've noticed that particularly within the Commonwealth and also at state levels, that you will find some best practice happening say in health. I can give an example of some work that I've done with Queensland Health in developing multicultural capability framework, so this is looking at how can clinicians develop that cultural competency and having some of that awareness about what sort of questions to ask, you know, about stigma or (indistinct) health context or even implement to health and so practice guidelines are being developed.

That's great, but that's only for Queensland Health. That won't extend to education, so some of my experience with education, I found that teachers - some teachers, not all - have a real reluctance to sort of put in that extra effort to actually understand some of the vulnerabilities that might exist for non-English-speaking or culturally diverse children who are really struggling to reach their developmental milestones and their numeracy and literacy levels, so it's about that disconnect. I think over the past five years it hasn't really come together yet and that's why I guess I felt it quite important to sit here and actually talk about it because no-one is talking about it. Sorry, I don't know if that answered the question.

PROF SCOTT: It helped, thank you.

30

MR CUMMINS: Mr Scales?

MR SCALES: No, I'm fine, thanks.

MR CUMMINS: It's been most significant you've come today. As you've said, you referred to the Queensland and the New South Wales Inquiries and what was not presented there, so that is a very significant step forward so we congratulate you for that, we thank you and we wish you and Mohamed well.

MS KAUR: Thank you.

MR CUMMINS: Next, ladies and gentlemen, the Post Placement Support Service: Mr Andrew Minge, Mr B, Mr S and Mrs S. Would you like to come forward, settle yourselves in in the most convenient way that you'd like and take a moment just to settle yourselves in. We're very pleased that you're all

45



here. We've had the benefit of examining and, indeed, studying your substantial written submission, for which we give you our thanks and we'd be very pleased to proceed upon whatever basis best suits all of you.

5 MR MINGE: Thank you. I'm Andrew, Post Placement Support, and I'll commence by means of introduction with an additional verbal submission and then introduce ■, ■ and ■ to you for their submission as well. I also have a brief contribution from the Mirabel Foundation who approached me and wanted to use this opportunity to put their views forward as well, so I just flag  
10 that with you.

Research and practice forms informs us that children who come into the care of a friend or relative are vulnerable, largely due to the disruption experienced and trauma associated with being disconnected from their birth parents.  
15 Irrespective of statutory or non-statutory legal status, vulnerable children placed in the care of strangers or family members require additional and specialised Post Placement Support. This is in part recognised by the establishment of existing services such as Child First and Family Services that aim to prevent children and families from entering the statutory system and  
20 also the fact that the caregiver payments that are made to carers of children with statutory orders only until the age of 18 or completing their secondary schooling. This financial backing provided for carers by the government in the form of caregiver payments demonstrates that the state ultimately recognises the need to provide some form of support for carers, including kinship carers.  
25 However, this mechanism alone inadequately provides the support that is required and instead serves as a foundation only from which to build additional specialised support to meet the needs of Victoria's vulnerable children.

I put forward to you that regardless of the child's legal status or placement type,  
30 the support needs of each child are similar. Outside of statutory placements which attract caregiver payments, the ever increasing number of informal arrangements made with extended family members, including grandparents, received minimal or no support. Home-based care standards of care, for example, are often imposed upon kinship carers and these standards that were  
35 developed to support stranger placements largely are not applicable to the family type of care that is provided within kinship arrangements.

Kinship placements, of which approximately 60 per cent are with grandparents, present with a unique sets of needs such as respite; becoming full-time carers  
40 again; concerns about further pregnancies; grandparents' relationships with their adult children; contact between children and birth parents and grandparents; finances, which remains an issue even when there is plenty of money available; relationships with government agencies, grandparents report feeling judged by what the children have done; other families miss out; and  
45 peer support, which is reported as being very welcome.

5 Post Placement Support proposes that the introduction of case management services equipped to offer intensive or episodic support as required to non-statutory kinship carers and carers of all types, once formal services have withdrawn post-legalisation would serve to mitigate against some of the above support needs identified above and prevent costly placement break down and re-entry of children into the child protection system. Longitudinal research undertaken in Victoria indicates that to be valued by carers and adoptive parents, such services need to be delivered in a way that is independent of placement agencies, available without having to fight for it, knowledgeable about the challenges of parenting troubled children, reliable and thorough, skilled, empathic and non-blaming and provided in the context of partnership.

15 If short and/or long-term case management were available to families with perm care or kinship placements through the provision of counselling and alternative intervention strategies that support families experiencing problems directly related to the child's experience of abuse, neglect and/or separation then the Post Placement Support system will inevitably be strengthened and sustained. Caregiver families and birth families will also feel supported as the level of need will be matched by the level of service provided dependent on the vulnerability of the placement and/or child. The connection, therefore, between stability of care and outcomes for children is undeniable. Therefore, we believe there is compelling reason for the provision of ongoing post-placement services for carers. These services should provide responsive, effective and accessible support to assist carers to continue to nurture the children in their care and then to be available for all children in home-based care until the age of 18. To do otherwise is a considerable cost to the child, the family and the community.

30 I'll just refer to the Mirabel submission at this point in time. The Mirabel Foundation is a children's charity established in 1998 to support children who have been orphaned or abandoned due to their parents' illicit drug use and are consequently in the care of their relatives. The complexity of kinship care arrangements is far greater than that of foster care and as the Department's focus is on keeping children within their families, it would seem reasonable that several changes be incorporated to improve the long-term outcomes for the children and their carers. In addition, as the Department has a long-term financial investment through the caregiver reimbursement, it would seem reasonable that ongoing levels of support be made available to kinship carers to ensure that the arrangements remain stable.

45 Major aspects regarding the children are due to level of trauma experienced by the children whilst in their parents care, this has a detrimental effect on their ability to live happily and emotionally healthy lives. Therefore, immediate and ongoing therapy is required to assist these children to develop the emotional

health to assist them throughout their lives. Due to the unstable conditions experienced by children whilst in their care, parents' care, the children often have critical medical and dental needs that require professional intervention. Inconsistent education has also been the norm in children's lives so there will  
5 be a need to provide an immediate form of tutoring for varying periods to assist the children to achieve their potential. Again, this may be required long-term over the life span.

10 During discussions held with many kinship carers who contact the Mirabel Foundation, several key areas arise when they are faced with the prospect of long-term orders for the Children's Court. Some of these are the age and health status of the carers, the majority of whom are grandparents, taking on the current form of perm care order; the prospect of no ongoing support by the Department with the exception of financial support, as I highlighted earlier, is  
15 of great concern to the carers, particularly regarding the contact arrangements with parents and the access to services in the future. Many carers are single, female and over 60. Caring for the children is a huge task in itself, but added to this is the expectation of supervising contact between children and the parents. Many parents have a history of violence and criminal activity, so the  
20 added stress to the carers to be involved in supervising access can be overwhelming. With the current perm care order, if the carer, who are often grandparents, nominated on the PCO dies, then the guardianship returns to the parents. It would appear that the Department would only become involved if they receive a report concerning the children.

25 Some suggestions for change include having a look at the court orders. Currently, there seems to be the options of perm care orders or long-term guardianship orders for children under 12. It is suggested that consideration be made to create another type of long-term order, specifically for kinship care  
30 arrangements. It could be a version of the long-term guardianship order, but available for all ages, with return to court say every five years to update or change. Contact centres is an ongoing issue. The provision of these centres needs to be expanded and available to kinship carers. Not all families will need these, but in circumstances where the parents have a history of violence  
35 and the carers are required to supervise those visits then safer child family venues will need to be provided.

40 The kinship program needs to be expanded to include another team to support the families with this new court order. Casework by this team would be less intense than the current program and would offer an access point for the families if they need assistance. This ongoing contact with the families would also alert kinship program workers to any changes in the care arrangements, such as ill health or sudden death of the carer, and then the guardianship of the children could be acted on immediately.

45

With the age factors of the carers, it is important to include in the order a form of contingency plan nominating a secondary carer, possibly another relative or family friend, who would take on the care of the children if and when required. At this point, and in particular in response to feedback from the Inquiry around presenting the voice of the carers, if I could just - - -

MR CUMMINS: Just pausing there, that concludes the Mirabel submission?

MR MINGE: That concludes Mirabel.

MR CUMMINS: So for the purposes of the transcript, Andrew has presented the Mirabel written submission verbally before us, so press ahead, thanks Andrew.

MR MINGE: Thank you. So at this point, and in response to feedback, we have heard from the Public Sitings to date is that it would be in the Inquiry's interest to hear the voice of the carers, so we've been instrumental in assisting [REDACTED] and [REDACTED] and [REDACTED] to speak to you today.

MR CUMMINS: Excellent.

MR MINGE: So we've coordinated and supported their submissions with these friends of mine who are associated with the organisation. However, PPS also wishes to acknowledge that the views expressed by these carers are independent views and not necessarily the views of Post Placement Support.

MR CUMMINS: We understand that. Well, Mr S, Mrs S or Mr B would you like to speak independently at the moment?

MR S: We will speak independently because we've got permanent care and also we've got kinship care.

MR CUMMINS: Excellent, Mr B or Mr S, we'll be very pleased to hear you.

MR S: Firstly, you've got our submission. What we will do is go through the point forms to sort of speed the process up and we can answer any questions accordingly.

MR CUMMINS: Sure. It brings focus to it. Thank you, that's good, Mr S.

MR S: Firstly, we're kinship carers and we're under a custody order of the secretary and our points in here are based on a lot of communication with other kinship carers. Firstly, the early intervention is a real concern for all parties because of the fact that the long time that it continues on to leave the child in a dangerous situation is not in their best interests because what happens is that it

prolongs and there is also a lot of people feeding into the system like doctors, teachers saying this child is at risk, even relatives, and that needs to be flagged and acted upon to try and reduce the stress and the trauma on a child. The safety of the child and wellbeing is of the most paramount importance - - -

5

MR CUMMINS: Sure.

MR S: - - - and if we get this right we can save a lot of costs and a lot of trauma for both the carer and the child. If we get this right, we can move on.

10 The damage to the child by prolonged exposure is a real concern because you see the damage by this exposure is really a problem that we all see. What it does, it impacts on their psychological trauma and health and education because they are so traumatised and they're unable to make relationships and this is very important. The trauma, it takes a lot of work on the carer to try and  
15 overcome that problem and they need a lot of help and support in that area.

The health, Andrew spoke about teeth and there is a lot of other issues that come into it. Education is a very important thing. Because they've been exposed to so much trauma, they have difficulty in learning and they need a lot  
20 of support to overcome that. They also become very - they roll back into the victim's role when someone challenges them and that's a real concern.

The removal of the vulnerable child is a real important issue as far as we're concerned. We're kinship carers - when I say "we", we're talking kinship  
25 carers. The delay in removing the child from adverse conditions, the problem is the longer it goes on, the harder it is to repair the damage that's been done. My wife here is qualified in early childhood development and I've learnt, since retiring, a lot about child raising. The thing is that the critical years are the early years. If you get it right there, they can move on and become responsible  
30 citizens and that's what we're trying to achieve.

As far as removing them, you need an assessment. I believe we need an assessment to assess what the damage is to the child, what we need to put in  
35 place for them, like psychological counselling support; medical treatment as needed; education needs and support; transition from home to a new home; the future provision, what lies ahead; psychological assessment of the parents to determine what exposure the parent should have because some of them are on drugs, they're mentally unstable and the carer has to cope with that, so that needs to be clearly defined, what level of access they should be.

40

Placement - the carer needs to know what the time frame of caring for the child will be. This is a real grey area. Too often the confusing reigns in the length of time that it takes to make the decision, it could be three months, it could be six months and then this creates a lot of uncertainty within the child and also  
45 the carer. One of the things that we need to be mindful of is that in doing this

we need to understand that getting the child into a stable environment and a caring environment is the most important thing to do because then they can grow, but if it's a confusing environment then they become uncertain and they don't know what to expect.

5

In the best interests of child, a long-term custody order we believe is the way to go. It means that they're not going backwards and forwards to court, they're able to be a lot more stable, not under pressure and these are the really important things as far as we're concerned. Allowing for both a stable  
10 environment for both the child and the carers are the most important thing if the child is to be protected and to be able to grow.

MRS S: May I have a turn?

15 MR CUMMINS: Certainly, Mrs S.

MRS S: The court process we've found in our situation has been most disturbing, both for the child and for ourselves. There is a lot of confusion, you don't quite know what to expect and the child is also uncertain because we're  
20 uncertain and the child is put under a lot of pressure, there is a lot of questioning and asking and this needs to be avoided. There needs to be some process where people can sit down quietly together, but the child doesn't feel the weight of responsibility of making the decision is on their shoulders alone. I think it's really important that we share that and the child feels safe, do you  
25 know what I mean? It's terribly, terribly important.

As far as being a kinship carer goes, one of the major problems for grandparents is our age. We are old. The energy levels aren't as high. We get very tired and in many cases people's health isn't really very good at all, so  
30 that's an issue that needs to be addressed I think. The way the system is set up at the moment, in our case we are statutory kinship carers, which means we do get financial payment from the Department [REDACTED], but there are many, many grandmothers particularly out there on their own trying to cope with two, three, four grandchildren without that financial support  
35 and this is an issue that desperately needs addressing. It's something that's very, very important.

The other need kinship carers have is for some form of respite because we get so very tired. We do need to get a break where we can. In our case, we get a break  
40 once a year for two weeks [REDACTED], but that really isn't enough. There must be some way maybe that a system could be set up where the children could have contact with another family that they got to know and felt comfortable with and then that could be the family that they could go to for them to have a break from us and for us to have a  
45 break [REDACTED] We love them dearly, but you really

do get very, very tired.

5 The other issue for kinship carers is updating our parenting. It is 40 years since we were in this position. It's a bit different. It's a different world. There is all this wonderful new high technology to come to terms with. We need teaching to re-parent. We don't really want to be told we need to be retrained, but maybe we can be guided into 21st century parenting or update, refreshing your parenting, that style of thing. We also in our case need to learn more about traumatised children, how to handle them, how to understand them, what is realistic and this is a very real need [REDACTED] We also need regular counselling and guidance to keep our heads together and make the whole thing work.

15 As far as the children go, I think it's really important that there is a close liaison between ourselves and the school, there is access to a welfare officer at the school, there is access to a child psychologist, there is access to a speech pathologist, or whatever may be needed. In our particular case, [REDACTED] [REDACTED] needs maths tutoring. We have been able to organise that, so an awareness that kinship carers need to fulfil all these roles to give [REDACTED] [REDACTED] the very best opportunity we can.

25 The other major problem that we face are access with the child's parents. This is a difficulty. There are emotional issues when they're part of your own family. There is also the issue that if one of the parent has major mental issues, these need to be managed appropriately and that's where we've found not taking permanent care, but keeping [REDACTED] under a custody order, we do have the buffer of the Department behind us or between ourselves and the parents to make the whole arrangement as peaceful and right [REDACTED] [REDACTED] as possible.

30 In the future, what is going to happen? What provision can there be [REDACTED] [REDACTED] as they grow up and they need further education? What sort of support will be there to help us, to help them achieve that? The other issue too is it seems that today there are more and more children needing care and more and more kinship carers needing to step up to the mark. This is always going to be the case. Are grandparents always going to be willing to step up to the mark? It's a very hard thing to do. If they don't step up to the mark, what's going to happen to these children? Are we going to have to put them in an institution? This is a very real issue.

40 MR S: I'll just say something. The other issue too is in taking up the role of carer of [REDACTED], you become isolated from the rest of your family and it's what's called sibling jealousy because you're not taking enough notice of [REDACTED] other [REDACTED]. The other point is too that you've got to discriminate between the parent of the one child and [REDACTED] the

other children and that's very complex when they all come together, you're trying to keep it on a level playing field and it becomes extremely difficult.

5 The thing that we've found is that the lack of support has been a real issue as far as we're concerned. It's just by pure tenacity and keep pushing ahead to get the best result [REDACTED] that we've ultimately been able to find some good people that have been able to help us, but on the whole there is a need for professionals to be able to be referred to for help, and that's really important in the early intervention, to have that matrix in place so that you can  
10 have that plan of attack for the best interests of that child and if you can get that, then you can move on.

The important thing is too the time it takes to move out before removal from the parents, it's too long because it could be three, four years before it happens  
15 and in that time so much damage has been done and here we are, we're trying to repair the damage and it becomes very difficult. The other thing too is the teachers need to be trained in handling traumatised children too because that's very important. Sometimes they can be put to the side and not given the due attention that they require. We've been very careful in monitoring the process,  
20 but there are a lot of kinship carers, like single grandparents, that really struggle. They're struggling to keep the day-to-day wheels turning to look after the child. It's such a complex issue. We could spend all day talking about the pros and cons but what we want to try and do is get the whole thing nailed down as closely as possible to give you a broad understanding of what we're  
25 trying to achieve.

MR CUMMINS: Mr S, that has been most comprehensive, both you and Mrs S, so thank you very much.

30 MRS S: Thank you very much.

MR CUMMINS: Mr B?

35 MR B: My name is [REDACTED]. I've listened with interest to all the guys who have been talking before us and I guess most of the presentations have been about preventing children getting into the situation that they find themselves in with us, but we're sort of the other side of the coin I guess when, for whatever reason, the decision has been made that the kids can't live with their birth family, this is sort of the other way of those kids having a life, I guess, in some  
40 sense.

45 My name is [REDACTED]. I'm father to three children [REDACTED]. One of these kids is our biological son. The other two joined the family via the permanent care system. [REDACTED]



[REDACTED] I've been a full-time stay home day for the first two years of placement with both of our permanent care kids and now I'm working part-time and home the rest of the week.

5 As well as learning a heck of a lot about the normal tasks of caring for kids and keeping a household ticking over, et cetera, I've learnt a great deal about attachment theory and practice and how vital this is for a healthy family. This has been especially helpful when dealing with our daughter's difficult behaviours stemming from her traumatic early start in life, as well as our son's behaviours, which have come out in different ways, but nevertheless are still there. I think like a lot of people have mentioned, any child who is brought up in a family that is not their birth family is going to have attachment issues of some sort.

15 I've put in a written submission so I won't repeat everything in that submission, but I believe the central problem for permanent care parents is that while we are given and expected to fulfil all the normal tasks of parenting, we are not made fully legal parents and we're not given the legal recognition that we are, in fact, the actual parents of the permanent care children, even if we're not the biological parents.

I believe our families would be far better served by replacing permanent care orders with adoption orders, if needs be issued without the consent of birth parents. I understand that that might not be a popular view in some quarters and that there is a distinction between the two types of order in that with an adoption the child has been relinquished, but with a permanent care order the child has been removed. However, I think we are kidding ourselves if we think that a permanent care order is better for the children than an adoption order because of this distinction. I would ask how does it benefit the child to be under a permanent care order rather than an adoption order? Given that access in one shape or form takes place in local adoption now anyway, what does permanent care have that adoption doesn't have, from a child's point of view? How is a permanent order better for birth parents than an adoption order? Those are just questions that I put out there.

35 We usually tell people that our kids are adopted rather than under a permanent care order. One of the first things people say when you try and explain permanent care to them is, "Oh, so that they go back to their parents then." This doesn't promote a sense of security for us as parents, nor for our children if they overhear any of these conversations, obviously. I would ask what the point of making people guardians to the exclusion of all others, which is what we become when we have a permanent care order, why would we make people guardians to the exclusion of all others while still having a proviso that a permanent care order could be revoked?

45

I just want to talk a bit about access, which I've described as not access, but contact. I strongly believe that access is a really beneficial experience for permanent care kids and we've been through the process with both of our children. However, I do think we need to be clear that we're doing it for the best interests of the child and not for the best interests of the birth parent, which might sound harsh, but that's my opinion.

To most people if you mention the word "access" in the context of children, they envisage a situation where a couple has split up and one of the parents is having access time to spend with the children, who are not living with them. The concept of access here is clearly of mutual benefit to parent and child and the non-custodial parent has a right to see their children. The non-custodial parent in that situation would also expect to have a continuing interest in and influence on their children's day-to-day life and input into all long-term decisions, for example, about health, schooling, et cetera.

However, in permanent care the birth parents by law don't have these parental responsibilities any more as they do not have custody and guardianship of the children, so I think it's a different type of access. I also see a clear distinction between access for a child in the foster care system, who one day will return to the birth family in some shape or form, and access for a child who the court has decided will never return to that birth family. For me, access in permanent care is about the child having an understanding of where they've come from on a biological and cultural level.

When we talk to our kids about access, we talk about visiting "tummy mummy" and our kids know that they came from their birth mother's tummy. Just last week at swimming with my son the teacher told me after the lesson that she had asked him to point me out so that she could give me his swimming certificate, and I was on the other side of the swimming pool at the time. When he pointed me out to her she said, "Oh, he looks like you, doesn't he," and he said, "No, I'm adopted. I haven't met my other dad." And he didn't say that in a nasty way at all, he was just very matter of fact, he knows exactly physically where he comes from, but his emotional attachment to parents is to us because we are his mum and dad.

In relation to the frequency of access, I would ask the question who decides this and on what basis? Who decides what is best for the child? Isn't that clearly a role for the legal guardian, ie, the permanent care parents in our case. Is once a week okay? Is once a year okay? As I say, our children know that they physically came from their birth mum's tummy. Do they need to see that person every month to keep this knowledge fresh? I don't think they do. Monthly access visits I would argue are far more for the benefit of the birth parents than the child. I think it would be very helpful to rename contact with birth families as just that - contact, not access - which implies parental rights.

It might also assist with other departments, for example, the Passports Office, who we had quite a procedure with to get a passport for [REDACTED] son. One of the reasons is they see the word "access" and they presume that the parent has some responsibility and so I think renaming it a different name than  
5 "access" would clear that up somewhat and I think the nature of contact should be decided by the mutual consent between the birth parents and permanent care parents rather than be prescribed by the court.

We have a problem with our access - just as an aside - we have a problem with  
10 our access at the moment because our phone number for [REDACTED]'s birth mother is not working and we have no way of finding out where she is. The only people who probably would know would be Centrelink, but obviously if we ring Centrelink up they're not going to tell us anything, so that is a bit of an issue, as to once you've got a permanent care order how you go about finding  
15 somebody when they're lost. Ordinarily you could go to the electoral roll and find someone's address, but quite often permanent care birth parents I guess aren't necessarily going to be on that roll.

I just wanted to talk a little bit about Post Placement Support. I understand that  
20 for permanent care placements there is a placement breakdown of approximately one in five placements, which I'm sort of a bit surprised about, but apparently that's the statistics. I would think that one way of keeping placements going would be to provide the right level and type of service at the right time and at an affordable price for the permanent care parents. Our  
25 experience has been that the agency spends a great deal of time and effort in recruiting prospective permanent care parents, but less time and effort once the children have been placed in the family. We have had the most timely response from the agency and from DHS when we have indicated that we are near to a crisis in the placement. Of course the agency should respond in this  
30 instance; however, we felt that other requests for assistance or guidance have been less well supported and not seemed like a priority to the agency. Also, the fact that many decisions must anyway go through DHS adds a further delaying factor.

35 For example, [REDACTED] is starting school next year and we requested a case meeting to discuss school needs and IQ assessments and speech therapy support and this sort of stuff. This has to go through our agency, who then go to DHS. So first we wait for our agency to respond to us and then they have to wait for DHS to respond to them and it's all a bit of a roundabout way. It  
40 would seem to be easier to either give the agency the authority to make those decisions, or for us to deal direct with DHS. Sort of related to this is a need for specialised training for some of the social workers in the placement agencies.

45 When we were seeking a child psychologist to help us with [REDACTED]'s challenging behaviours, we were hoping our agency might have expertise and

could point us in the right direction. However, they had no more idea than us, so we ended up sourcing our own psychologist through the website of the Australian Psychological Society and I have to say she's been really, really good and quite a crucial part of our placement actually because she enabled us to off-load a lot of stuff that we had going on in our heads and develop some really, really effective strategies for how we could work [REDACTED] and understand why [REDACTED], rather than seeing them as simply problem behaviours.

10 Another thing, when we were training to become permanent care parents, one of the things the social workers consistently told us was that we could not change the child's name under a permanent care order. But through our own efforts, by reading the various acts and other things, we discovered this was not true [REDACTED]

15 [REDACTED] and names are, of course, a very powerful way of expressing belonging in a family and children want and need this sense of belonging, so better training for social workers employed by these agencies would assist other care parents I think with similar concerns.

20 Peer support. I'm just talking about peer support here with other permanent care parents. I think that given the chance, that permanent care parents can be a valuable source of support and advice to each other. The problem for us as permanent care parents is that we don't know who the other parents are. There may well be other permanent care parents in our street, suburb or region, but we haven't got the information about who they are and they obviously are not very visible. The only dedicated body that includes permanent care parents are the Post Placement Support Service, so thanks Andrew and you guys, who have been fantastic for us personally. An obvious solution to this lack of support would be for the placement agencies to initiate post-placement peer support groups in some shape or form. The agencies have all the contact details, the age of the children, place, where they live, et cetera. It would be reasonably straightforward for them to routinely sort of seed this process by putting permanent care parents in touch with one another by, for example, setting up playgroups for permanent care parents with preschool children, in a similar way to the way mothers' groups are started for first time parents.

The adoption and permanent care team of the eastern region DHS have produced a really good newsletter with all sorts of thoughtful input that I found really helpful and that's the sort of forum that could be used to promote peer support groups. I think the language of permanent care should change. We don't call ourselves carers and our kids don't call us carers, obviously, and that's mainly because we're not providing out-of-home care because our kids aren't living out of home, they're living at home, which is sort of an obvious thing to say but nevertheless technically we're providing out-of-home care. But if you ask our kids where they live, they're not going to tell you that they're

living out of home obviously and we're not doing it on a short-term basis, but for the life of our children, so I think we should be called parents, permanent care parents if you like, but not carers. Perhaps renaming a permanent care order as something like a permanent parent responsibility order would make more sense as a description of what the permanent care law actually does, which is create parents for the children.

Does permanent really mean permanent though? Given that the permanent care order expires at the age of 18, what is the legal nature of our relationship with our children after that date? Obviously we're still mum and dad, but as far as I can see there is no legal recognition of this, nor is there any automatic protection for our children in terms of inheritance rights, for example. What would happen if, heaven forbid, me and my partner both passed away before the kids got to 18? We've named a relative as a guardian for all three children in our will, but I've recently been told that no guardianship reverts to the state or the parents, I'm not sure which - perhaps you can tell me - and could this be overwritten by a legal will?

Finally, just about carer payments. I've said why would anyone want to turn down free money from the government? Well, it's a good question, I suppose. If we were to enjoy the same legal standing as biological and adoptive parents, we would not expect any recompense from the government other than the usual financial supports available to any other parent. DHS would then have a case for ceasing carer payments, I would imagine, at least in their current form.

Just to recap, I believe that we need to either put permanent care orders on the same legal footing as adoption orders, or simply make adoption orders without consent of birth parents if necessary instead. I believe that this way the best interests of our children can be met.

MR CUMMINS: Mr B, thank you very much for that. That's, as with Mr S and Mrs S, that's been most comprehensive and you've obviously carefully thought it through and put down your thoughts and you expressed them very clearly. Prof Scott, any questions you'd like to ask?

PROF SCOTT: No, I just wanted to thank you again and to say that what you've said to us has echoed what others have said to us and we thank you for that.

MR SCALES: To you, Andrew, has you or your organisation thought about whether the existing structure that Mr B referred to in fact where most of the relationships with permanent care and this particular or even kinship care goes to an agency and whether there ought to be a different structure for the way we think about the allocation of kinship care, permanent care and that form of care? I mean clearly the point that Mr B made earlier was an interesting one, I

thought, that this is really not in a sense out-of-home care, yet it seems to me that when I look at the empirical evidence, most of the allocation of kinship care to some extent - not so much kinship care, but certainly permanent care - goes through an agency, good agencies in many cases, no doubt about that, but is there a question about whether that's the right structure for the future?

MR MINGE: I think that structure can be built on. I can't answer your question definitely about the right stuff.

MR SCALES: Do you want to think about that?

MR MINGE: Yeah.

MR SCALES: I mean if it's not worth thinking about, don't even bother about replying, but if you believe that there is an issue here about the way we think about structures, whether what we've done quite logically and sensibly is make the existing agencies, those fine agencies, pick up a particular role that may or may not be in contemporary Australia now suitable for them is a question I suppose I'm asking.

MR MINGE: Yes, and I'll just respond quickly on that. I mean to use the word structure, and I pick up this metaphor in my mind very loudly and clearly and I see and I'm referred, and we all did around the caregiver payments, I see that as the bluestone foundation for ongoing lifelong support. I think the adoption of perm care agencies are part of that initial foundation laying whereby all the orders are made and the allocation of the children to the assessed perm carers and kinship carers, so I think the foundations are there. Like ■ introduced the other side of the coin, is the long-term over the life span through all the milestones. Like who's going to be there for the children to teach their driving lessons, and who's going to walk down the aisle and all those sorts of things which the child protection system with its finite and small resources is unable to consider and I think that to keep that metaphor of a structure in place, I like to think of it as the foundations are there and we argue a case very strongly that given the resources and the tools and the equipment that we can build the lifelong supports that are required for some of these children, so not to throw out the structures that are there, but to enhance, build and develop further.

MR B: Can I just add about the stuff like walking down the aisle and stuff, that if you do have an adoption order then you get a birth certificate with your name on there, which is not to pretend that you become the biological parent obviously, but it does make you the legal parent and that is a lifelong situation. With permanent care at the moment, once you get to 18 it seems like there isn't any legal connection between you and the child.

45

MR S: That's an important point that we make in our submission, 18 years of age, that's the cutoff point under the custody order and the concerns that we have is the long-term planning because some of them may want to go into university and you need to have a plan mapped out for them and help them to walk along that path to future education and that's a concern we have.

The other point that we're concerned about is that if something happens to us, we're in our 70s, and who would look after the child? That really worries us because the only one that we would place would be our eldest daughter [REDACTED] That's a concern because there's a big question mark against that. Another question mark is too that in signing forms, we do all the decision-making, we make all the decisions for her education, health and all that. It's who signs the forms? Is it the guardian? Is it the Department? We're living with the child 24/7. We know what's best [REDACTED] We do communicate with the practitioners, but that's an area of grave concern, who signs the forms and I think that's something that we carers, or kinship carers, permanent carers should be able to have that right to sign because you're not signing away their life, you're looking after their future and I think that's very important.

MR SCALES: Can I ask one other question of Andrew. Do you know if anyone has done any work to determine the extent to which the changing demographics in Victoria, in particular, is likely to change the nature of kinship care? For example, is it likely that kinship care over the next decade or beyond is likely to fall to siblings rather than grandparents? Do you know if any work has been done on that?

MR MINGE: No, I don't know, but I can assume that it hasn't because it's a highly under-researched area with kinship care, given the escalation in its growth recently and I guess we're just surmising to think that it would fall into the sibling area as a form of care, so I can't answer that.

MR CUMMINS: Thank you so much for coming forward. That's been most helpful. We'll take a 10-minute break after the next presentation, but I'm pleased to invite In Good Faith and Associates forward Ms Helen Last, Ms Pam Krstic and Ms V. Gaimon. Please take a seat and all settle down. Thank you for being here. We've had the benefit of receiving your written submission and we're very pleased to take it in the order that you'd like to take, you do that amongst yourselves.

MS GAIMON: My name is Valerie Gaimon and I'm speaking on behalf of Pam Krstic, who has written this but has lost her voice.

MR CUMMINS: Yes, Valerie.

MS GAIMON: This is based on personal experience as a parent, a former Catholic teacher and a parishioner in Healesville, a community that has been seriously affected by two convicted sexual offender Catholic priests. The crimes are not from the distant past. The first priest was gaoled 11 years ago for offences six years prior and the most recent offences were in 2006 by a priest ordained only four years before then.

Pam also speaks as a leader of the Melbourne Victims Collective, a solidarity of survivors seeking to achieve structural and systemic change to the Melbourne church response to clergy sexual abuse. The Melbourne Victims' Collective is a pro bono project of In Good Faith and Associates, an advocacy service for clergy victims, for which Pam has worked and volunteered for over three years. As a collective, we support the dignity of victims to be heard, believed and to collaborate for change following the principles of restorative justice and victims' rights.

Pam worked for 23 years as a teacher in Catholic schools in Victoria and as a teacher she knows that examining mistakes is important for learning to avoid mistakes in the future. We are here because we know that all children are precious and are dependent on us to keep them safe. She is here to speak on behalf of many children who are abused and never brought to the attention of human services and go on to have severe difficulties as a result of their experiences. Difficulties including a lack of drive to succeed, obsessive compulsive behaviours, anger, depression, risk-taking behaviours, eating disorders, substance abuse, homelessness, difficulties establishing and maintaining relationships, difficulties parenting, suicidality and sometimes even becoming perpetrators themselves. The dismal fact is that we as a community are failing to care for and protect our children, the most fundamental social responsibility.

As a professional teacher in the Catholic school system, Pam witnessed the first priest's grooming of patterns in her classroom and did not know to recognise them as such. She did recognise these patterns in the second priest's behaviours and found it impossible to convince others to respond to her concerns. She was accused of overreacting and sent away on holiday to collect herself. In both cases it wasn't until a victim came forward that anything was officially done. We believe that church response is shockingly deficient in preventing and minimising trauma for victims, their families and communities at a great cost to us all.

As a result of her experiences, Pam has spent a lot of time researching programs for the safeguarding of children from child sexual abuse. She asks what would a safe community look and sound like? How would it behave and respond? How can it be proactive and not reactive? What was it that made her community so vulnerable that two predators had access to their children? What



could be done differently and how could changes be implemented to ensure the safety of all our children?

5 Unfortunately, efforts to engage from others from the parish and school in order to look at these issues have so far been in vain. She has looked into the wider issue of how schools and parishes operate to see what is preventing collaborative dialogue to work towards safer environments in which we all share a responsibility of keeping children safe and empower victims to speak up about abuse and receive what they need to minimise their trauma.

10 The Safeguarding Children program in Australia identifies the following barriers to safeguarding children: macroenvironmental factors, organisational operation factors, market forces, societal forces and lack of knowledge. We've used these on the list to comment on factors that lead to unsafe environments for children as Pam sees them.

20 Macroenvironmental factors include a lack of a comprehensive national legislation providing requirement for all organisations involving contact with children, including churches and Catholic schools to have safeguarding procedures and practices with a compulsory risk assessment framework audited for compliance by an Ombudsman with the power to investigate complaints about breaches from all stakeholders. Many churches have managed to avoid liability by organising their affairs in such a way they are legally incorporated for the sole purpose of owning and disposing of property, but otherwise argue there is no legal entity that can be sued. There is a lack of willingness by police and professionals, such as doctors, psychologists and government departments, welfare agency workers and politicians to engage in any public criticism of the Catholic Church's handling of clergy sexual abuse, despite their misgivings, and there is a lack of auditing, monitoring and detailed knowledge of the Catholic Church's handling of clergy sexual abuse, including in Catholic schools, hospitals and other institutions receiving extensive government funding and support.

35 The above points contribute to the denial of a huge problem we see as the church institutional level in the parishes, in the Catholic schools and the wider community. We are encouraged by the fact that in many countries: including Germany, Holland, Iceland, the UK, Ireland and the US, the government is auditing and requiring churches to collaborate to ensure the safety of children. In Pam's Catholic school and community the collective voice was a denial that first said, "It couldn't happen here," and then said, "It couldn't happen here again."

45 In her experience, the unique structure of Catholic parishes means that the priest is the employer of the principal and the teachers. He is able to be in total control of the running of the school and the parish if he wishes. The school

principal and teachers are reliant on a reference from the parish priest to obtain another position within the system. Members of the school boards and parish committees are all subject to the priest's agreement and he can abolish those structures if he so chooses. Many priests are collaborative and leave the running of the school to the principal, with the support of the Catholic Education Office advisers. However, there is no standardisation of procedure with regard to the priest's role in schools and their parishes, making the procedure entirely dependent on the character and training of the individual priest.

Market forces, meaning social pressure, include the difficult dynamics of whistleblowing concerns about one's employer; secrecy within staff and the Catholic school community not discussing allegations of abuse; school staff and the community not being consulted or included in decision-making; no adequately trained crisis management personnel available for staff who raise concerns or know about abuse; and an attitude of, "Don't alarm the school or parish, don't talk about it." These factors present pressure for change from Catholic teachers, staff and community members and results in a situation of complex trauma, which includes alienation of victims, their families and supporters from their Catholic identity, their school and parish support community and their faith in spirituality. It is worth noting that many are aware of these difficulties, including psychologists, general practising doctors, local welfare agencies, police, clergy, the media, local community leaders and lawyers. They provide some support level for victims and their families, but rarely advocate in these matters, which further isolates victims and their families.

Unlike other countries, where the legal system allows the church to be called to account, the lack of ability to sue the church in Australia means that victims and their families lack this other important advocacy avenue for change. Societal forces include a belief that the church is a moral institution prioritising the welfare of children; the power of the parish priest and imbalance of power between the priest and the victim; the expectation that children are safe with a man of God and at a Catholic school; the stranger danger myth that strangers abuse and trusted adults don't.

For Catholic children, the modelling they receive from parents and teachers is to trust and defer to a priest. The church's teaching to young children about sin may encourage them to feel they are guilty when they are abused, adding a further barrier to disclosure. Concern about privacy rights of offenders outweighs the need for information and outreach to victims and other families and possible victims and child abuse is a taboo subject to discuss.

There is a huge lack of knowledge about the covert nature of child sexual abuse; the vulnerability of victims and their families; the importance of

believing victims who disclose; the dynamics of abuse; dynamics of abusers; dynamics of disclosure of family responses, of community responses; a mistaken belief by many adults that they would recognise an offender; a mistaken belief by adults that because they have found a person likeable and  
5 saw no signs of offending behaviour, that the allegations must be false; limitations of the screening processes of criminal record checks; limitations or lack of professional training for teachers and parish workers; limitations or lack of parent education about child sexual abuse.

10 As a former Catholic teacher Pam sees the following are needed to overcome these barriers. Commitment. It is apparent that no change is possible unless all those with a stake in safeguarding children commit to ensure it is given priority. We believe this will need to start with legislation requiring all  
15 organisations, including churches, to be accountable. The New South Wales Ombudsman has a legislated child protection role and the Commission for the Protection of Children and Young People provides comprehensive materials to all the agencies who work with children. The New South Wales Interagency Guidelines for child protection intervention designate all Catholic and  
20 non-government schools, as required, to notify the commission of any allegations against personnel and they are bound by the guidelines for child protection in the workplace to respond to allegations against employees.

As a result of this, Catholic schools in New South Wales have been required to prepare policies, conduct staff training and submit to auditing by the  
25 Ombudsman in a way that has not happened in Victoria. We do have a Commissioner for Children, but his office appears to have little power to do more than provide information to those who ask for it. This is a good resource for organisations that are serious about providing child safe environments, but there is no mandatory uptake for auditing of schools or agencies regarding use  
30 of those materials.

There are numerous countries that have required the Catholic Church and other churches to collaborate with them in working towards child safe organisations. In some cases this is in the early stages; in others, such as in the UK and  
35 Ireland, church and national guidelines have been developed in collaboration with child protection experts and government child protection agencies. Many parish websites in Ireland and the UK have links and materials from both the state and church guidelines. Australian children deserve the same sort of collaboration so that all children are covered by the same guidelines for safety.

40 There are good resources for training of professionals, parents, children and programs to support agencies in requiring child safe organisations already available in Australia, but they are nowhere near adequately funded and so they are only available to organisations with a huge moral, social and financial  
45 commitment to providing a child safe environment and we've given some

examples of good programs in this paper.

5 The government commitment to subsidising child safe programs is vital to show leadership and increase uptake of available programs by all organisations that work with children and it is important that the government audit and hold accountable organisations it funds, such as Catholic schools. The New South Wales Ombudsman and Commission for the Protection of Children and Young People provide useful materials for policy formation backed up by legislation that includes regular compliance audits, an obligation to report concerns about grooming behaviours and any allegations against staff.

15 The Victorian Child Safety Commissioner provides a brochure of guidelines, but because these are not mandated, children are not safe in organisations that do not choose to use those guidelines. There are auditing for subprocesses for the Catholic Church and operation around the world. We believe it is important that all agencies who work with children should be compliant in an accountable auditing process. All Victorian teachers are mandated to report child abuse. The interpretation of what constitutes a need for a mandatory reporting depends very much on the awareness of the teacher. There are some who will report only if they know an offence has occurred. New South Wales guidelines are much clearer about reportable behaviours.

25 Victorian Government schools have 2007 guidelines for responding procedures, documenting concerns and liaison with Victoria Police SOCA units, Department of Education, Department of Human Services and the Child Safety Commissioner are covered. There is a student critical incident advisory unit and a conduct and ethics branch. We cannot comment on how well these work in operation or how accountable they are, but the processes in the Catholic system response to allegations of abuse seem to be lacking in accountability and we believe this needs to be addressed. We also believe that clergy need to be legislated as mandatory reporters of child abuse.

35 There seems to be no difference in the systemic response to allegations and convictions between the first priest in 2000 in my school and the second in 2006. It seems that it will take intervention from outside the church for any change to be implemented. It seems a tragedy that in our situation there has been no debriefing, that victims, their parents, staff and community have not been consulted and written policies that have come up from the new parish priest can give a false sense of security. Written policies must be written in collaboration with experts in the field and include an ongoing accountable review process.

45 As a society we must be prepared to face the truth about child sexual abuse, that it is widespread, that secrecy regarding child sexual abuse plays into the hands of offenders by creating an aura of shame that prevents victims from

disclosing. The offenders are often personable and close family friends and parish priests. We need to learn that we can be open in discussing dynamics of offending and disclosure without naming victims or offenders and it is nonsense to cite the privacy of victims and the legal rights of alleged offenders as reasons to not address child sexual abuse in our communities.

With the assistance of well-trained professionals, a safe environment for open discussion of child sexual abuse is in fact not just possible, but necessary. We must learn from the past, challenge the present and create a safer future for our children. In conclusion, it takes a village to raise a child and it is the responsibility of us all to maintain child safe environments. The way forward needs to be community based with greater connection between the many organisations that provide services for children and their families in the community.

Children's hubs, similar to the multiagency resource services or the child protection hubs from the UK, which were being built to provide one-stop services for young children in the community should be the venue for coordinated networks to be established. Organisations should be funded for and perhaps required to be part of a network and the network should include representatives from police, child care, the church, schools and support staff, welfare workers, human services, health and medical professionals, parenting groups, youth clubs and other organisations that work with children.

These networks could undergo shared professional development in creating child safe environments to disseminate to their respective organisations, share resources and cooperate in projects, but exist largely to ensure that all children and their families maintain connections or links with the many facets of their local community and that the staff of all their organisations make links with others who work with children. This should establish opportunities to ask advice from those with expertise to better inform staff where and when and how children of families may be referred for assistance if required.

We also believe that teachers and clergy, who see more of the most vulnerable children on a daily basis than welfare workers, should be required to be supervised in a similar way those working in the welfare sector are. They should be available outside the usual chain of command, so situations like the one in which Pam found herself can be circumvented. We have learned from the past that closed communities, however well-intentioned, are not safe communities. At the moment, Pam is challenging the present situation and her mission is to be part of achieving systemic change for justice and safer environments and it is up to us all to create a safer future and as a former Catholic teacher she is determined to do so.

MR CUMMINS: Thank you very much Helen, and Valerie for reading it.

Valerie, and the three of you, as you know, our brief is not to look at individual cases or individual organisations but your submission goes to the whole system and it goes to general systemic issues, not just one, not just the two 2000 cases or the one parish or, indeed, the one church but goes to the whole system of  
5 persons in such positions of authority and capacity being properly monitored and properly held to account.

MS GAIMON: Yes, that's right.

10 MR CUMMINS: So it's a systemic issue.

MS GAIMON: Yes, it is, and this is just meant to be an example of what's happening very recently on a large, systemic level that we don't even have data for because the church is extremely secretive. All we have are voices like  
15 Pam's to come forward.

MR CUMMINS: So because you're looking at a whole system and you are looking, as you have very carefully done at systemic matters rather than individual matters or just one institution, it is a much more analytical approach  
20 you've taken, if I may say so. Would either Helen or Pam like to speak, or are you content to have had that read before we ask some questions?

MS KRSTIC: I would have loved to have spoken, but I've got no voice so Valerie's had to do it for me.

25 MR CUMMINS: Thanks, Pam. And Helen?

MS LAST: I've had 26 years of working in this area with adult survivors of clergy abuse and I must say that things are moving forward very slowly. In  
30 26 years we have seen the development of policies and procedures established by churches, but we now have in the last 15 years a terrible pool of victims who are systemically abused now and naming that. So naming that when they have come forward to authorities, to church authorities, to other authorities, they have not received a response that shows an enlightened approach to their  
35 mental health issues, to their family needs, to their whole of life impact and so my work has moved from being with the individual survivor, adult male, adult female or the few children that I have worked with, to addressing the need to change these systems so that this further wounding is not happening, and it is a very complex area to be in and it's all about reform. So we are heading this  
40 work up, I believe, very strongly.

MR CUMMINS: When you talk about "these systems" are you talking about the systems of protection and prevention, which is the first part of it, or are you also talking about the position of investigation and allocation of responsibility  
45 and liability?

MS LAST: Yes, we work closely with the Victorian police on providing a very empathetic but very educated response to clergy victims in terms of them disclosing criminal matters. The victims have been going to the church processes now for 15 years in regard to the Catholic Church and there is an amazing amount of material now held by just the Catholic Church, for example, but in other churches in files that are not made available to the police, the materials are not reported to the police. There is no mandating for that. The people put in charge of listening to the disclosures and creating the files are not pressured in any way by the government to have to report what they are hearing and so they are not doing that. As you know, an institution like a church is free to do what it wants to do.

MR CUMMINS: It's not free to be complicit in the breaking of the criminal law.

MS LAST: We see that there is a complicity here, a systemic complicity and we are definitely trying to argue that very strongly because when you have that amount of material being held by a private organisation or by an institution, that is of great concern to the wider society and to those who are involved in the wider society in terms of its legal running and its law and order and its health and welfare. As you may be aware, the issue is also that those who are accused in these processes of disclosure to these institutions, they are allowed to remain as part of the institution, so the clergy are allowed to remain clergy and probably about 1 per cent are reduced to the lay state, so that's another major issue that we are addressing.

MR CUMMINS: Yes, all right. Prof Scott.

PROF SCOTT: Yes, thank you, I was just going to ask one question and that is are you aware of any situations where individuals have received some form of financial compensation and one of the conditions of that is that they not inform the police of an alleged criminal offence?

MS LAST: Yes, perhaps Valerie would like to answer that one.

MS GAIMON: The Melbourne system the church runs is separate to the rest of Australia's system and we work primarily in the Melbourne system. [REDACTED] the church can offer a process and that will result in compensation and a bit of counselling payments and if they choose to go to the police, they cannot go through the church process - they have every right to go to the police - but that those are separate decisions and that's made clear on the website of the Melbourne response, that they don't allow that to happen simultaneously.

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PROF SCOTT: Thank you.

5 MS LAST: Complainants, through - the Catholic Church processes the whole of Australia - are given a deed of release. There is a decision made by people called assessors. [REDACTED]

[REDACTED] the panel, who makes a decision on the basis of reports done by the church agency for counselling about what the award should be, so those reports are psychological reports or psychiatric reports.

10 There is a cap on the amount of compensation paid. It used to be 55, it's now 70,000 per person, but very few people get anywhere near the 75, and then the church presents a legal document. The Melbourne church says very clearly that the victims do not need independent legal advice to decide whether they  
15 will sign that document or not and they make no standard provision for those survivors to get independent legal advice and so most of them don't get independent legal advice and they sign off that deed of release and they release the archbishop's current and past, I think it is future as well, and also the priest offender is released and also the financial structure of the church is also  
20 released.

MR CUMMINS: That's the end point.

25 MS LAST: Yes.

MR CUMMINS: Going back to the question about the commencement point, the threshold of entry into the system is the victims are informed, are they not, that they have the right to go to the police?

30 MS GAIMON: Yes, they are informed they have the right to go to the police and if they choose to do so, they can't come through the church process.

MR CUMMINS: Yes.

35 MS GAIMON: If they choose to go through the church process, they must inform the commissioner that they have decided to go to the police if partway through they change their minds.

40 MR CUMMINS: Thank you. Mr Scales.

45 MR SCALES: Is your general argument that we should normalise - using my words, not yours - a process by which these matters are reviewed? By "normalising" it might be something like institutionalising in the same way as we have a Children's Court, another form of court process whereby what we can normally see as those transparent, well-represented court processes should



apply in these circumstances, is that the general process that you're arguing in favour of?

MS KRSTIC: Independent and accountable, yes.

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MS LAST: Yes, we're writing to the government at the moment of Victoria requesting that there be an evaluation of the need for an independent commission of inquiry into the current situation because we don't believe that it has protected children. The church has not protected children in the past, it is not protecting them in the current situation, so therefore we can't have any hope for the future situation.

MS GAIMON: Also, it's re-traumatising because when something like this happens in a community, school or parish, there is no aftermath program, there is no support for victims, there is no support for families, for teachers and then somebody like Pam has seen that happen and gone through twice and there are still former students coming forward to her saying, "I'm suicidal" or "my son is suicidal" or this or that has happened because there is still no openness or support, even now.

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MR CUMMINS: When you said about the last 15 years, what do you mean by that, that things have gone backwards or they haven't improved, or they've stayed the same, or what?

MS LAST: Fifteen years ago the - if I just talk about the Catholic Church, but it was also the Anglican Church and the Uniting Church and the Methodist put out their policies, so a lot of them put it out around the same period of time. So 15 years ago those procedures and policies were finally produced, but it was very much the agitation of the victims who led towards the producing of the whole movement of violence against women and children in the middle 80s to the early 90s, it was a huge pressure point for that.

So finally the church has put them together and the Catholic Church put it together, but again it failed to have input from the victims or the consumers. It was put together with a large input from the insurance companies that actually protect the church in regard to risk issues and the bishops of Australia and the archbishops of Australia, so it's the institution itself again saying what is best for the victim with actually no research or formal survey of what the victims need when they come forward, particularly with historical abuse, which means that they're coming forward later in life.

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It's a whole different matter of how you respond to them then because they have very established patterns of ill health, psychological and social disorders, family problems, alienation, alcohol, whatever, and that's basically what has not been looked at. It's been looked at 15 years ago as providing a minimalist

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response procedure that the victims are now saying collectively around Australia really is there to protect the church's assets and to protect its public image, rather than looking at the wholeness of the problem that the victims have and carry and continue to encounter and opening that up and responding properly to that.

Across the police area, for example, there are no advocates appointed to go with the clergy victims to the police. The systems set up by the church say, "It is your unfettered right to go, sign here to say whether you are or are not going" - they provide a form to them - and they sign that saying, "No, we're not going," and then they say, "Well come further in here." But all of us who work in the area know that it is very hard for any person to go on their own and say across the police desk, as anyone would anyway, "I have been raped by my parish priest. I have been molested by him as a child." There is a natural inability to actually disclose that on that level, so I've worked for 15 years, in fact 26 years, going to the police consistently with these adult men and women and helping them through those processes and helping the police to see what is actually needed in understanding what are the factors that make a Christian victim be more silent than someone else.

There is a heck of a lot more pressuring levels on them that come from the faith systems, that come from the faith community, that come from the religious hierarchies to in fact not disclose. We've got a whole context which is working against the disclosure of these victims and so they need advocacy, they need support people and so the churches are saying, "But we tell them to go. We say you have an unfettered right." But we all know it takes much more than that for a person to be able to decide to go through that very difficult process and into the criminal courts. We know that there is (indistinct) material about how much money the churches and the religious orders are spending on defending offenders. Recently, the Christian Brothers spent \$1.6 million on defending Brother Best and they spent nothing on assisting the victims of Brother Best, so there is a major injustice here and a major imbalance towards the offenders as professional people and we believe that only the government has the power and the insight to start challenging that and to start protecting some of the victims and supporting their needs.

MS GAIMON: Can I just say that the adult victims who are coming forward, which has informed the formation of the Melbourne Victims' Collective, which Helen and Pam started some years ago, is that these people come forward and say, "Well, we want to make sure this doesn't happen again. This has happened to us. We want our experience to be knowledge for you the church, for you the government. We will give ourselves to you." Pam sits here without a voice and with a migraine every time she speaks, but it's just too important because she doesn't want it to keep happening again and that is one of the most re-traumatising things for the adult victims that we work with, is that the

system isn't changing, they don't see it changing. We work in the church, we work outside the church, we work with professionals, we work with the government, we're trying every angle we can and the victims are coming forward and willing to share their stories because they want it to change.

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MS KRSTIC: [REDACTED]

[REDACTED] There has been no crisis intervention and I do believe that if Catholic schools are funded, that there should be a requirement that they must follow those same procedures as they would have if that was a state school because all of those children deserve that.

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MR CUMMINS: Any further questions?

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PROF SCOTT: No, thank you.

MR CUMMINS: Well, you've raised a most significant matter, and as I said at the start, your submission is grounded in systemic issues and grounded in protecting children in the future, which is our brief, so it is a relevant matter to us. Thank you so much for coming forward.

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Ladies and gentlemen, we might press on. We were going to take a break but we're a little bit behind time. I'd be pleased to invite Ms Ord to come forward. We're now proceeding to individual submissions. We've previously had submissions from organisations or by persons in relation to organisations. Now that we're with individual submissions I again say that we don't look at individual cases and we also don't identify any persons who have been through the court process of the Children's Court, so if you bear that in mind we'd be very pleased to hear you. If you'd commence yourself, Ms Ord.

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MS ORD: I'd just like to start with a thank you, which would be initially to the Victorian Government for establishing the Protecting Victoria's Vulnerable Children Inquiry and the Panel for the opportunity for me to be heard, thank you very much. I'd also like to thank the PPSS, the Post Placement Support Services. They notified me that this was occurring and encouraged me to come forward, which is terrific.

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I do wonder why they notified me and I didn't maybe get some paperwork in with my reimbursement form that I get every fortnight from DHS. I get notification from DHS that they've reimbursed me and it would have been fantastic if every carer could have been informed in that way and it would have been really easy, so I found out just by the off chance, which is great. I'd also like to acknowledge the Wurundjeri people and the fact that we're using this land here today.

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As you know, my submission does not come from any structured tertiary educational facilities, it comes from real life experience. I'm a sole carer of two permanent care children.

5 MR CUMMINS: Pour yourself a glass of water too, if you'd like.

MS ORD: Thanks. A couple of times today we've had the old African proverb, "It takes a village to raise a child," and I think that's absolutely relevant in these cases. I think every child in care needs a new village when  
10 their village is gone. I think it's necessary to recreate the village of community folk who are able to provide long-term permanent care. It would also be essential to include the folk that support the carers as part of this village. With the help and support for more traumatised children that are a product of their environment they will be enabled to meet their full potential. All children are  
15 entitled to such an opportunity, whether they're children in care or not.

Each child in care needs to be automatically recognised as having an attachment disorder by statutory authorities such as schools, child care facilities, Centrelink, et cetera. Each child should automatically have an  
20 enhanced primary care program covering at least dental needs, dietetic and nutritional requirements. Each carer needs to be advised of the care and support available to assist in ensuring that each child meets applicable cognitive development measures. Such measures are recognised by the community at large, including but not limited to law enforcement agencies and  
25 government agencies.

For the children in care, the removal of these children in itself is a traumatic event for the child, let alone the issues that initially required the child's removal. Therefore, it needs to be apparent, understood and acknowledged that  
30 each child removed has potentially lifelong issues that must be treated as a matter of urgency so as to minimise the impact on the child, the family and the community. At least some form of attachment issue will likely most manifest in every child placed at some point in time, so I would like to ask the question why so many placements break down of these children who are placed in care?  
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Currently, the support available to carers is desperately underwhelming. I think that the support required for carers, as in my report that you have, is documented and I'm hoping it's understood. That I believe financial and resource support for the facilitation of peer-to-peer networking for carers,  
40 resourcing and paying for a meeting place and the qualified staff to identify the individual needs of carers and then, most importantly, working on a collaborative approach with carers to establish systems to meet and then respond to and overcome the needs identified. Within such facilitative groups, I feel that the following is required: guided workshops, discussions and  
45 brainstorming about healthy parenting strategies, covering and sharing and

developing good practices around the following areas, and I've outlined four areas, as you know, or as you can see.

5 One of the areas that needs to be covered within these facilitative groups is the acknowledgment of the difficulties and challenges facing carers. It's really important that the people who care, permanent carers, whatever you'd like to call them or foster carers or kinship carers, are kept healthy and they're helped to develop their own time for relaxation techniques because the work is exhausting. I believe that some of the challenges also include we need to find  
10 and have financially funded support of personnel, social workers, case workers, psychologists, therapists, specialists, et cetera, specialising in treating children from traumatised backgrounds to be available to both the carers and the children.

15 Another difficulty is for the people caring for these children, they need to learn how to keep themselves safe and other family members, including animals safe just within their home environment. We need to also make sure that the people who are the carers have the opportunity of the education of their extended family members and other carers and neighbours involved with those children  
20 because we all need help from time to time. Those people need to understand how those children can be assisted as well, so that was one of the points.

Another point that I think should be covered in these facilitative peer-to-peer networking groups is understanding and identifying healthy attachment  
25 displays, as well as symptoms and signs associated with an attachment disorder. Within that, understanding and recognising controlling behaviours in traumatised children and developing strategies to deal with them; understanding precocious puberty and how to deal with it; financially funded support for the treatment of precocious puberty via an endocrinologist or other  
30 specialist; understanding oppositional defiance disorder and developing strategies to combat these behaviours; understanding sexualised and indiscriminate behaviours in children and developing strategies to deal with on a personal level initially and then to be able to assist the children to learn appropriate socially acceptable public displays.

35 Also within that, developing consistent consequences for unwelcome behaviours and applying consequences in a timely and consistent manner for each child. These are the things that the carers need to have assistance with learning and understanding. Also, in assisting children to develop sensory  
40 feelings and deeper relational feelings. A lot of these children come without sensory feelings whatsoever, which I'm sure you're fully aware. We're all aware of it, but if we could educate the parents, the carers of these children how to recognise it and how to deal with it, it wouldn't be so mind-boggling if there was a strategy in place and an understanding and an education process for  
45 these carers.

Along with that, another point I think is really relevant and really required is for these, again within these peer-to-peer networking groups, developing an understanding and applying the process and structures involved in building positive esteem in traumatised children. The long-term issues with these children comes initially from their lack of esteem, as we're probably all aware. However, the problems snowball when they become adults and unsociable themselves, which is not always the case but, as we all know, it's highly more probable so if we can understand how to build that, we can build some bridges for these children.

Understanding social issues for children and carers, developing strategies to assist children to build healthy peer friendships and appropriate respectful relationships with adults, teachers, et cetera. Developing and owning and maintaining family traditions within the new family unit where that child is a part of and having them involved in that; developing consistent communication measures within that family set up as well, simple processes like using calendars, rosters, whiteboards, et cetera, which sound really simple but when you're a parent in that situation nothing is simple, so educating these parents with these sorts of things is absolutely essential.

Involving the children in care in team-type community activities and other sports; developing an understanding of the benefits of art, music and play therapy that can be introduced and maintained by carers. They are the ones that are there every day. Keeping, maintaining, and revisiting the child's life story are absolutely crucial for that child to understand where they've come from and why there is no denying it. However, them understanding it and acknowledging it and having the information revisited helps a lot with their identification issues as they grow.

Developing the ability to assist traumatised children to learn about and show empathy I believe is one of the biggest issues. Children often come with that empathy really, really underdeveloped, if at all, and so if we could help the parents to comprehend how that could be re-established in a structured way within children I just think hopefully down the track they will develop - there is hardly a healthy relationship developed when a person has got an extreme lack of empathy, so that's probably a good place to have a look at. Also developing strategies for turning around unhealthy behaviours and recognising and rewarding positive behaviours.

The next point that I thought was probably a good one to bring up within this peer-to-peer networking is understanding the necessity to fit into appropriate educational system. Children from a traumatised background often stand out as different to their peers, which vastly increases the likelihood of them being singled out, bullied or left out, thus aggravating existing issues to an

unmanageable level. Sourcing an appropriate school and child care facilities, which might not sound too difficult - unless you do that face-to-face, you wouldn't understand, I mean that in the nicest possible way. That sometimes a normal state run school may not have the facilities or understand the needs of these children, so I guess it's an education for both points of views.

I think what would be really, really a terrific thing would be a financially funded support of an integration aide required for at least the first 12 months. These children have got huge holes and huge gaps in their education. They stick out and they are different because they've had a really different experience than most children from a normal background and other children recognise that, so an integration aide to help the child fit in I think would be a really terrific wish and want. The service of an integration aide is essential and helps the children become organised, they comprehend priorities and normal school requirements and/or expectations with the aid of somebody else. Financially-funded support of a tutor, especially in the case of children that have attended several schools and have a lot of absences or gaps in their education. I think children require a social advocate to help them form normal, healthy, respectful peer-to-peer relationships within the school environment.

I think my final point was just in regards to understanding the ways in which a supportive village could be created locally. As I first said, I think the children have lost the ability, and a lot of their supports come within that village. From the peer-to-peer network of carers identifying interested parties within a local area that wish to establish an enhanced sense of connection within the community, expanding on the friendships and relationships developed within the group; pooling of resources, intellectual and otherwise; help being sought and provided for within the group wherever possible in regards to community members physical and emotional needs being understood and met; and a group sourcing or sharing of social workers, case workers, psychologists, therapists, specialists, respite care providers, extended family members and any other interested parties.

MR CUMMINS: Thank you very much for that, Ms Ord. You've actually put this forward in a very logical way. You've set it all out very carefully in your pages and thank you also for presenting it orally. You've been very clear, if I may say so. I don't have any questions of Ms Ord.

PROF SCOTT: I was just interested in the notion of a social advocate in the school and if you could just say a little bit more about that role.

MS ORD: Sure. It's from the point of view that children from a traumatised background, unusual background, however you might like to word it, don't have the normal understandings of what's expected of them socially, as most people who are born into a happy, healthy family and have unconditional love.

They understand, they have this innate understanding of what's right and wrong and what's appropriate and what's not and children from an unusual background often do not have, maybe a survival skill or two, and some of that is often just based on them and their own self-surviving. Again, I think that  
5 lack of understanding of empathy, a social advocate could well cover a range of things, including appropriate play and building of respectful peer-to-peer relationships, respectful relationships with adults.

10 PROF SCOTT: Could it be an adult, this would be a professional person?

MS ORD: I think so.

PROF SCOTT: You're not talking about a peer person?

15 MS ORD: No, I think that's well and truly beyond a peer for their age.

PROF SCOTT: Yes, that's what I wanted to clarify.

20 MS ORD: I think it's beyond a lot of adults. It has to be someone who is specialised in that area.

PROF SCOTT: Yes, thank you. That really helps clarify that.

25 MR SCALES: Just one question, thanks for this, it's very helpful. When you talk about the number of things that would clearly help the development of the child, including caring for the carer and all of those other things, if you were to prioritise those, what are the must haves? What might be the must haves and the good to haves or the nice to haves?

30 MS ORD: Sure. Everything's in there because I found it really hard to pull out one thing that I felt was really important. I've been a permanent carer since 2003, so that's a very long time and so that's a lot of experience in four pages. I think the peer-to-peer network, not just permanent placement, foster care  
35 placement, kinship placement, that peer-to-peer network of those people who understand that they're not alone and the world is not such a lonely place and they're not facing these kind of issues on their own, that peer-to-peer networking overseen by qualified people who know what they're doing I think is really important because all the other things may then very well stem from  
40 that.

MR SCALES: Thank you. That's very helpful.

MR CUMMINS: Thank you so much. I'm sorry we've held you up.

45 MS ORD: No, thank you for the opportunity.



MR CUMMINS: Thanks so much, Ms Ord. Next, I'm pleased to invite Ms H to come forward. We have also held you up quite a long time and so if you just settle yourself down there and we'll proceed upon the basis that you present it  
5 in the order that you'd like. Don't identify any cases that have been in the court, as I'm sure you know, but of course speak about the matters which you wish to raise with us. We'd be very pleased to hear you.

MS H: Thank you very much for the time. It was suggested to me that I speak  
10 at this Inquiry because my children are victims of the current child protection safety laws and its failures and I'm a victim of the failures in the current system, trying to protect my children on my own with no help, no aid and the way the current Legal Aid laws stand, no rights to any legal help to protect them. The best way that I feel I can explain to you is to tell you our story and  
15 the failings of the system in protecting my children and my understanding of why it has failed, having gone through it personally, and why so many children are left to suffer at the hands of abuse.

The current system made my children victims from the moment I separated  
20 from their father almost four years ago and I have been battling to protect them and myself ever since. I and professionals have provided evidence to the courts of emotional, physical, sexual and psychological abuse and intimidation of myself and financial intimidation of myself and the emotional and psychological abuse of the children by their father with the threats of physical  
25 abuse and the actual physical assault of the children by the father's friend with the risk of sexual assault by the father's friend, encouraged and witnessed by the father.

The children have stated to various authorities of these occurrences, as well as  
30 the fact that they are constantly witnessing violence while in his care and he severely neglects the most basics of parental care and responsibility. Their dietary intolerances are ignored, causing regular illnesses, which are confirmed by doctors' reports, and his neglect has caused permanent scarring of my  
35 [REDACTED] daughter's skin. It has also been stated the children were taught to vandalise road signs as a travelling game by the father, were placed in the boot of the father's friend's car and driven around the streets at night after a drinking night at the pub, were encouraged to watch terrorism websites and to beg to strangers - sorry.

40 MR CUMMINS: Just take it steadily. Just take it step-by-step.

MS H: And to beg strangers in the street for money and the father using  
45 phone contact with the children as a tool of harassment and control of both the children and myself. All of these events have been confirmed in DHS reports, subpoenaed counselling and police documents, the family report, as ordered by

the court, emails and writings sent to me by the father and the children's own personal diaries, as well as the audio disc of an intervention order hearing and all offered to the federal magistrate as evidence and in affidavits, along with documented evidence and police notification that the father's family lied to  
5 police to cover for him and the father encouraged his mother to threaten me. The father has brought four men to my house and have them threaten my life, has tried to remove the children from the house on days not allocated to him and is suspected of setting my house alight and blowing up my fuse box on the day after, trying to unsuccessfully remove the children from my house.

10 Also during an intervention trial, the father admitted to injuring my house after separation unlawfully, removing my personal diaries and then using them to threaten and intimidate me, even during that very same trial hearing and admitting to encouraging his mother to threaten me. All of this is provided in  
15 numerous forms of evidence by officials, counsellors, DHS, police and medical reports and even the intervention order hearing disc itself. Yet, DHS, while confirming the violence and abuse and the physical assaults, closed their reports and refused to take any action, stating they felt there was no real immediate risk to the children. Also in their first report in 2009 the evidence  
20 provided by the children's counsellor was blocked out.

After pressure from myself and another person in Child Protection who contacted DHS in an attempt to help me, they reopened their investigation in  
25 2010, confirmed the further assaults, violence and abuse and confirmed the children had been put in the boot of the car and driven around by a man who was drunk, and yet again they closed the case, stating they felt there was no risk.

In family report documents, counsel's reports and the children's own diaries  
30 taken into court as evidence, the children have constantly shown deep confusion over their father's behaviour, stating they think he is a bad man; they wish he would change into a better person; they wished he would treat them better; whispering when talking about him; showing their fear of him; even stating they felt it would be better for them if they did not see him, all reports  
35 showing the emotional and psychological damage that is being done. They do still state, however, that they love their father, as all children do.

The federal magistrate has ignored all of this evidence that has been put forward. He even stated, which I have provided a transcript of to the Panel  
40 (indistinct) boot of the car incident, that it was more of a road regulations contravention and he would not look at the evidence, and in his judgment that day took no action to protect the children. He has continued to take no action. The only stipulation made was that the friend of the father was not allowed physical contact - not all contact - but only physical contact with the children.  
45 When the father ignored this and the children and counsellors confirmed it and

a contravention hearing sought and the father admitting to lying about previous contraventions he was let off on while during trial, still no action was taken against him.

5 A court-employed consultant was requested to liaise with the children, father and myself whose report stated that if any substance could be found to the mother's claims of violence or abuse, et cetera, then the serious nature of the father's behaviour cannot be underestimated and the court should act to protect the children and mother. Again, with all the evidence of abuse and violence  
10 provided, this recommendation has been ignored. Again, I have provided a copy of this to the Panel. Excuse me a moment.

MR CUMMINS: Just take it step-by-step, thanks, Ms H.

15 MS H: The failures in the system are obvious when you're a victim of the system. There is simply no responsibility. DHS are supposed to report the facts and when children are at risk they are supposed to state so. Now, I don't know about anyone else in this room, but children being physically assaulted by a 40-year-old man, being driven about in the boot of a car and all of the  
20 other events, which they confirm in their reports, most definitely point to severe risk, yet they are complacent and simply don't seem interested in actually doing the job they are appointed to do. Constantly they are allowed to use the excuse of "not enough funding," which we hear on the news all the time, and they use it far too easily. It takes the same amount of time to write  
25 the words, "There is a risk to these children," as it does to write the words, "We find there is no risk." Instead, they find it easier to pass all the responsibility to the federal magistrate.

DHS has stated to me verbally during interviews I've had with them that it is  
30 the federal magistrate's responsibility and not theirs, as they regard me as a protective parent and that is their reasoning for taking no action. The federal magistrate, on the other hand, passes the responsibility of determining risk to DHS and constantly refers to their reports of no risk in his reasoning and refuses to look at the actual confirmation of evidence provided. Again, I have  
35 provided copies of transcripts to the Panel as evidence of the judge constantly referring to their statements.

I have spent months contacting Ombudsman, the Chief Federal Magistrate, the Supreme Court, everybody I possibly could find to get help and to report this  
40 evidence and what is occurring to my children, and again no-one will take responsibility and the basics of the letters I received from the Chief Executive Officer is that a federal magistrate of Victoria is responsible to no-one and is held accountable by no-one, unless in extreme, severe circumstances.

45 We have a so-called child protection body who will not take any action to

protect children. We have a federal magistrate who will not take any responsibility to protect children. Neither of these groups or bodies are being held accountable for what is happening to our children. As I am not allowed copies of the DHS reports, I can only give evidence in the form of the transcripts where the federal magistrate and I have discussed the DHS reports, which I have given to the Panel.

Many years ago the system made the mistake of cutting fathers out of their children's lives too easily and then they realised that in most cases fathers are important to child development, as I believe in most cases they are. But then even a bigger mistake occurred, which now sees children abused, violated and even murdered to make up for the mistakes of the past. The system has now gone in completely the opposite direction and now allows fathers to commit crimes against their children while still being allowed to have access, parental responsibility and custody of the children. Both a mother and father figure are important to children, but not more than the safety of the children themselves. However, keeping an abusive, violent father in the lives of the children purely because he is a father has now become more important than actually protecting the children themselves and it has resulted in what we now see on the news on a constant basis.

To make the situation worse, mothers are held accountable and investigated and interviewed by DHS simply for telling their children off in the street for being naughty and, yes, I do have girlfriends who have been subjected to this, for telling their children off when they've been naughty in front of others, purely because they are mothers, and yet a father can literally assault, threaten, abuse and harass his children and put his children in the boot of a car to be driven around by a drunk man and no-one does a thing because he's a father.

Where is the logic here? Where is the accountability? Why has this been allowed to happen to the point where so many innocents have lost their loves or their emotional futures? I have sat and listened to some of the professionals and their submissions today and what people are saying is happening or what some of these professionals are saying is supposed to happen to the vulnerable children suffering at the hands of abuse and it is very, very different to what is actually happening when you are going through it like I am with my children.

Due to the regulations of this Inquiry and the matter of privacy, I cannot supply the Panel with the evidence provided to the courts that I've mentioned earlier. However, in the interests of evidence I have actually brought all of that evidence with me just in case any of my statements need to be proven, I can do so at request. Thank you very much.

MR CUMMINS: Ms H, thank you for coming forward and for giving us such a clear presentation, both from the head and from the heart. It's most

important, Ms H, that we hear from persons directly affected, as you are, not only from persons who are professional in the field or from organisations. The benefit of having direct submissions from personal experience is central to us so we do thank you very much for coming forward. We've got your material  
5 here and your case does inform us for the protection of people generally and it helps us consider what is the best way of bettering the system for the future, so we're most obliged to you for coming forward. There's no need for you to produce your evidence because we've proceeded upon the basis of what you've said and we'll do that without further question. Any questions of Ms H?

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MR SCALES: No. I'm fine, thank you.

MR CUMMINS: I'm sorry we've held you up. You look after yourself. Thanks a lot for coming.

15

MS H: Thank you.

MR CUMMINS: Next, Mr Smith of the All For One Social Club. Mr Smith, thank you for coming forward. Please take a seat. We'd be very pleased to  
20 hear you.

MR SMITH: Thank you for the opportunity and I'm very happy to be here. I just want the Inquiry to know that the reason why I'm here is because there are a lot of questions from my community about DHS and my personal experience  
25 with DHS.

MR CUMMINS: Yes.

MR SMITH: I'm [REDACTED] Smith, president of the All For One Social Club. One  
30 what level of violence or abuse are children taken away from home? Some parents doesn't know their rights in regards to Child Protection, or when the child is taken away from home, how to get them back and one act of violation can the child be taken away. Some parents that have spoken to me say they are at threat of losing their children. They won't talk or do anything when the child  
35 does wrong and this is right from our community because you're living in fear.

I call on this Inquiry to take into account that not all communities are abusive to children and cases must be looked at differently and not collectively as we have different culture, values and beliefs. It must not only be about protection,  
40 but also the responsibility of the children. As a father of two, I am (indistinct) responsibility of teaching my children how to be disciplined and contributing to their community. There are many ways of disciplining a child without violence or abuse and parents must be willing to sit and discuss with their children on building a better relationship.

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For some parents who are lacking in this way, workers must have the experience in dealing with such cases, solving problems, creating a better relationship, supporting the family and not rushing to take the child away without a solution. They must understand we have different culture, values and beliefs. If we are really committed to protecting children, there are some facts that must be implemented, like the wellbeing of the children, communication between children and their parents, the attitude and the responsibility of the children.

5  
10 African children call their adults uncle, auntie, brother or sister and we don't talk when our parents are talking. Although we are living in different society, does that means we must forget who we are? When I was a child it was hard for me to stay at home. I didn't wanted to accept responsibility of discipline. Most time when I leave home, I was always brought back. In my community, if a family member believed they are losing control of the child, to bring the child back to their parents or ask for advice. Workers might not think they know everything and must not act based on I think, I know and I do. It is how you train the child that's how the child will grow and I am a product of my community. If only some communities are allowed to participate in dealing with the children, as we have different culture, values and beliefs, our children will contribute more positively than what they are now.

25 Wellbeing. I believe that the children are at risk in Child Protection than at some homes. These children do what they want, when they want without supervision and they end up in prisons, hospitals or worse, death. The reason they are called children is because they can't make constructive decisions on their own and they need guardians, for those that are responsible to help them, but in Child Protection this isn't happening and it is a major concern in my community among parents.

30 I believe that there must be rules that all children must abide by and actions must be taken for disobedience. They need to know who are in charge and must show respect to those in charge of them. Without law and order, they are savages. If father did all he could to get his son back to live with an extended family, for his effort was denied. There must be no privacy between children and parents. Again, different culture. When he (indistinct) it will be because of his (indistinct) I am worried about the wellbeing of children in protection because no-one is taking responsibility of their actions and that is a sign of failure.

40 Communication. As we all are aware, misunderstanding will always be at homes between children and parents, but it is what happens next that either strengthens or damages our relationship. Again, workers must have understanding in dealing with different culture and it is vital that workers have understanding with the family of culture they are dealing with. Parents are not

visiting or talking to the children while away from home and this act has resulted in many families falling apart in my community. Twelve months is a very long time to separate a child from his or her parents and without any kind of communication that child will adopt a lifestyle that will be harmful to them.

5 Who can better advise a child than their parents? Example, a boy I knew, for the 16 years that I knew him he never smoke or drink, but when away from home he started doing things that he wouldn't do at home and I didn't know until he's dead. If only families are allowed communication with their children, they will turn out more better than what they are now. Again,

10 different culture.

Attitude and responsibility. It is no secret the attitude of these children are really shameful. No respect, discipline or responsibility. Again, I comment on different culture. For my community, we believe children should be respectful

15 to adults and I'm also aware of the fact that some children don't want to live with their parents, so that's why we have extended family. The child must not be rushed from home when an extended family is waiting to accept them. Too much power are given to the children and it is harmful to them. What decision can a 12, 13, 14, 15 or 16-year-old make that can benefit them? Responsibility

20 is the foundation of every child and it is important that they understand the actions and rules in society. Example, when you go to town one night, there are more children on the streets causing trouble and these children are not living at home. To teach one responsibility you, too, should be responsible. What are the attitudes and responsibilities of child workers?

25 Recommendation. I ask this Inquiry to take into account the fact that workers must have understanding of the community they are dealing with at all times. Taking the child away must be the last option and extended family must be allowed to take the child rather than giving them to strangers. Communication

30 must not be cut off. Example, I believe that that father, if he was allowed to communicate with his son, he could have been alive. The attitude of the children will only change if they are taught responsibility. Workers are to deal with individual cases on present times and not what they think. Workers should be more concerned about solving problems and asking for assistance

35 from the community that they are dealing with. They must be open to dialogue, finding a solution that will benefit the family, as taking the child is not always the best option.

40 For some children that just want to leave home because their parents are strict, should be taught to return back. Example, in my community the girls don't want to learn how to cook, clean or help at home and they threaten their parents they will leave if forced to do domestic work. The same as the boys, they don't want to go to school or learn trade and it is in their own interests.

45 I ask this Inquiry in such cases the child must not be taken from home, but

rather told they will lose all welfare if they leave and accommodation will not be provided for them. How can we expect our next leaders to be responsible if they are not taught responsibility. I must confess as (indistinct) and changes are about to be made, but honestly these changes will only be effective based on multiculturalism. Our culture, our children. Thank you.

MR CUMMINS: Thank you, Mr Smith. Do you have a copy of your written submission?

MR SMITH: I do have (indistinct)

MR CUMMINS: Yes, thank you very much. That's been provided because we'd like to be able to read that again and to study it. What we do, Mr Smith, is we receive the verbal submissions, as we have done with you, and we transcribe them as well and put them on our website.

MR SMITH: Thank you.

MR CUMMINS: And we also study them ourselves, which is why I wanted to make sure we had the copy, so we can do that and have the benefit of reading it as well as having the benefit of hearing you. I don't have any questions for Mr Smith.

PROF SCOTT: No, nor do I.

MR SCALES: Mr Smith, how do we get the balance right between a culture which is very different from, as you said in Africa, and a culture in Australia which is also very different and upon which certain laws and norms have been established? How do we get that balance right between the two communities?

MR SMITH: Well, the first thing is to change the laws because most of these laws were made long before other culture (indistinct) were coming to Australia, so because as many cultures are coming, the laws need to be changed. So that is the first step, to change the law.

MR SCALES: What about anything within the African community, is there a need for change there, or not, or do you think - - -

MR SMITH: Yes, there is a need for change because there are (indistinct) in my community. People are worried over what will happen to the children, so if we can get the balance right, dealing with cases on present times and trying not to compare what happens with other community, with this community because as you all know, some community (indistinct) I'm very aware of that and some are not because the values and beliefs are different, so if we try to think of what are their values and what are their values, compare and then we can get the



balance right.

MR SCALES: Is it your view that there are vulnerable children inside the African community that might need to be taken away from their family at any time, or do you think that's unusual within the African community?

MR SMITH: One thing I will say, African communities, we are obviously easy target for DHS because honestly like (indistinct) personable -

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People are worried. You say the child's emotional rights are abused and you're going to protect him.

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We don't know what emotional abuse is and parents doesn't actually know the law because DHS is not telling them, "These is your rights and this is what you can do." All they know is to take the child away and that's it. No communication. No visitation. Nothing at all. So this is the major concern in African community.

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MR SCALES: So would it help if there was greater communication with the African community about how the law operates, why it operates in a particular way, maybe even people from the African community like yourself being able to articulate what that might mean in an Australian context? Would that be helpful, or not so helpful?

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MR SMITH: Yes, that would be helpful because I mean to understand one culture, there is some things you have to explain and teach you what it is. It's not everything you read, you can understand. It can't make you expert on what you read. To be an expert, something you have to experience or something you have to face. You have to be taught. There are people in our community that we call community leaders, they are like our father in the community and these people are willing to at least bring their idea to DHS and say, "This is what we believe can work," but they are not asking for it and that's the thing, they thinks they knows everything and they are wrong.

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MR SCALES: Thank you very much.

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MR CUMMINS: Well, the words you used were "discipline without violence or abuse," that was what you said.

MR SMITH: Yes.

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MR CUMMINS: Yes, we understand that. Mr Smith, thank you very much for coming forward.

MR SMITH: Thank you.

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MR CUMMINS: Next, we're pleased to invite forward Mr Bernie Chatley. Thanks very much, Mr Chatley. Please take a seat and settle yourself in there. We've had the benefit of your written submission which we have studied and are familiar with and which was very clear, if I may say so, so you speak to it as you wish.

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MR CHATLEY: Thank you, Mr Chairman. I won't speak for all that long. I've tried to be as clear as I can in the submission. I'm actually, as I think I've said in my covering letter, theoretically I'd be about a quarter of a way through an employment contract in the UK but for family reasons I've needed to come back. Having come back, I'm very appreciative of the opportunity to make a few supplementary comments.

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MR CUMMINS: Excellent.

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MR CHATLEY: Yes. I'd like to highlight probably three or four major aspects of what I've experienced in child protection work in London boroughs in the UK. The reason why I particularly want to do that is to contrast those with some aspects of what I've experienced for a rather longer time in child protection here in Victoria, around about the last 10 years of my 40 years in the aforesaid Department of Human Services were in child protection.

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Now, I have also said in the submission I focus, in particular, and need to focus, I think, on investigation and assessment or the investigation and assessment phase in the child protection process. The first standout in the UK system for me is the assessment framework of children in need and their families, and that's one of about eight appendices that I've attached and I'm sure the Panel is well aware of that. A very broad framework indeed, put simply, based on developmental theory which local authorities throughout the UK have been implementing, broadly speaking, since 2000, so about 10 years now. The Panel, of course, would also be aware of the Children Act 1989, section 47 thereof requires local authorities to undertake protective investigations.

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Now, in the environment in which one works in a local authority as a child protection - well, sometimes you're called a child protection worker, you're usually just called a social worker, there's quite a story to that which my professional association, the ASW, would probably like me to make some observations about but that's not part of what I'm here to talk about - but in that environment as a social worker you are often called to focus on the London child protection procedures and there is a couple of aspects of these procedures

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which strike me as very central to the scheme of things doing child protection work.

5 Those child protection procedures actually require, if I might quote the word "integration", integration of protective investigations with the assessment framework that I've just referred to. Those child protection procedures also require - and I do want to quote this particularly because it says on page 3, "A needs led response" by both the police and the Social Services Department when a child protection referral, as it's called over there, is received.

10 Now, another aspect to me of using the assessment framework that I've referred to, the Assessment Framework For the Children in Need and Their Families, which I think is a rather good add-on "and their families", is that when - I've learned this from over there, that's what they often say - when one is working  
15 away in that environment and you're working within the assessment framework, the broad assessment framework, what people say over there is we need to zero in on risk assessment. We're starting off with a broad assessment framework, which it is, and a very commendable one in my view based as it is on developmental theory, one needs to zero in on, or the other saying is - it  
20 sounds a bit quaint to me - but a drill down to the narrower concept of risk and risk assessment within that broad framework.

Now, the other very major, for me, very major indeed, very impactful  
25 differential that I find working over there as opposed to over here is the very strong requirement to work cooperatively with - and I hope this doesn't sound too basic - but work cooperatively with and also the other saying is work in partnership with (indistinct) and other family members and that's even if one is doing a protective investigation or one is doing, for instance, an initial assessment for an initial child protection conference, or is doing a core  
30 assessment for a review child protection conference. Wherever the social worker is at in terms of intervening with the child and the family, the very strong expectation, not just said, also written in policy and procedural statements, is basically thou should always try and work in cooperation with and/or in partnership with the family and the family members, which I think is  
35 a very noble sentiment indeed and when one is there one of course tries to do that.

Now, I'll make some very brief comparative comments, if I might, to the  
40 Victorian system. I've said 40 years in DHS, which means that I was well and truly around when - I'd been around for near enough to 20 years when the Department, by whatever name it was, I've even forgotten the name it was back in the 1980s, Community Services Victoria I think, yes - when the child protection, and post-Kearney, the report and the child protection system being introduced into the Department, which was very impactful at the time and even  
45 though, as I said in the submission, I wasn't directly involved, personally at the

time I was in the youth justice area, but even though I described myself as being there and tangentially involved, which I was, the basics were pretty clear.

5 What was said and occasionally written was in terms of being harms-based, of developing a model which was harms-based which was forensic - and I've just forgotten my third adjective - it was justice, it was to be justice-oriented vis-a-vis or as against welfare-oriented as in, as I understand it, from a bit of study, some European countries are described as having a welfare-oriented child protection system. So they were the three sort of hallmarks which for me personally, as having at that stage even knocked up 20 years in DHS, in all honesty I didn't exactly warm to because insofar as I thought of myself personally, I thought of myself, to borrow from the UK literature, rather needs led in terms of my work, but there we were.

15 Around about the end of the - this is the next point - 80s, early 90s came the introduction of the Victorian Risk Framework, of course known for short as the VRF, and again I was not directly involved in that, but tangentially involved in it. I certainly heard all the discussions. I was party to some of them. As Dorothy Scott has told me on one occasion, a very good framework it is, and I still think that and I will reiterate that when I offer a few comments from UK-trained social workers who also think it is a very good framework.

25 If I could use the word - I can't think of a better word than - however though, however in relation to the VRF, if I can call it that for short, a very good assessment framework though it is in terms of what it's designed for, I don't think it's designed to capture much about needs and needs assessment. I simply don't think it's designed for that. I also think that inevitably the VRF, coming as it did from the framework that had been established in the Department's program in the second half of the 80s, reinforced that framework, the focus on harms-based on forensics on the justice-oriented model.

35 The VRF came out of that and I think it reinforced that, which I think is not altogether surprising. I think, and I'm using the word "I" a lot, more than I'd like to, but I think and I'm clear that I want to own this, that this led straight in my view to an adversarial modus operandi system in Victoria or adversarial mode of practice and I think that that inevitably led to what I call - and I think I've got a lot of company here - a lot of people refer to as a court-driven system because I believe it always has been and I believe it still is and that bothers me, the degree to which I consider it to be court-driven.

40 To finish on a couple of comparative comments in relation to Victoria vis-a-vis the UK. One thing I noticed practising in both systems across some time is what I'd describe as the narrower approach to investigation and assessment in Victoria vis-a-vis the UK. What I'm trying to say is that in a way that's hardly surprising given that your framework in the UK is a broad-based needs

assessment framework that I've talked about vis-a-vis is what we've got, a very good, very good, but rather much more in fact specific Victorian Risk Framework to operate here in Victoria to operate within.

5 I also want to make the comparative comment - and I'm a bit sad to make it but I'm going to - I think from my experience working in Victoria I want to say this: I think there is a much lesser emphasis on working cooperatively, let alone in partnership with family members, parents and family members, I really do. Maybe I've been going around, Dorothy, with my eyes closed or my  
10 ears closed for the 10 years I was in Child Protection, but that was certainly my perception, much lesser emphasis on working cooperatively, as I say, let alone in partnership and that could take me back to the notion particularly of adversarial practices as I perceive it.

15 I want now to zero in on the particular problem that I've tried to identify in the submission I've put to you and that relates to what I've called the de-emphasis on needs and needs assessment in Victoria. What I've tried to say in the submission, particularly in that section of it, from my own perception, and I've talked very briefly about my own history - in the Department, I mean, not my  
20 personal history, that's a longer story still - but I always had the feeling that what was sometimes called the health and welfare dimensions, sometimes called developmental needs were, to put it a bit crudely, were add-ons, add-ons to what people saw, what people in the system saw as, quite rightly, the essential notion of risk and risk assessment. Of course I'm not trying to argue  
25 that one cannot deal with risk and risk assessment in a child protection system - to do so would be, frankly, silly. However, I always had the feeling, as I said, that needs, needs assessment, things like health and welfare dimensions, developmental needs were add-ons and another way I'd put it pretty crudely is also-rans, to use a bit of the vernacular. However, I would want to say at least  
30 they ran, until recently.

If I might in this regard draw your particular attention to appendix 4 - and I'm sorry there are 8 of them, I think they're all one page. Appendix 4 is an extract  
35 from the CRIS Manual, the Client, Relationships Information System Manual - if you don't mind me referring to that, Mr Chairman - because the heading of that appendix straight out of that manual to me is a major worry. It suggests to me very strongly indeed that needs and needs assessment, and indeed anything to do with needs, has been subsumed under the rubric of risk assessment.

40 Now, the heading I think is pretty basic. If you take even not very long to look at the content of that page - and I think it goes over the back for about another quarter of a page - my argument would be that what's in that page says very, very little about needs and needs assessment at all. So that's all consistent, I hope, with my fundamental argument that I think I opened with in the  
45 submission, that really I think needs assessment are fairly seriously underdone

in the Victorian model of practice. That's the essence of my argument.

If I can just point out please two ironies, for me two ironies in this. The first is that that appendix that I've just drawn your attention to came along, highly  
5 ironically to me, at the same time - well, it came along in about 2007, the time I left the Department for the third time - 2007 in the middle of a whole lot of implementation of the 2005 legislation which had many strengths to it, I mean the best interests principles, cumulative harm - at long, long last, but cumulative harm - we had all those publications, Every Child Every Chance  
10 that kept me going reading them until Christmas thereafter and longer - good stuff, really good stuff - the completion of the Child First program, excellent, but I find it highly ironic that this to me backward step has been taken in relation to, in my view, relegating these needs, needs assessment and of any focus thereon almost not only to also-rans, but almost to very little existence at  
15 all. To me it's like my late father used to be in the building industry, getting a spadeful of needs or needs assessment and chucking it in the cement mixer with a whole lot of risk assessment factors, round and round goes the cement mixer and out the other end comes, for instance, as I've attached as appendix 3 I think, a court report, for instance, a court report which is an aggregate,  
20 which is a conglomerate in which, in my view, needs and risks are almost distinguishable the one from the other and I simply don't think that's a very good idea. I don't think that's conceptually very sound.

Also in terms of conceptual soundness or otherwise, I think that appendix  
25 4 that I've referred to, the risk needs listing, I think the sequencing is wrong in that I - and I hope I've got a lot of company in life - generally try and work from the general to the particular. When I'm in the UK working over there one works, as I've said earlier on, I hope, from the general, from the broad assessment framework, drills down to the particular, when one needs to, when  
30 one's got a child protection referral, one drills down to, or whatever other terminology I used, one zeros in on risk and risk assessment within the broader framework. It seems to me that appendix and what it illustrates is precisely the opposite to that. It is putting the broader concepts of needs and needs assessment, subsuming them under the narrower and more specific, much more  
35 specific, in my view, much more specific concept of risk and risk assessment.

Very briefly, I said in my covering letter that I wanted to make a comment about some views of UK-trained social workers and then I'm nearly finished. I've spoken across some years now, about the last five, to five UK-trained  
40 qualified social workers who have been recruited over here to work in the Victorian child protection system. What's fascinated me is that when they talk about the differentials between where they've come from and working over here, they zero in - I've used my own word - they focus on the very business of risk assessment and needs assessment. They talk about their assessment  
45 framework over there vis-a-vis the VRF, the risk assessment arrangement here,

that's what they talk about in terms of making their adjustment from one system to the other system. In doing so they talk about, and in the interests of balance let alone anything else, they talk about the VRF as a very good assessment tool, they took much less charitably about the level of focus on risk assessment in the Victorian system, and some very brief quotes and some pretty blunt ones are, "The child protection system in Victoria is besotted with risk and risk assessment." Another one, "The Victorian system is obsessed with risk assessment in its child protection system," and a third and final, "Disproportionate attention is given to risk assessment in the overall scheme of things in the child protection system in Victoria."

Then there is another five, personal friends over in the UK that I've developed across 13 years I think it's been, and from time to time I meet with them. Just recently I've caught up with them while I was there and we have this type of discussion and they basically say something fairly similar. They say that they think the VRF is a good tool, they are clear about that, they acknowledge that. They don't think that that appendix 4 is very good at all. They think it represents quite a serious - in Bernie Chatley's words - a very serious de-emphasis on need and need assessment in the Victorian system.

He comes to his conclusion and recommendation, Mr Chairman, Panel members - and as I've made clear I'm an old bureaucrat so I'm always coming to conclusions and recommendations. My recommendation would be that the Victorian child protection program review its model of practice with a view to including a detailed assessment of needs in all phases of the child protection process. Thank you.

MR CUMMINS: Mr Chatley, thank you very much. It's always illuminating to have a comparative perspective. I think you do learn a lot from that and you've spelt that out very clearly, if I may say so.

MR CHATLEY: Thank you.

MR CUMMINS: I don't have any questions of Mr Chatley.

PROF SCOTT: Nor do I.

MR SCALES: Thank you very much. Well done.

MR CUMMINS: There you are. Excellent. Thank you very much, Mr Chatley and good wishes.

MR CHATLEY: Thank you. Cheers.

MR CUMMINS: Finally, we'd like to call upon Mr Edwin and Mrs Barbara

Carter, or Mr Carter if you'd like to come forward yourself. Please take a seat. I'm sorry I've taken a little time to reach you, Mr Carter, so please accept our regrets, but we're very pleased you've come forward. We've read your material, for which we express our thanks. Before we do proceed, could I ask  
5 you this: the matter that was before the Children's Court and may still be before the Children's Court, if you don't identify that, you can speak in general terms.

MR CARTER: Thank you Mr Chairman. I will try and be brief. This Inquiry  
10 doubtless has heard of many failures by DHS to protect the best interests of children and not acting when children are being abused, but there is another side to child protection that I wish to bring before this Inquiry.

The law allows Child Protection to take the extremely serious step of removing  
15 children from their homes in specified circumstances and that DHS must act at all times in accordance with the decision-making principles of the Act and with the principles of the Act. If it does not do so, it is stealing children and there are many children in Victoria being stolen. While I do not deny that DHS may have good reason to remove children from their home situation, my experience  
20 and my knowledge of cases leads me to believe that DHS is quite willing and capable of utilising the same reasoning and techniques revealed in the Stolen Children Inquiry, the Commonwealth Inquiry, to prevent the return of children to their natural parents or parent in the name of the mantra, protecting the safety of the children.

25 The *Children, Youth and Families Act* sets out in section 10 the way in which DHS should deal with cases so as to promote the best interests of children. In section 11 the Act sets out principles and considerations to be taken into account when decisions are made. Both sections, as I read them, are brilliantly  
30 laid out and if DHS followed these principles and their own practice manual I would not be here today accusing DHS of stealing children.

I want to draw the Inquiry's attention to three matters that enable DHS to do  
35 that. Firstly, there is always an enormous power imbalance between DHS and the family, both parents and children, when a complaint is made. DHS may in some cases come to the home in the middle of the night to remove children on the basis of perceived risk, although I doubt it is necessary to wake the children at 2.30 in the morning who are peacefully sleeping, but it is what happens after this that reveals the true power imbalance.

40 As the Inquiry is doubtless aware, DHS must immediately seek an interim accommodation order from the courts until a more permanent custody to the secretary of the Department order can be held. Unfortunately, every 21 days DHS can return to the courts and have this interim order almost indefinitely  
45 extended while it gathers evidence of its initial protective concerns. Because



the application to extend the order can simply be procedural, the parent or parents have no effective recourse until the courts decide that DHS has had long enough and must present their evidence. During this time when nothing is being tested in court, parents have limited contact with their child or children.

5 I am aware of cases where the investigation process took eight or more months before the courts finally insisted that DHS presented evidence. For a baby or young child, this can be a greater proportion of their life under an interim accommodation order than under the parents' care and by the time a decision is made, DHS can and does argue that in the best interests of the child's stability

10 he or she should remain in foster care, notwithstanding the evidence that children in foster care generally have a childhood which, statistically at least, is characterised by great instability.

It is clear that in the interests of natural justice that a limit must be placed on the number of deferrals that DHS can seek after the initial removal. In relation to this, particularly in regional areas, I believe that all cases of child protection should be dealt with by the Children's Court, not by the Magistrates' Court, which is often the case in regional areas. It seems that the standard amount of access time between parent and children during this interim accommodation

15 order time is one hour a week supervised. Any other interaction between DHS and the parents or between the children and the parents of parents is at DHS pleasure or otherwise. This level of contact of one hour a week supervised is inadequate to maintain a meaningful relationship between the parent and child and would be completely unacceptable in family law as set down by the

20 Commonwealth.

Is DHS required to provide counselling for the parents? Are they required to keep the parents informed of the progress of the investigation and so on? Good practice would suggest so, but it certainly does not always happen. By law,

30 they are required to keep the parents or parent informed of any medical procedure because by law under the interim accommodation order and under the order of custody to the secretary they remain being responsible for both the care, both the education and health care of the child. Any medical examination outside of that which is deemed to be an emergency requires parental consent

35 as the parent or parents are still guardians for the children. Does DHS seek such permission? At best, they consider putting medical consent forms in front of the parents to sign as adequate, leaving the doctors completely out of the loop.

40 One case that I am aware of, there was a letter that had the doctor saying to the carer that the carer should approach DHS in order to approach the parent to get parental consent. I would suggest that third-hand medical consent doesn't meet any of the requirements that are set down, in particular the ramifications of Rogers v Whitaker which set the standards within Australian jurisprudence for

45 proper medical consent.

Now, while I wouldn't expect the parents to be aware of that, I'm aware of it for various reasons. I would hope that DHS would have at least trained their staff in the matter. Of course, the parents and parents are particularly vulnerable  
5 when any request to sign medical forms is put in front of them and is put in front of them in terms of signing if it's being in the children's best interests. What parent would not sign such a form while their parenting skills are under DHS's scrutiny?

10 DHS can and does make demands on the parents to attend meetings and appointments at its convenience and the parent or parents, in fear of losing their children, will do their utmost to obey no matter what the cost. Access, for example, is often arranged to suit the convenience of the supervisor rather than the children or parents and so the families, for example, are unable to be  
15 together over Christmas because there was no-one available to supervise them. On the other hand, does DHS go out of its way to meet the parents when the parents have requested to meet? My experience is that DHS uses the power imbalance to its own advantage, not replying to requests promptly, ignoring complaints, not reasonably returning telephone calls, even refusing to make  
20 appointments. Having had long experience with the bureaucracy and having been part of it myself, I am aware that most people avoid tangling with any bureaucracy as much as possible and this vast power imbalance enables DHS to steal children without their processes ever being challenged.

25 My second point is that DHS is virtually unaccountable to anyone. The abuse of interim accommodation orders, as I have already mentioned, is an illustration of that. Only when the court is finally jacked up does the (indistinct) have to be heard and an order made either by the courts or by consent.

30 Another illustration of the unaccountability of DHS in their willingness to abuse the legal process occurs when a custody order is about to expire. One would surely expect DHS would endeavour to seek a court hearing to be held before the order expired or near when the order expires, but instead they can  
35 leave seeking a hearing until the last possible minute, knowing the courts will automatically extend the order until a hearing can be held. A comment, when we raised that with the lawyers was, "Oh, they do it all the time."

40 In the case of a disputed hearing, this can enable DHS to almost double the length of the order. I wonder how many times DHS has been served with a writ of habeas corpus for the return of children after an order expired and before a court hearing? When a custody order to the secretary is made and a case plan devised, who holds DHS to the order or the case plan? DHS can and does ignore court requirements, can and does ignore their own case plan, can  
45 and does ignore any good practice laid out in its own practice manual. I can

give documentary evidence where DHS has done all these things. Why? I believe it is partly an exercise of power, it is partly the result of the lack of accountability and it is partly the result of an almost toxic culture within DHS.

5 Where does the family or parent turn to when this occurs? Presumably when DHS does not carry out the requirements of a court order one can have recourse to the courts, but for a mother or father without significant financial resources appealing back to the courts is an expensive process. One can  
10 complain to higher management with DHS, but I am aware that complaints are often ignored at the local level and are certainly not handled in accordance with DHS's complaints policy. Responses, if any, more often than not simply reflect the excuses for the person against whom the complaint is being made.

15 Given the complexity of the system, most parents need professional help or at least the support of another person as an advocate. Most parents cannot afford professional legal support. Legal Aid is only available for court hearings and while the practice manual makes provision for a support person, by God, DHS does not want to deal with an articulate person who can read an Act or practice manual as well or better than they can.

20 Bona fides of the support person are continually questioned, meeting dates are altered on one day's notice, inconvenient questions go unanswered; agendas are changed without notice and, in general, DHS makes it as difficult as possible for both parent, parents and/or the support person. Can the person or support  
25 person or the advocate complain to the Ombudsman? Obviously yes, but it is likely that the Ombudsman will and does refer the complaint to DHS, accept their excuses, or refuse to release their report or even to investigate the complaint to the complainant or advocate on spurious grounds such as privacy.

30 Why does not the Ombudsman enter into dialogue with the complainant to see whether DHS's excuses can be factually disproved? One is left with a strong impression of a snow job. Can the parent or advocate complain to the minister? Again, yes. But all one gets is the excuses of DHS fed back through the minister's office with no attempt to disprove or verify the responses. In  
35 fact, one sometimes gets the strong impression that the minister's office has not even read the Act precisely or properly. Complaints by anybody are not made lightly and the offhanded way of dealing with them, either by DHS, or by the minister's office, or by the Ombudsman is not appropriate for a good public service and destroys the integrity in the whole Children Protection Service.

40 My third point is the difficulty of holding DHS to court orders. Now, I've already said that. I have evidence of a specific court order which DHS has managed to avoid responding to for at least 12 months, but that's something I won't labour. The Inquiry requests what sort of problems or solutions do I  
45 suggest to the problems of stolen children.

5 Firstly, it is enormously important, particularly in the country regions, that all cases of child protection should be heard by the specialist Children's Court. Magistrates who might in the large number of cases in the country deal only with criminal matters dealing with the difficulties of child protection are not always adequate and a specialist court would have much better oversight of DHS if they heard all cases within the State of Victoria.

10 Secondly, DHS needs much better training as respect for the guardianship responsibilities of parents when children are under a custody order to the secretary. If the parent is responsible for health care, if the parent is responsible for education then the way in which DHS is carrying out and allowing those responsibilities to be carried out is simply not adequate and they must be carried out properly. Despite what the information leaflets say, DHS  
15 has little understanding of the proper role of parents when a custody order has been issued.

20 Thirdly, there needs to be set up a family and children's advocate along the lines of the public advocate who has responsibility for people with disabilities. I would envisage the role of the Child Safety Commissioner being expanded to embrace this responsibility and the responsibility goes beyond that of simply safety, to being a family and children's advocate and the office being made a statutory appointment, reporting directly to parliament on matters of concern about the wellbeing of both children and family. This is what the Act talks  
25 about, the primary unit of our society is the family unit and if this sort of advocacy service was set up then we might actually return to some of the principles laid down in the Act.

30 Fourthly, somehow or other the rather toxic culture of DHS must be changed so that they see their primary mission as the wellbeing, the best interests of children in the context of their family. DHS must not see the first and only way to handle family dysfunction as removing the children from their families, placing them in foster care, assuming that foster care is automatically better than parental care and responding to any challenge by simply repeating the  
35 mantra, "Our primary concern is the safety of the children," despite what the *Children, Youth and Families Act* says. Culture is hard to change, I realise, but I hope this Inquiry will at least be the start of such a culture change. Thank you.

40 MR CUMMINS: Mr Carter, thank you very much for that. That was very clearly and, if I may say so, firmly expressed and we've got the benefit of the written submission as well. I don't have any questions of Mr Carter.

45 PROF SCOTT: Nor, do I.

MR SCALES: No, I think it's clear. Thank you very much.

MR CUMMINS: We're sorry we've held you so long. Thank you to both you  
and to your wife. Ladies and gentlemen, that concludes the Public Sitting. We  
5 have two confidential submissions to receive which we'll do in a moment, but  
we'll now conclude the Public Sitting with our thanks for your being here.

**INQUIRY CONCLUDED AT 4.48 PM ACCORDINGLY**

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