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TRANSCRIPT OF PROCEEDINGS

THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

MS K McMILLAN SC, Counsel Assisting
MR M COPLEY SC, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950

COMMISSIONS OF INQUIRY ORDER (No. 1) 2012

QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

BRISBANE

..DATE 12/09/2012

Continued from 11/09/2012

..DAY 18

THE COMMISSION RESUMED AT 10.02 AM

McNALLY, JOAN called:

COMMISSIONER: Good morning, everybody. Mr Selfridge?

MR SELFRIDGE: Yes, good morning, Mr Commissioner. There's one issue I'd like to address with you and that's time management. I'm very much conscious of we're here today for the second day of sittings, possibly tomorrow but I understand you have some other commitments tomorrow in terms of some private sittings that are foreshadowed, and obviously there's a whole series of people that have travelled from Brisbane and from other places to be here. I respectfully submit that we perhaps could settle some form of time management or time-frame so that we can - because I'm conscious also of the fact that we have the second witness, Ms McNally, to finish this morning and then we have four other potential witnesses in these public hearings. It's only really a matter of housekeeping as such that I'd seek to address your Honour.

COMMISSIONER: Okay. Well, apart from the amount of time I spend butting in, I'm largely in your hands as to how long it's going to take. Have you done a whip around to everyone to see how long they're going to take with Ms McNally and the other witnesses or do you want me to interrogate them now?

MR SELFRIDGE: I've actually spoken with my colleagues in relation to Ms McNally, and as I understand it I think the Aboriginal and Torres Strait Islander Legal Service intend being another half an hour and then as I understand it Commissioner for Children and Young People and Child Guardian are going to be half an hour with Ms McNally too. So that will take us up till 11 o'clock this morning this morning.

COMMISSIONER: So she's become - instead of taking the time of one witness it's taking up two witnesses' time.

MR SELFRIDGE: That's it, in essence, yes.

COMMISSIONER: Ms McNally. Yes, okay. Well, the options are that we sit longer, everyone takes - or everyone takes a shorter time with the witnesses we have left or we drop some witnesses off by agreement.

MR SELFRIDGE: Yes.

COMMISSIONER: Or I rearrange my schedule for tomorrow, I stay in the beautiful city of Cairns for a little longer and fit everything in. I mean, I'll sit - start early, finish later and we could take half the day tomorrow.

MR SELFRIDGE: Yes. Might I suggest that I could speak with my colleagues when we adjourn for lunch, et cetera, see how we're going about more in time, perhaps have some discussions about the - - -

COMMISSIONER: Come up with a proposal and we'll - - -

MR SELFRIDGE: Return after that - - -

COMMISSIONER: Yes, I think I'll leave it to you to work out a plan and I'll approve it or we'll refine it.

MR SELFRIDGE: Yes. I appreciate that, thank you.

COMMISSIONER: Yes, thanks, Mr Selfridge. Now, Ms Byles?

MS BYLES: Yes, thank you, commissioner. If I may continue with my examination of Ms McNally.

Good morning, Ms McNally. I only have really one further area that I wish to explore with you, and it follows on from where we ended proceedings yesterday. It relates to this issue as to cultural competency, or perhaps cultural appropriateness, depending on what term you prefer to use. My question follows from the evidence that was provided yesterday that there is – and I would ask you to confirm that there are, I suppose, issues with the department and providing that cultural competency because the department are not from the community. Would you acknowledge that that was a summary, I suppose, of the evidence provided yesterday afternoon?---As I said, generally there is training provided to CSOs through the three-week training program.

Yes?---Certainly within the Cape we try and access people from the community to assist us with cultural specific training.

Yes, and why do you access those people in community? ---Because they're the specialists in that area. They're from the community and they certainly – they live the culture and know it.

So my question relates to exactly that point, and in your opinion, based on obviously your experience would you consider that it would be of benefit towards service delivery outcomes if there were more indigenous people in those professional roles to be able to assist to lift those standards of cultural competency and cultural awareness? ---Definitely. I believe the department could do with a lot more indigenous workers employed through the department.

That's obviously from a governmental and departmental point of view, but would you also see the benefit in

non-government workers having similar professionals within their ranks?---Yes, definitely.

From a cultural competency point of view?---Yes.

Excuse me for one moment. That concludes my examination, thank you, commissioner.

COMMISSIONER: I thought it was going to take half an hour.

MS BYLES: It was, your Honour, but I had - - -

COMMISSIONER: See? Mr Selfridge, can't rely on anything he says. All right.

MS BYLES: I beg your pardon, commissioner. After discussions with my colleagues I spoke further with my instructor and we cut back the questions we were otherwise going to ask.

COMMISSIONER: No, that's fine. No problem with that, thank you.

MS BYLES: Thank you?---Thank you.

COMMISSIONER: Mr Capper?

MR CAPPER: Thank you.

COMMISSIONER: How long is Mr Capper going to be, Mr Selfridge?

MR SELFRIDGE: I'm in Mr Capper's hands.

COMMISSIONER: All right.

MR CAPPER: Probably no more than half an hour. Thank you.

Craig Capper from the Commission for Children and Young People and Child Guardian. In relation to your statement, paragraph 32, and you gave some evidence about this yesterday, you indicate there were services in Aurukun and there was a whole list of services that you identified there that were working. When asked about that you identified that - when asked whether or not there was a noticeable or a discernible difference in the activities in that area or the work that was being undertaken in that area you spoke about the safe houses. What about the other programs on there? How successful have they been?---I can go through and I'll talk particularly, I suppose, in relation to the Commission of Children and Young People. As I've spoken to there, we have - they are a fly-in, fly-out service into our community in Aurukun. We have an extremely good relationship with them. They go into

Aurukun, they go to Weipa, Napranum and Mapoon and then spend time in the office discussing cases with staff. So good relationship there. Bruce Marshall, the integration officer in community services, he's a very good conduit for us in community in relation to - he actually lives in Aurukun so he knows a lot of what's happening in Aurukun and certainly works closely with us with any issues that might arise in Aurukun.

Okay, well, what about in terms of each of those? I mean, I'm not asking you to go through every one of them, but, I mean, how are you measuring - like, I mean, ACT for Kids and the child health services and those, how are you measuring the success of those programs?---Partly we're measuring it in the participation of all of these people working with us in addressing child protection concerns. For some of those - and particularly the outcomes would be the reunification of children to their families within Aurukun, so the work that those services undertake to address those child protection concerns with us.

How many reunifications have there been in Aurukun in the past 12 months, for example?---In the last 12 months - now I've got the number 12 in my mind but I don't think it's that many. Probably about eight.

Okay, but is that the only measure? I mean, what I'm trying to look at is how are we seeing - - -?---Yes.

For these services, and there's a lot of services here - for these services how are we seeing value for money on the ground for children? I guess that's the issue I'm particularly concerned with?---Yes. Look, there are some - as I've spoken to, it's very difficult to recruit to some of these services so we're not seeing the benefit of some of those positions, because particularly the non-government services have found it very difficult to recruit to those particular positions and when they have they're for very short periods, so it's a very - it's a turnaround. So in relation to quite a number of our non-government services we continue to work with them but it is difficult to measure the outcome of how beneficial they are on the ground. There are some there that I would say we definitely would - I'd speak very highly about the outcomes based on the child protection framework and how we work with families.

Okay, and when you engage in service delivery contracts and those things with these agencies are there any peak performance indicators that they have to meet? I mean, what are those types of issues? Like, how are we actually - that's what I'm getting to?---Yes.

Going down to the nuts and bolts of this, how do we know that this is actually working for the money we're spending other than maybe eight reunifications, possibly as high as

12? Other than that, how do we measure success for these? ---Okay. We actually have a unit that does the funding with these organisations who have outcomes and targets that these organisations need to meet. They would be the people who would be able to speak well to that. We also have what we call quarterly service meetings where we meet together with all these services that are funded, the non-government services that are funded to work with the department, and look at what outcomes have been achieved and what's working well and not working well with them.

Thank you. Now, I want to take you to - - -

COMMISSIONER: Sorry, I suppose you would have service agreements and you would have standards and reporting requirements in that, wouldn't you?---Yes, we do; yes.

Is there someone who monitors that?---We look at that through our quarterly service meetings and that's certainly monitored through the unit that does that, but we also participate in those meetings and talk to those outcomes and the targets and the reporting.

Thank you.

MR CAPPER: Now, if I could take you to paragraph 43, you talk about the necessity for all household members to hold blue cards severely impacts on recruitment of carers in the community. What do you mean by that and how?---What I'm pointing out there is that for children to be placed or people to become kinship carers everybody in a household - so there might be eight people so everyone over 18 must hold a blue card. There are some people - we might have the primary person who's identified as a kinship carer, but a lot of the other people in the household won't want to proceed with going for a blue card because of the paperwork involved and they're just not particularly interested in doing it because they haven't been identified as a primary carer for that child or children.

So it's just a matter of choice. They don't want to have a blue card as opposed to there's an inhibitor to them getting one necessarily?---I think there's a little bit of difficulty at times getting a blue card for some people because of - I mean, I don't know exactly the data so I'm not going to speak to that of people who have been refused blue cards.

COMMISSIONER: There's a bit of a philosophical question about that though. I mean, what you are saying to them is that they have to do something for the benefit of somebody else. Even though that somebody else is a child, you're making them go out of their way to get a blue card because we think that's a good idea or an essential when really there may not be any basis for expecting to do that and the only difference between them and you or me is that they have got a child in their household who the state's concerned with and we don't. I think there's an argument around why should that be a requirement. Have the commission looked at that?

MR CAPPER: Certainly in terms of the need to protect children. I mean, obviously the state takes on the obligation to protect the child once it takes custody of the child, for want of a better word, or the responsibility for it, whether it be a guardianship order or some other care order. Once that responsibility then rests with the

state to provide a safe caring environment. Certainly when we look at things such as the CMC and the Forde reports, when they do look at the placement of children in areas, there was a need to ensure that there was protection of those children in those environments. So certainly the blue card implementation was to enhance that protection of children in environments where they were being cared for by the state or on behalf of the state.

COMMISSIONER: Yes, but in doing that, the state doesn't do anything. It just says, "You have to do something. If you want to live in the household with that child, you have got to go out of your way and do something. We'll just tick the box and say whether you qualify or not." Do you see the philosophical argument about that in the legal democracy?

MR CAPPER: I can certainly see the argument but I guess the issue is what's the alternative. I mean, when we look to blue cards - - -

COMMISSIONER: That is what I was asking you. Have you looked at alternatives?

MR CAPPER: We certainly looked at the alternatives insofar as we say that it's necessary because - certainly the questions I'll lead from the witness shortly will clarify that but it's only one step in the process of assessment, but then when we look to issues such as the types of offences that are excluding people from getting a blue card, they will become more relevant as well.

COMMISSIONER: Just dealing with the inertia that's excluding people at the moment, that is, they think, "Well, why should I have to do something just because of what somebody else isn't - the responsibility they're not taking for their own child?" for example. I'm their uncle or I'm their older brother. Why should I expose myself to that sort of scrutiny simply because the state's intervened in the family which is not something I have got anything to do with?

MR CAPPER: With regard to that issue, it is a situation whereby the children are being taken from family or those who are caring for them and placed into an environment where people - particularly in a housing environment or in a foster-care environment where these people have 24/seven access to these children in an intimate environment absent of supervision and those sorts of things which we say, of course, increases the possibility of risk, particularly where those persons may have criminal histories or offending behaviour that is of concern.

COMMISSIONER: You know the next logical step to what you are positing is that every parent will have to apply for a blue card next.

MR CAPPER: I certainly wouldn't be advocating for that and I don't think the commission would be advocating that either, but I think it's that risk-management issue as to once the department takes on the responsibility, it has an obligation to ensure that the child is housed in a safe environment.

COMMISSIONER: Why? That's really the point. The point is: what is the risk? How do you manage it? Are you breaking a nut with a sledgehammer and who are you protecting? Are you protecting the system or are you protecting the child? That's what I think you need to all the time be questioning rather than fix on a rule one year at one point in time and then it just gets followed through regardless of practical realities of its application in particular communities.

MR CAPPER: Certainly the commission's position is and our submissions will reflect that the blue card system has been integral in that process of reducing the risk of harm to children in care. We say that the purpose of it is not to protect the system. Our view is that this is a further risk-management strategy to be able to further protect children particularly where they're in care, and keeping in mind, of course, that the blue card system doesn't just relate to foster carers. It relates to all child-related employment so the purpose of the blue card - - -

COMMISSIONER: Or even just living in a household, as we have heard.

MR CAPPER: That's classified as a form of child-related employment under the legislation - is that a person who occupies a home where a person is a foster carer or a kinship carer or is an adult occupant of a home similarly to family day care services and some of those that is required as - a blue card is required for those.

COMMISSIONER: I know, but we're debating whether it needs to be.

MR CAPPER: That's a matter for you to make your recommendations, of course.

COMMISSIONER: It's a matter for you to argue the toss with me as well, see.

MR CAPPER: Yes.

COMMISSIONER: Okay. Anyway, I don't want to distract you, but I probably did.

MR CAPPER: So the issues from what you have indicated though - you've said that there is certainly some reluctance of some people to apply because they just don't want to because they live in that house?---I don't know

that I'd just put it to down to they just don't want to. There's a lot of paperwork involved for the indigenous people to fill out and a process to go to and so people aren't prepared to go through that process when they have not identified as being a primary carer for this particular child.

Have you been involved in a blue card application?---Not personally, no.

So when you say there's a lot of paperwork involved, are you aware of what paperwork is involved?---I'm aware of the paperwork that they need to fill out, yes, to send off and then the process after that.

Okay?---Can I just put to you in the case of where we have a situation where a kin carer might put up their hand to become an kin carer or an identified person might put up their hand to become a kin carer and there might be a number of people living in the house and then there's other people in the house who don't want to do through it, but we might have a child living in that house who's six or eight who we have no concerns about. They've not come to the attention of the department so that child's actually residing in that house but because we can't get a blue card for every other person in that house, we can't place a child with their kin in that community.

Certainly. Now, in relation to that, you would agree with me if you have been involved in the process to any degree, you'd understand that there is a single form to fill out for a blue card. It's an application form?---There is a form to fill our, yes.

Yes, and it's one form?---Yes.

And the people fill that form out and they send it in. Only where the person has concerning criminal history do they then have to go through any other process. Would you agree with that?---Yes, that's correct.

So the initial application is not overly burdensome. Would you agree with that?---I would agree for you or myself or other people it might not be. I don't know that I'd agree for that for people living in community who don't want to go through a process.

But the application is made by the department on behalf of that person so the department is assisting them in that process?---The department can assist them in the process if they're prepared to go through the process.

COMMISSIONER: Isn't the better question to ask instead of getting - in your example, Ms McNally, which I think is a good one, isn't the question the department - that someone needs to ask isn't so much whether this person is a risk

and therefore can't get a blue card and therefore the kinship carer can't help everybody out by looking after a child in need of protection. Isn't the better question to ask whether the identified person who is willing to be a kinship carer is able to protect the child in the context of that household?---That's correct, yes. That is a good question to ask and that's the question we are asking and why that can't occur.

And if the answer to that is yes, what's it matter whether they've got a piece of paper or not?

MR CAPPER: The issue that we would say becomes a particular issue in that case is that the principal carer is not necessarily there 24-7; the principal carer is not necessarily able to control the activities of other people.

COMMISSIONER: No.

MR CAPPER: The issue is by excluding those other persons if they are unsuitable or ineligible to have a blue card and live in the home, that then creates the situation where they are not posing a risk to that child. But certainly without that risk assessment - and I'll certainly ask Ms McNally this.

Is it correct to say that other than the blue card, and leaving aside provisional carers, the department undertakes no criminal history checks in relation to people living in a home?---For a safety assessment, are you talking about?

For a foster care approval application or a kinship care approval application the department relies on the fact that the person has a blue card and the criminal history screening that's undertaken as part of that process, don't they?---That's correct, yes.

So in the absence of a blue card that criminal history screening wouldn't take place or doesn't take place?---No, not if we were not looking at that person to become a kin carer or to be eligible to reside in that home.

So using the example you gave yesterday of the sexual offender who is released into the community, he could go and live in that home - if we removed the blue card requirement he could cope and live in that home, the department wouldn't necessarily be aware of it unless it's reported, perhaps as you said yesterday, six months later; the person would be living in that home or could live in that home with this history of sexual offending or offending against children and the department wouldn't be aware of that person's history without a blue card check being done?---The department usually are aware of people. We have very good relationships with our REs in communities and the people in communities, particularly discreet communities like Aurukun. Families are known in communities by the police, we could be informed through that, but that would not mean that we would begin a notification or investigate that because that wouldn't have come to our attention in any other way.

No, my point is, though, that the department wouldn't know that person's criminal history or the past offending conduct in relation to whether or not that was a risk to children in that home, though, would they, because you

don't undertake your own criminal history checks, you rely on the blue card process for that?---That's correct, yes.

COMMISSIONER: I think the other thing about the blue card you've got to be careful about is that you can over rely on it. Once someone's got one it's as if I'm guaranteed safe, whereas the point of protecting children is that it is not a point in time proposition, is it?

MR CAPPER: No.

COMMISSIONER: It's an ongoing proposition that you need to be continually asking: is the person who is the caregiver for this child a safe pair of hands? That includes protecting the child from all risks including other people who live in the house. Are they capable of that? If your answer to that is no, that's not going to be made into a guess by giving the person who presents a risk in the household a piece of paper, is it?

MR CAPPER: It certainly can't be eliminated. It's certainly incumbent on the person who has the child not to have somebody in the home, and it creates that situation where the person in the home who has the care of the child is responsible for not having adult members living there who don't have a blue card.

COMMISSIONER: That's exactly what it is. The option is either the uncle goes or the child goes, or doesn't come. That's really what you're saying.

MR CAPPER: And that's certainly one of the issues?---And that's - - -

Picking up on another point that you just raised, though, is that the issue is, as you say, it is a point-in-time check in terms of blue card. However - and certainly in relation to the risk assessment that might be undertaken by the department - however, the blue card system is designed about ongoing monitoring. Criminal history checks are run against that system every single - against every blue card holder every single night and if a person triggers one of the offending type of provisions that then reports and reassessments can be undertaken.

COMMISSIONER: But the weakness of the blue card system is that it doesn't provide any protection against the first offender, does it?

MR CAPPER: No.

COMMISSIONER: No. So you've got to be careful not to over rely on it. Like, a criminal history check is a time-honoured method of predicting the future and predicting a level of risk but it can also be misleading because you rely on it in substitution for all other risk

indicators. If they haven't got a criminal history: Oh well, therefore they're not such a risk. But as I say, the person who hasn't yet offended but is about to doesn't get picked up on that system and yet could be identified as a risk if you used other criteria to assess it.

MR CAPPER: And certainly that feeds on to the evidence that Ms Fraser gave, which is the need to obtain further departmental material where there is a suggestion that these persons have a child protection history but not necessarily a criminal history, and that's certainly the issue that arises there, a person could have a history of child protection reports but no criminal history as such because it's never reach the criminal threshold, which could - - -

MR COPLEY: Ms Fraser wanted to have access to unsubstantiated notifications.

COMMISSIONER: Yes. And again, it is just another record, is what you're saying, what I'm saying is maybe the focus needs to shift off the records - - - the pieces of paper - and onto a human evaluation on an ongoing basis by somebody who could actually work out in a particular community or household what the risk is and how to manage it in a flexible way that works for that particular child, not children in general, but that particular child in the context of that particular household.

MR CAPPER: And we would say that the blue card system does that in so far as certainly the data that we are collecting - and certainly you'll have by hopefully the end of this week or early next week in the submission as part of the research for this process - indicates that for - particularly as we are talking about here in the Aboriginal and Torres Strait Islander-type applicants, there's over 41 per cent that returned a criminal history but less than 1 per cent get a negative notice and get excluded.

So certainly the criminal history of itself does not trigger and immediate "you're out"; it is a situation where that criminal history is evaluated and assessed, and as a result of that assessment coupled with a vast array of other information, can identify risk or not. And certainly there is a submission process that allows people to put a criminal history into context and that's certainly - - -

COMMISSIONER: But that is Ms McNally's point, they've got to go to the trouble of putting it in context for you. They self-exclude?---That's correct.

You don't knock them back but they self-exclude because the letter they get back from you has got all this information in them that they give up.

MR CAPPER: And a gain, as I discussed with Mr Briscoe

last week, the fact that the commission has identified that as an issue, this perception that it is too difficult or people will be excluded, and then there are committees in place now - and we're certainly working with agencies including ATSILS and others - to be able to identify means by which this perception can be overcome and to make that process easier and less inhibitive.

COMMISSIONER: That's what you need to do. Their perception is your reality - - -

MR CAPPER: Most certainly.

COMMISSIONER: - - - rather than you debating the point with them that it's not really that complicated.

MR CAPPER: No. But I guess the issue comes to, though, is the better way to educate and identify that the system is not all that difficult and is not as cumbersome as some would think and there's a less likelihood of them being excluded, and certainly far less likelihood of them being excluded than being granted a blue card, which could create a situation where people be more likely to apply.

COMMISSIONER: The other problem with the blue card is it's very intrusive. For example, there are things people like to keep secret. Not every family would know the criminal history of all the children.

MR CAPPER: Certainly.

COMMISSIONER: And their children would like to keep it that way, but because they happen to live in a household where they're required to go through a process, mum and dad get to find out what they've been up to.

MR CAPPER: Yes, but the paramount interest is the interest of the child - - -

COMMISSIONER: Or they get to say, "Why can't you get a blue card?"

MR CAPPER: But the paramount interest is the interest of the child, not the interests of the person to protect their privacy?---But if our paramount interest is the interest of the child, surely the interests of the child - the best interests of the child is to keep that child in community with kin with someone who - one person who can be approved as a kin carer, which is a much better interest of the child than bringing the child to Cairns.

COMMISSIONER: And the point is the best interests of the child will often coincide with the best interests of the family. Anyway, I know we're digressing. I raise these things, not to be argumentative but to identify how I'm thinking so that when people have to try to persuade me to

a particular viewpoint that got a head-up.

MR CAPPER: Most definitely.

Going on from that, let's presume that a person gets a blue card for a moment, so they make an application, the application is in for a blue card. Do you wait till the blue card is issued before you go any further or do you actually start your process?---No, we usually need to wait for a blue card to be issued.

Okay. Is there some reason for that? I mean, given the blue card can in some instances take some time and certainly the department's process takes some time. How long - what is the average for a carer approval to be granted by the department?
---It can be up to three months, three or four months.

Up to three months?---Yes.

And so given that the blue card - is there any reason or any problem in those two systems running parallel, so you're doing your assessment while the commission is doing the blue card assessment? Is there any reason why that can't occur?---Well, I believe they probably do run parallel. I mean, I think if there's an application for a blue card sometimes we can do a provisional assessment.

Yes?---So we'll provisionally approve for that until all the assessment is completed.

How often is that used?---Provisional assessments?

Yes?---I would probably use them - - -

As a percentage, for example?---I would probably use them a little more in the Cape because I want to keep children in community. So I would probably be more inclined compared to other managers based down here to use provisional. I probably use them maybe, I don't know, 70 per cent of the time, if I can keep children in community.

Okay, and keeping on that line, I'll take you to section 140D of the Child Protection Act which identifies – sorry, 148D of the Child Protection Act. It identifies that where a person who does not have a current positive prescribed notice is taken to be a volunteer because they're a household the commission's act doesn't apply, that they have to have a blue card. So a provisional carer, the household members, whilst the assessments for blue cards are being undertaken, aren't required during the time that they've got the current application. Isn't that what section 148D refers to?---If you're telling me it does, yes.

I can certainly provide you with a copy of it. It says

> *If a person who does not have a current prescribed notice is taken to be a volunteer under the commission's act because the person becomes an adult member of a household of an applicant for a certificate of approval or an approved carer's household or an application is current, the commission's act does not apply while the application is current.*

So whilst the person is applying for a blue card they can live in the household of a provisional approved carer. Isn't that correct?---Okay, but if they don't get the blue card then that cannot continue.

I understand that, but whilst a provisional – I mean, I go back to the point that less than 1 per cent are issued a negative notice for those who apply, so keeping that in mind, a person can be approved as a provisional carer, the person can live – the adult members can live in the household until that provisional carer approval expires or the blue card is refused, which happens in less than 1 per cent of cases. So it's not really an inhibitor at all. Isn't that the case?---It is an inhibitor in community because people won't apply for the blue card. That's my reality of in community. People don't apply for the blue card. They're not prepared to go through the process. We've got lack of housing in community for families, so

people can't just move out and go somewhere else. There have been discussions like can people move out. Families aren't prepared to kick their family members out and it's a major problem in communities.

Now, in relation to the blue card issues the matters that would exclude people – so let's say we go with the notion that we don't need a blue card for people who live in a house. The blue card serious offence list in schedule 2 of the commission's act and the disqualifying offences in schedule 4, so 2 and 3 and – sorry, and 4 and 5, identify the types of offences that would exclude people. They broadly relate to serious drug offences, production, distribution or supply of prohibited drugs. They relate to child sex offences, child abuse offences, child exploitation offences, sexual offences and offences of significant violence. Which of those four categories of people who commit those offences would you say should be allowed to live in the home with a child without any assessment being undertaken of their risk to children? ---I'm not actually – I'm not saying that. I'm not disregarding that. I'm actually putting into context the reality in community and what that means for community in applying for a blue card. I'm not disregarding any of those other things.

I guess I'm getting to the point of what's the impact on children if these people were to live in those homes without a risk assessment being undertaken?

COMMISSIONER: Well, I don't think - - -?---None of us live in a Brady Bunch home. There are people in lots of homes that have got various convictions against them. If we've got one person in a home or two people, a couple, who are saying they can be primary carers and care for these children, as in any other kinship care or foster care based in any other place, they should be allowed to have the children reside with them in their home and they be the responsible person for caring for that child.

Well, I don't think the question is - - -?---So they're responsible for the interaction of that child with anybody.

- - - predicated on the assumption that Ms McNally is saying you don't need to do a risk assessment. She's not saying that. She's saying that you need to do a risk assessment and you need to do a broad one and the household has to be safe.

MR CAPPER: Yes.

COMMISSIONER: No-one argues that. It's a question of how do you tell if it's safe enough, and your proposition is, well, blue card contributes to that, and it does, there's no question about it, but is it essential always? Will it always achieve its objective or will it actually serve in a

counterproductive way to defeat the very interests of the child you're trying to serve by excluding the child from the best available, least worst option household that is safe enough for her or him. That's the question that we have to ask and I think that's all that – that's all I understand her to be saying.

MR CAPPER: Now, beyond the blue card application process, in addressing that issue how – what's the rest of the risk assessment the department undertakes when placing a child? So let's presume blue cards are out of the frame for a minute. They've either got one or we remove the requirement for them to have one. What's the rest of the process that people have to go through over that three month period that you're doing the assessment? What does the rest of that risk assessment process take?---Okay, there's a health assessment done, a household assessment done, and a general assessment on the identified carer's ability to care for children. So there's three different kinds of assessments undertaken.

So the health assessment, what's involved in that? ---Questions around their health, what their health status is like, if there are any ongoing health problems, those kinds of things.

Of the child or of the carer?---Of the carer.

What about the other household members?---No, it's of the carer, of the identified - - -

So the sole focus is on the carer?---That's correct, the identified people who are putting their hands up to be carers.

Okay, the house assessment, what's involved in that? ---Basically an assessment of the house, a safety assessment of around the house, so fire alarms, those type of things, fencing - - -

So the hardware of the house?---Yes.

Okay. Occupancy?---They do interview people who reside in the house, yes, so there is - - -

Is the number of people in the house relevant to the assessment that's undertaken? Like, if there's 10 people living in a home is that relevant?---That's certainly put into the assessment, yes.

Okay, but is it relevant to the assessment? I don't want to know if it's tick the box but is it relevant to the assessment and how does it affect it?

MR COPLEY: Well, it's relevance would depend upon how big the house is, surely. If it was a 20-bedroom house it

mightn't be relevant at all.

COMMISSIONER: It's a question of weight, I suppose, because I think you'd say it's relevant, it's a question of how significant is it again in the context.

MR CAPPER: Well, that's the point. I mean, when we look at the occupancy - as I say, I take the point. The number of occupants to the home compared to the size of a home, is that a consideration?---It's a consideration, yes.

When you talk about you consider the rest of the household, do you interview any of the other members of the household prior to this placement or is it just the carers again? ---Other people in the household are generally interviewed also.

Okay, and what do you ask them? What types of - what's the process in those people and what are you asking them and why are you asking them?---I'm not personally asking them.

Of course?---I don't do kinship assessments. Generally, from what I've seen, it's often asking children who reside in the house how they feel about other children coming to reside and whoever else in the house, their feelings around that, basically.

So it's their feelings around whether or not another child should come and live there, or another occupant should come and live there, or more than one occupant could come and live there. Anything else beyond that in relation to safety, health, wellbeing, any of those sorts of issues, criminal histories, any of that sort of information?---We don't do the criminal history check ourselves.

No, I understand that, but you don't ask any of those questions. Leaving aside the blue card, as I say, you don't any of those questions around those issues for the safety aspects or risk - - -?---Yes, that is asked during the assessment, if they have any criminal history. That is asked throughout the assessment.

Okay, and if they say yes?---Well, then that is checked when we go and do the - you know, the assessors will talk to them about, you know, "You have to apply for a blue card."

Yes?---Some people won't disclose that there has been criminal history and that comes up when the application is made.

Sure. Again, keeping in mind that there's no application being made, this doesn't - that wouldn't trigger anything. We don't follow on from there. We don't ask about what the type of offending is or any of those things. Is that right?---They would. If you're saying that we didn't go

through the blue card process and we were looking at that, we could certainly do some criminal history checks through the police - - -

But now they don't?---Well, now they don't because it's done elsewhere.

COMMISSIONER: Because you've got a blue card.

MR CAPPER: I understand, yes.

COMMISSIONER: So that's the – it's a problem. You've got to compare the apple with the orange.

MR CAPPER: Yes.

COMMISSIONER: Can I just say this too; you might want to address this point. I mean, right at its fundamentals is this: the state in western civilisation historically has not intruded into homes unless there's a very good reason, usually a safety based reason. In fact, it didn't do it at all until the end of the 19th century and it did it – it protected animals before it protected children because of the sanctity and privacy of the family.

MR CAPPER: Yes.

But once it breaches it, once it goes into the family, home, what it does - having stood back until right at the last moment hands off, it then brings in a belts and braces system of rules that that particular family, because it has decided to intervene as opposed to all the other families who might be at risk who haven't yet been identified, must be subject to and you really do have to ask the question: who is for? Is it for the system to protect itself against accusations of, "Having intervened, you've failed to protect," on the one hand, or is it for the child who should stay in as normal as possible home after intervention as before intervention.

Is that what you would do to a family after you have intervened; put it into a different subculture from the rest of the families in the community and stigmatise them and say, "You're a family we have had to intervene in. Now you become subject to the act and all these hoops you have to jump through," but the family that lives next door to you who has got exactly the same composition of the home who we haven't picked up yet or who nobody has notified about doesn't. There is illogicality about the process because it's based on coming to notice. It's not based on protecting all children. Arguably it's based on protecting the state who's taken the risk of intervening from criticism by putting all the onus on the child and the family that is now the subject of the intervention to comply with the rules that protect the state from the risk that it has assumed in becoming the substitute parent.

MR CAPPER: That may well be the position - - -?
---Thank you, Mr Commissioner.

COMMISSIONER: Sorry?---Thank you.

MR CAPPER: That may well be the position from some quarters but it's certainly not the position from the commission's position.

COMMISSIONER: I gather.

MR CAPPER: The commission's position, of course, is that it's incumbent upon everybody in the community, whether they're in state care or not, to protect children. That's why a blue card applies much more broadly than just this particular environment. I'm only questioning this environment because of the nature of this inquiry.

COMMISSIONER: But I don't have a blue card.

MR CAPPER: You may not require one, but once you step into a frame where you are exposing children or could expose children to a risk of harm, then you should be undertaken in, with due respect, an assessment as to your risk and that would be to start with a simple police criminal history check.

COMMISSIONER: But my point to you is how do you know I don't represent an unacceptable risk to children. The only difference between me and someone else is that no-one has reported me.

MR CAPPER: The system is never going to - you can eliminate risk. You have to manage risk as best as possible.

COMMISSIONER: Yes, and you have to manage the risk that you're dealing with in the particular context of the particular child.

MR CAPPER: That's right, yes.

COMMISSIONER: You're not managing risk generally out there and that seems to be part of the problem with one-size-fits-all rules that are - as I say, you have got to look at what they are designed to do. No-one wants the government - because governments won't step in if they're not going to be able to put in risk protection, risk-management things in place. They have to do that, otherwise they will become risk averse and that won't be any good for anybody, but at the same time the rules and regulations and the risk-management processes have to be child centred.

They have to be focused on the particular child, otherwise they're going to defeat the very purpose and things like the blue card - while they're commendable, while they are aimed at achieving a very good social purpose and they do perform a function, are not necessarily required in every case and the fact that there is a general requirement can sometimes have a counterproductive outcome. That's all we're exploring. I guess the question is: have we reached a point where we have got to stop saying, "Okay. This is the way we've done it. This is how we decided to do it in" - when did the blue cards come in?

MR CAPPER: May 2001.

COMMISSIONER: May 2001, and has anyone done any studies to see pre and post-blue card whether it's achieved its purpose in preventing - you can't tell.

MR CAPPER: We will come back to you, as I say, either this week or next week. Certainly the data that we've researched in that regard identified that there has been a reduction of matters of concern so this is where a child is in care and has been subject to a further report of harm and found substantiated. From 8 per cent it's now been reduced to 2 per cent because - and we would say that chief executive a big element of that is excluding people from undertaking foster care who are not suitable for these

types of activities and that's since 2001 through till present day.

COMMISSIONER: That makes perfect sense, but that's different from saying excluding people who can't get a blue card. You exclude people who are not suitable and you say the only way to do that is through whether they get a blue card or not.

MR CAPPER: It's not the only way, but what we're saying is since 2001 when blue card were introduced matters of concern being raised against foster carers where a child is in care and reports - and a report of further harm to that child has occurred have dropped from 8 per cent to 2 per cent.

COMMISSIONER: Can you link that to the blue card?

MR CAPPER: We would say that there's very little other than the blue card introduction and from that time to now, since the blue card introduction, has dropped from 8 to 2 per cent. Now, whether or not that's solely attributable to the blue card or maybe is attributable to other things it's certainly, we would say, a significant factor in helping to drive that figure down to what is now 2 per cent and 99 per cent of children reporting as being - - -

COMMISSIONER: I mean, I think that's an important part of the process. You should defend the blue card and its value, but at the same time other people should question its value across the board. That way we might end up with something that at least we can say, "Well, we gave it a really good shake and we went over it with a fine-toothed comb and this is what we came up with." When the blue card came in, what were the exclusion categories?

MR CAPPER: Very similar.

COMMISSIONER: To what they are now.

MR CAPPER: They were a little bit broader than what they are now in fact. I think there were some matters that were taken out. They were changed around, but originally it was any excluding offences and then they changed to disqualifying offences and serious offences. Disqualifying offences are those that automatically exclude you from having a blue card if you have been convicted and sentenced to a term of imprisonment. Disqualifying offences are those where there is a presumption that you will not have a blue card unless you can demonstrate an exceptional case and serious offences are a similar situation where there's a - - -

COMMISSIONER: So even in the last decade we have learned that the original rules can be changed to suit the circumstances and there would have been some people who

didn't get a blue card because of the rules in 2000 who might get one in 2010.

MR CAPPER: Most definitely, and I've just been corrected. The excluding offences came in, in 2005, but they certainly have evolved over that period of time.

COMMISSIONER: You said drug trafficking.

MR CAPPER: Serious drug offences. In terms of the drug offences, they're outlined in schedule 2 in relation to - - -

COMMISSIONER: Yes, but it is one of them, is it?

MR CAPPER: Certainly. It's production - they're generally production, supply and trafficking in drugs but only if it's aggravated supply which is generally to a minor or a person with a mental disability.

COMMISSIONER: Is that what, you're a risk to a child because you're a serious drug offender?

MR CAPPER: No, as I say, trafficking in drugs which is conducting a business involved in the trafficking of drugs as by its definition is outright a serious offence and - - -

COMMISSIONER: Yes, but what's the consequence? I know it's a serious offence, but what's the consequence of it for someone?

MR CAPPER: A presumption of a negative subject to that person demonstrating an exceptional case exists.

COMMISSIONER: I don't get that. I'm not advocating for serious drug offending, but I just don't see the logical link between serious drug offending and child protection immediately.

MR CAPPER: I can't take you further on that, but certainly we would say - - -

COMMISSIONER: Doesn't the commission make representations about what should be disqualification?

MR CAPPER: Yes, most definitely, and the three offences that are listed as serious offences - there is trafficking in dangerous drugs; as I say, a business of trafficking in dangerous drugs. There has to be a business element to it to fall within there. Supplying dangerous drugs but only if it's an aggravated offence, for example, supplying to a minor or supplying to a person with a mental disability, or producing dangerous drugs.

COMMISSIONER: I can see that because there's a

minor - - -

MR CAPPER: That's the qualification in this. Trafficking is the only drug offence that doesn't have that type of qualification.

COMMISSIONER: Yes, I'm just wondering why. What's the logical argument for it?

MR CAPPER: For trafficking?

COMMISSIONER: No, not for trafficking.

MR CAPPER: For drug offences generally?

COMMISSIONER: For being in the blue card mix.

MR CAPPER: I guess the issue comes down to the production or proliferation of drugs in the community, we would say and certainly the legislation anticipates, is something that is of significant concern to the community and poses risk; not just a direct risk but also the indirect risk for the increased distribution of drugs in communities.

COMMISSIONER: It certainly does, and we have got social policies already in existence to deal with it and we're using the child protection system as another antidrug mechanism, are we?

MR CAPPER: Again I guess it needs to be kept in mind that this is a trigger to say, "We need to have a look at this," and then every case is individually assessed.

And as I indicated, 44 per cent of - particularly our indigenous applications - have a criminal history, but less than 1 per cent get excluded on the basis that when that full context of the offending, the nature of the offending, the type of - the facts of the case, the time period in which it occurred, what was happening in their life at that time compared to now, rehabilitation, all those sorts of issues are factors that come into that assessment.

COMMISSIONER: It must be a big part of the commission's job, doing this blue card processing, is it? And you end up excluding, what, 1 per cent of applicants?

MR CAPPER: Yes.

COMMISSIONER: How many is that in actual heads?

MR CAPPER: I'd have to come back to you on that figure.

COMMISSIONER: Yes, if you tell me for the last couple of years how many people; not percentages, but people.

MR CAPPER: Yes.

COMMISSIONER: Okay.

MR CAPPER: When we look at this issue of blue cards, having a look at - and again, as the Commissioner has identified, it doesn't exclude risk, so how does the department manage the risk to children when there are in those - in any home, or particularly in homes?---In relation to - sorry, say that again.

As the Commissioner has identified, you could have people in homes where the person doesn't have a criminal history, you could have people in homes where they do have a criminal history but still obtained a blue card. How is the department then managing risk? This goes on to this question, of course, of if there was no blue card, how is - but leaving that aside for a moment, just now even with a blue card or a person with no criminal history, how do you manage the risk to children in a home now?---Well, currently they have to have a blue card so there won't be that risk their according to your argument. We work our cases without children. The CSOs go to visit them on a regular basis, talk to community visitors, talk to service providers who are providing that service.

But as the Commissioner has identified, having a blue card doesn't eliminate risk, so how does the department then manage that risk beyond that?

COMMISSIONER: One of the ways is you pick the right foster carer and left it up to them. That's what a substitute parents does. Because the whole thing is predicated on: does this child need protection? By whom?

From whom?

MR CAPPER: I think we're past that point because, I mean, for them to be in foster care they've already been identified as a child in need of protection.

COMMISSIONER: That's how they qualified for the system.

MR CAPPER: Yes.

COMMISSIONER: But then the system says: okay, now we've got this child in need of protection, how are we going to do it? How are we going to protect his child? And what they do is the chief executive has to work out does that include sending them back to their own parents with support planning? Does it include putting them in foster care? All those decisions are what's in the best interests of that child, which is partly protective - mainly protective. The best protective mechanism, surely, is the person who's got the primary care of the child. That makes that child in as close to a normal family environment as you can get in the circumstances they're in. Wouldn't that be right?

MR CAPPER: I can follow that logic, but - - -

COMMISSIONER: But what's it for?

MR CAPPER: Sorry?

COMMISSIONER: What's it for?

MR CAPPER: That's something for you to determine longer term, I would suspect.

COMMISSIONER: You have to help me form my - - -

MR CAPPER: I'm certainly trying to help you. Certainly the issue is, I think, there's a lot more information that needs to be coming out as to when we look at what are the current system; what are the alternatives; what are the risks of the alternatives; what are the options; what are the risks of the current system?

COMMISSIONER: Have you got some options and alternatives to the current system to tell me about?

MR CAPPER: Today?

COMMISSIONER: No, but in your submission?

MR CAPPER: Most definitely.

In relation to that issue, certainly is: okay, the whole point of the process, then, is to assess the carer, and that seems to be the big focus for you. How do you assess the ability of the carer? You said the third component is,

"We assess the health. We assess the house." How do you assess the carer and their ability to care for the child? ---Okay, there's a whole assessment template on the carer. They talk to them about their motivation to care, their own history, their childhood history, there's a number of areas that they discussed with the carer and do an assessment around that.

Okay. Such as, like you said, a whole pile of areas. You've given two, so what else?---Their background; their own childhood history, so in relation to forms of discipline, how they were brought up, what their experience was in how they were parented; their motivation to care, why they want to care - what are some of the other things? Relationship issues, household issues, those kind of things. So general issues around their ability to care. I can't remember every heading at the moment, I'm sorry.

The one that is missing that I think would be most important, though, is there knowledge of children generally?---Yes.

Their knowledge or experience in bringing up children of their own or other children?---Yes.

Knowledge of child development or any of those things. You didn't raise any of those as - - -?---Sorry, they certainly are covered in that also. I'm sorry.

And that forms part of the assessment that you undertake? ---That's correct, yes.

I have nothing further, thank you.

COMMISSIONER: Mr Copley.

MR COPLEY: So is it an opinion that you hold as a manager of a child safety service that there needs to be a balancing out or a weighing up of risk to a child where you have to balance up the desirability of him living within his own culture or with his own people, say in the Torres Strait, and the advantages that that holds, where he might perhaps be in a house with someone who has a previous conviction for a serious offence of violence; compared to the advantages or disadvantages of taking that child away and moving him to Cairns to live in a culture that's not really his own?---That's correct, yes. That is certainly what I'm saying. I actually believe that once someone's been identified, as I said previously, as long as that person is approved as a kinship carer, that that's all we need, that we don't need every other member of that household to be approved. That person is then responsible for the care of that child, as it would be here in Cairns or anywhere else.

And what is your perception of how the system is dealing with that risk at the moment in the sense of this: is the system too risk averse or is the system too reckless?---I would suggest that the system is risk averse.

And is it risk averse to such an extent that the best interests of the child are being overlooked?---I would say so. In that particular instance, yes, I definitely would say so, based on the factors I spoke of before, that to keep a child in their community with family is a much - it's in the best interests of the family and is a much better option than bringing the child to Cairns where if we can find a carer, it's often not an indigenous one, or they go into a residential, which is often a youth worker model. That is not in the best interests of our indigenous children.

What is your perception about what motivates the system to be so risk averse? What is driving this aversion to taking risk?---In relation to child safety?

Yes?---I mean, there's probably lots of things. Obviously we have - when something happens within child safety, say a death, there is a major death review. As you know, the media don't have a good - there's not a good perception out there in the community about child safety because the media we get is always very negative. I think we are risk averse because we feel it is court on the department to be responsible and anything that does occur within child safety, it usually comes down to the responsibility of the workers there.

People in the department are accountable to the minister, aren't they?---That's correct.

There are accountable to the ombudsman?---Mm'hm.

There are accountable to the police. There are accountable to the Crime and Misconduct Commission for official misconduct?---That's correct.

And they're also accountable to the Commissioner for Children and Young People for how they handle particular cases, aren't they?---That's correct. We are accountable to many people.

Is there anybody I've missed?---Children's Commission.

We said them?---I don't know, have we said police? We seem to be accountable to many - education in some respects. Things that come to us from education that really should be coming to child safety. Health in some respects. We are accountable because obviously when you're talking about children it's an extremely emotive subject and a very - sorry, the words are escaping me. So yes, we're accountable to lots of various organisations and government departments and to the community in general, as we should be to the community.

Yes, but it seems that there's at least one tier of accountability imposed upon you that's not imposed upon, for example, the Department of Education or Health, and that's the Commissioner for Children and Young People, isn't it?---That's correct.

No further questions. May the witness be excused?

COMMISSIONER: Certainly. I will just – Mr Selfridge, did you have any questions arising from anything that happened after you sat down?

MR SELFRIDGE: No, commissioner.

COMMISSIONER: No, okay. Ms McNally, thank you very much for coming and assisting the commission. It's greatly appreciated?---Thank you.

WITNESS WITHDREW

MR COPLEY: I call Elizabeth Buikstra.

BUIKSTRA, ELIZABETH sworn:

MR COPLEY: Mr Commissioner, I tender the statement of Elizabeth Buikstra. It's nine pages long and it was taken on 5 September 2012. I hand up a copy for you.

COMMISSIONER: It's in publishable form?

MR COPLEY: It is, yes.

COMMISSIONER: Thank you. That will be exhibit 61, Mr Copley.

ADMITTED AND MARKED: "EXHIBIT 61"

MR COPLEY: Thank you. Ms Buikstra, at the end of the statement there is your signature on the last page and is the statement one that you had witnessed by Donna Goodman? ---Correct.

Then below that there are two other signatures. One is of a person who has written that he's the chairman of the Cairns and Hinterland Hospital and Health Service board and the other signature is of a lady who is the chief executive of the Cairns and Hinterland Hospital and Health Service board. Now, are those signatures purporting to witness your signature or what's the position there?---I don't believe they're witnessing my signature, because Donna was present when I wrote my signature. I needed the statement to be approved by our hospital and health service prior to submission to this inquiry.

I see. Was that a requirement that the Health Department

imposed?---Our hospital and health service.

So was it a requirement of the chairman, was it?---I can't answer that.

Okay, so the fact that this chairman and this chief executive have signed it means that what you've said has their imprimatur, does it?---I believe so.

Thank you. Now, in your statement - which constitutes evidence, you see. It's been tendered so we don't need to literally get you to speak to every paragraph of it, but in your statement you speak about at paragraph 9 subparagraph (a) headed Reporting a Reasonable Suspicion of Child Abuse and Neglect. You have figures there which range from 2006 to a projected figure for 2012. Are we to understand that, for example, in 2006 the figure of 160 represents the number of reports to the Department of Child Safety made by the Department of - or Queensland Health in Cairns but nowhere else?---So in the Cairns community.

Right, so there were 160 reports by Queensland Health from Cairns to the Department of Child Safety in 2006 and 421 in 2011?---Correct.

You're projecting possibly 535 reports this year?---Yes.

Are you able to offer the commission from your experience, which according to your statement goes back some years now, at least in the government, from February 2009, or associated with government - are you able to offer any opinion that accounts for why the level of reporting of a reasonable suspicion of abuse or neglect has gone up so markedly?---So I believe that there's an increased awareness in terms of Queensland Health staff members, and if I could refer to my - I've written some notes, commissioner, and I'd just like to refer to those to prompt me.

COMMISSIONER: Sure?---So their increased awareness in terms of their responsibilities regarding to - with regard to reporting and recognition and reporting of child abuse and neglect, and what I'd like to talk to is that we're aware that a lot of the reports that are being made by Queensland Health staff do screen in as child concern reports. So what that means is they don't meet the threshold for a notification and an investigation by child safety. I just wanted to talk to that a little bit. So Queensland Health staff will report if they form - they're concerned about a child and they form a reasonable suspicion of child abuse and neglect. Now, in order for them to do that we provide - to come to that point, we provide some education and training. Queensland Health provides that, so the safe kids unit provides that training, and as part of that training what we'll do is we'll look at as part of the training, its indicators and

we'll also look at the risk protective factor framework. So they need to then use the risk protective factor framework in order to form a reasonable suspicion. They use that to assist them. Now, there are different levels of knowledge, skill and confidence in using that particular framework, so being able to recognise indicators and also being able to use the risk protective factor framework. We have - safe kids, we get copies of all the reports that are made locally and we have done some quality auditing of those reports over the years. What we find is that sometimes there's not a lot of detail that's provided in the reports or it could be that there needed to be a little bit more information gathered in order to make a good assessment about using that risk protective factor framework. There's a couple of ways which could be contributing to, you know, this high number of reports being made, potentially. In response to that we certainly deal with that during training. So we have year training. We do introductory orientation training which is a little bit longer. It's about an hour and a half with staff and it's mandatory training that's provided. They also have mandatory training that's a refresher course that goes for an hour every year as well. Now, that can be face to face but the mandatory training component may not necessarily be face to face. So that can be - there's an online education module as well, but any of the training that we provide, we'll talk to those things that we've found in the reports that have been provided to the safe kids unit. One of the other ways that we might be able to follow up, you know, in terms of the level of quality of the reports that are being made to child safety is that we could follow up with each reporter that's made the report. Now, because there's an increasing number of reports that becomes more difficult to do that, and there's some other factors involved as well. When the report is made sometimes it can be made during - you know, after hours, so they - and it could be a shift worker making the report and by the time we get a copy of the report it can be a number of days before safe kids gets a copy of that report. So there's a time lag between the two and so in order for us to track down the person we've also got to - we've got to find them, to start with, whoever they are, and there can be a considerable amount of time, you know, trying to track that person down in order to be able to give them feedback. Also, that person may have only made one report for the year or over a period of time and they may not make another report, so if we give them feedback then that might not be useful for future report making because they may not make another report. They might have a slightly increased awareness of what they need to be looking out for and also they're - you know, we might provide some guidance and advice around report making to a Queensland Health staff member but by the time they make another report there's all this time in between. They might have forgotten what we've said.

So there's a number of - range of things that might be contributing to that, and if you think about areas like the emergency department, they're under pressure to get through the emergency department quickly so they're having to make decisions very quickly. So they form, you know, a reasonable suspicion and they need to do that quickly and then deal with it quite quickly because the process is they're required to ring Child Safety. They're required to fill out a report, a three-page report, and then send a copy - fax that through to Child Safety and then send a copy to safe kids in the hospital.

Right. Now, just so that we know for our purposes, the obligation to report is imposed by section 191 of the Public Health Act of 2005, isn't it?---So the mandatory reporting requirement is for doctors and nurses under the Public Health Act. For all other Queensland Health employees it's not mandatory but it's Queensland Health policy that they report.

If we just deal with the mandatory reporting, as you correctly have pointed out, it applies to people who are professionals?---Yes.

And that's obviously doctors and nurses?---Yes.

For the purposes of the it says that if a professional becomes aware or reasonably suspects during the practice of his profession that a child has been, is being or is likely to be harmed and, as far as he knows, no other professional has notified the chief executive about the harm, then he must immediately give notice of the harm or likely harm to the chief executive of Child Safety orally or by facsimile, email or other similar communication. So that's the obligation?---Yes.

And within seven days of giving the oral notice he must give to the chief executive of Child Safety another notice about the harm or likely harm, mustn't he?---Yes.

And is that in the form of a written notice?---Written report.

And a professional who fails to give a notice under section 191 or section 192 of the Public Health Act commits an offence and renders himself liable to a maximum penalty of 50 penalty units, doesn't he?---Yes.

You're one of the people that trains health professionals in the identification of indicators to suggest harm, aren't you?---Yes.

So if you're one of the trainers, what do you tell the people you're training constitutes a reasonable suspicion; for example, becoming aware means you know something, we'll say, but what do you tell the staff would reach the level

of reasonable suspicion? What are the criteria to identify when a person should have a reasonable suspicion?---So we educate the staff in terms of all of the different types of abuse and we look at the various indicators for each of those abuse types.

Okay. So just tell me what the abuse-type categories are that you've got?---So we've got physical, emotional, sexual and neglect.

Right?---Sexual abuse and neglect. So we would look at each of the indicators for each of those types and then we would look at specific risk factors for each of those abuse types and we would also - in order to be able to make a good assessment you not only need to look at risk factors but also protective factors.

So for physical abuse, if a child presented with lots of haemorrhaging in the eyes, that might suggest, if it's a baby, that it's been violently shaken, mightn't it?---That would be for a doctor to make that decision.

Yes, but I'm just trying to understand some of the examples that might constitute a reasonable suspicion?---Yes.

You have heard of shaken baby syndrome, haven't you?---Yes.

And you know that one of the indicia of that is bleeding into the whites of the eye?---Yes.

And if doctors can see that and if the baby hasn't been reported to have been in a car accident, then there might be a basis for thinking that the baby has been violently shaken, mightn't there?---Yes.

If a baby is x-rayed and has got a broken arm and a number of broken ribs, that's obviously something you can't see, you as a psychologist, by looking at it?---No.

But if a doctor or nurse saw that, that might constitute a basis for a reasonable suspicion that the baby has been subjected to an application or repeated applications of excessive force, mightn't it?---What we try to do in terms of educating staff is to not only look at the injury but look at - find out the mechanism of injury and also all the context around that.

Of course, yes, so you might ask the parents?---So the more information you have, the better decision-making you can make.

Yes, you might ask the parents, for example - - -?---Yes, "How did this occur?"

- - - if they can account for this injury?---Yes.

Or the ambulance men who brought the baby in if they heard any explanation from anyone at the place they got the baby? ---Correct.

For sexual abuse there might be various indicia on the child's genitals that might indicate abuse, mightn't there?---Yes.

But for emotional abuse which is a category of abuse that might trigger a reasonable suspicion, what are the indicia for emotional abuse?---So some of the indicators might be how the child is behaving so - one of the big indicators that we tend to focus on when we're doing training is domestic violence so if a child has been exposed to domestic violence and it's chronic and repeated, that certainly can be an indicator of emotional abuse. So if staff become aware of chronic and repeated domestic violence, that can certainly trigger a report that will be made.

And the source of knowledge for persistent domestic violence could be?---Multiple presentations to the emergency department can be the source of information for us. So when mum has repeatedly come back to the emergency department with injuries and there's been a conversation that, you know, "Were the children present?" that can be an indicator.

I see; so in the example you're positing if a woman comes to the hospital three or four times in the one year and complains that her husband or de facto has hit her and there are bruises to support that and she says that there are two or three children in the house, that might be a basis for forming a reasonable suspicion that the children have been subjected to emotional abuse?---Potentially. I'd want to explore that further and find out more information by talking to the mother and finding out, you know, what the exposure was to the children.

If the mother said that on all of these occasions the children were present, awake and saw it, that would be one thing?---Yes.

One extreme or one possibility?---Yes.

At the other end it might be that she might say, "Well, no, on every occasion it has occurred the children have been staying for the weekend at their grandparents house and haven't seen any of it"?---Yes.

In that latter example or the second example, would that be a basis, as far as you're concerned for a reasonable suspicion of emotional abuse of the children if they're not witnessing the act or acts of violence?---It would not form a reasonable suspicion in that particular instance.

However, what I would be doing is finding out more information and it might be - the thing about domestic violence is that if it's chronic and repeated, it's quite likely that the children may have been exposed to that so - - -

Yes, I know, but I'm just positing the example that the mother says they haven't been?---Yes.

It's never happened when they have been in the house and just really asking you in that situation: would there be, in your view, a basis for a reasonable suspicion even in that situation?---You wouldn't report based on that information alone.

Sorry, I didn't hear the answer. You would or wouldn't? ---I wouldn't report based on that information alone. I would not make a report if I knew the children weren't exposed.

Okay. I'm just trying to understand so far as you as the educator of health professionals your understanding of what might or mightn't be a reasonable suspicion?---Yes.

So could it be the case then that the increased number of reports in Cairns - a possible explanation for that is simply that Health Department staff have now been better trained or better instructed in looking for the signs of possible abuse and are reporting for that reason simply because they're more aware of it than there being, for example, the explanation that there are more children being abused?---That's a difficult one to answer, but I think - - -

If you can't, just say so?--- - - - that it is an increased - yes, I think it's increased awareness.

Because a lot of people might read the figures and say, "Oh, goodness me - - -?---More children.

- - - more children are getting abused in Cairns than ever before," but another possible explanation is simply that health service professionals have become more adept at identifying possible abuse and have a better understanding of what should constitute, in their area of expertise, a reasonable suspicion. So when did you start doing this training of staff?---I started when I started with Queensland Health, and so that was back in 2010.

Right. Perhaps you can help us here. This section 191 for mandatory reporting is contained in a statute passed in 2005?---Yes.

Was there a mandatory reporting obligation on health professionals prior to 2005?---I can't answer that. I'm not sure.

It's just that your statistics start in 2006?---So that was when the safety unit was commenced.

Okay.

COMMISSIONER: Do those figures include both mandatory and discretionary reporting, do you know?---Yes.

Do you conduct any internal quality control over the reports that goes child safety?---When the reports are sent up to us - the copies of the reports - we'll go through them briefly, look for the level of the quality that's in the report, the information that is contained in the report. We'll also primarily make sure that the report has gotten through to child safety. There's a section on there that says: who have you've reported it to; what time; when was faxed? If that's not been filled out I'll then phone child safety and ensure that they've got a copy of the report.

Are you happy that those figures, having conducted your own internal review, reflect appropriate levels of reporting as opposed to over-reporting needless information?---I think there's always risk for over-reporting because people are not wanting to - people feel responsible so they want to make sure that if they - you know, if they're concerned then they'll make that report. It might be in hindsight that it may not meet the criteria for an investigation or screening the child safety but they felt the need to report.

But do you also feel, having looked at them yourself, say, "That's fair enough, I would have reported that too"? ---Some of them, I wouldn't have reported.

MR COPLEY: Can you give us examples of cases that you've looked at where you as the educator in this area of the staff wouldn't have deemed it to warrant a reasonable suspicion to report? We don't want you to give names or anything?---No, I'm just trying to think.

Just examples of what they have reported that in your view need not have been reported?---Perhaps ED staff might be concerned and the parent has presented with their child and left the ED without the child receiving the full medical treatment, so that then fits under failure to provide medical treatment. They're concerned about the child and they will then make that report, but on reflection it might not be that it was essential for them to fully complete the medical treatment. I'm thinking off the top of my head, I'm not sure.

MR COPLEY: Because it could, I suppose - maybe I betray my ignorance about the type of people that these reports concern, but one possibility is that they might feel that they've waited long enough at emergency, there's been some level of treatment administered, and they'll take the child now to their own doctor - - - ?---Perhaps.

- - - at some point?---That's right.

Is that a possible explanation for why they don't wait around to receive the full advice about what they should do for treatment?---Yes. And they can wait, you know, for a fair amount of time in an ED.

And so is your view is that simply because the parent leaves sooner that the health professional would have preferred, isn't necessarily a basis for a reasonable suspicion that the child is being, for example, having its health-care needs neglected?---Depending on the circumstance, yes.

For example - - -?---Yes.

- - - if it was the parent who actually brought the child in, in the first place - - -?---Yes, that's right. So we would see them as acting protectively by bringing - or doing the right thing by the child by bringing them the first place.

Yes.

COMMISSIONER: What percentage - I'm just trying to look at these figures - would you say fall within or satisfied your criteria for reporting; 80 per cent, 90 per cent, 20 per cent?---I'm really not sure. I'd be just - completely a guess and I've no idea.

MR COPLEY: I was just going to perhaps, say, it another

way: has the level of reporting that you've seen and the detail of the reports that you've seen that you thought didn't warrant reporting, sufficiently large for you to think, "This is a matter I need to address at the next yearly reporting instruction seminar," or something like that; or is it an infinitesimally small number?---I think it would be sufficient to provide some additional instruction.

Right, so the number of cases that are being reported that you think shouldn't be reported would be of such a number that people need further and better instruction on when they should or shouldn't report?---Although I think it's getting better because we provide a consultation service and the quality of the consultations that we receive from staff, we see that as improving. So I think it is improving.

So are the professional staff permitted to contact you or someone in the Cape Safe Kids unit to get advice?---Yes, that's part of our role.

Okay?---Yes. But we only work business hours, so the after-hours staff don't have access to that. They do have access to an after-hours social worker and they can provide some support around that, but generally in terms of the specialisation of child protection, our unit only works business hours.

COMMISSIONER: So extra training and consulting is doing its job, it's getting - there are fewer and fewer needless reports being made from your point of view?---I think so.

And yet the figures are still increasing?---Yes.

Even taking into account the improvement in the quality of the reports, the number of reports isn't decreasing from year to year, is it?---That's right.

And it is projected to increase by almost - more than 110 between 2011 and 2012, which is 20 per cent increase?---Mm.

And that's taking into account improvements since 2010 in the quality of the reporting?---I think that staff are better able to pick up child protection concerns. I've think they're increasing their awareness of child protection and the issues of child protection in community.

Do you regard the number of reports that don't meet child safety threshold as a fail for you, or is it a different function that you're trying to achieve and what they are with your reports?---Because a report has been screened in as a child concern report, doesn't necessarily mean that it shouldn't have been reported in the first place because there's reasons why it may not have reached the threshold, but it is also information in the system. So for example,

with some of the - with neglect and with emotional abuse is that they're chronic and repeated, so it if someone in Queensland Health makes a report, it might be that a woman has experienced domestic violence and the child has been exposed; on that one instance might have been quite significant but it may not meet that threshold for child safety, but it is also in their system so it can be that it is still important information when another report, perhaps later, has been made and they'll take that into consideration. So not every single report that doesn't meet the threshold, doesn't mean that it's not important information for their system.

So in terms of being a failure I think we'll just continue to educate and train and the education is once a year for, you know, about an hour so it's - they don't have that level of expertise and skill, the staff in the safe kids unit, in order to be able to make those really high-level quality assessments.

I suppose one obvious reason why it might not reach notification is that Child Safety might know, unlike Health, that there's a parent willing and able?---Yes, that's right. There's a whole range of reasons. That's right, exactly.

And you're not reporting on that aspect of the protective needs of the child, are you?---We certainly look at the protective factors so if we - we will make - if we've got that information, we certainly will make that assessment.

So would you not report if you thought there is harm, "There is defined harm here or an unacceptable risk of it, but we assess from Health that there is a parent willing and able, therefore we won't make a report to Child Safety"?---Yes.

You would make that call, would you?---It depends on what it is.

How much information you have?---How much information.

But you do factor in the viability of the parent in your reporting decision-making?---Yes.

Okay.

MR COPLEY: in determining whether you have a reasonable suspicion - sorry, a professional in your department determining that, is the professional able to inform himself by having access to the Department of Child Safety records on a computer link to see whether or not the child has been a child previously known to Child Safety?---You mean Queensland Health staff?

Yes?---If they have got access to Child Safety records?

That's right, yes. Is there a computer - does the Queensland Health computer system, because no doubt there are keeping records and putting them into a computer system - does that computer system give you access to Child Safety records to see whether the child concerned has previously come to the attention of Child Safety?---No, we don't have access.

Okay?---If we want to know whether Child Safety are involved with a family or not, we'll phone them and that's one of the roles that the child protection liaison officers - one of our roles is to contact Child Safety on specific

cases.

Generally another way of finding out would be to ask the parent or parents whether the child is known to Child Safety, wouldn't it?---It depends on the circumstances, but that is certainly - that may be, yes.

Yes, and in your experience, generally speaking do parents give a truthful answer to that question?---I probably can't answer that because I don't - - -

If you can't answer it, that's all right?---Yes, because it would very much depend on the circumstances and I - parents more often than not with Queensland Health staff tend to be honest.

They tend to be honest, you find?---Yes.

Okay?---Yes.

All right. Now, I just want to ask you about one more issue in your statement and that is that at paragraph 13, subparagraph (4) you state, "Our observation is that some child safety officers struggle in the way that they engage with the client and it would appear this is reflective of their level of competence and skill." You say "our observation". Are you purporting to speak on behalf of the kid safe unit in making that statement there?---Yes.

In making that statement, are you making allowance for the fact that if a child isn't known to the Department of Child Safety at all prior to perhaps Child Safety being called to and arriving at the hospital and speaking with the child, there might be a degree of difficulty in establishing a rapport with the child in that situation? Are you making allowance for that in making that statement?---Yes.

Right. So are we to understand that statement to be this: that your observation is that some child safety officers struggle to engage with children that they've previously had some involvement with? Is that what you're saying? ---More often than not the parents more so than the children, so explaining the impact of a child protection concept that might have on a child and our experience has been more likely than not it's the younger, less experienced child safety officers who struggle with that.

Could the same criticism be made of younger and less experienced professionals in the health system?---Yes.

So it's perhaps just that paragraph is just a statement of an unavoidable fact; that until a person gains more experience in their field, they're not as adept as a more experienced person in communicating with a parent?---And thinking about at what level of experience or, you know, who's with them and the level of experience and when's the

right time to introduce that person to, you know, someone who's in the hospital and they have to deal with child protection concerns. What I'm saying is - how can I put this in a better way? It's important to have a level of experience and skill with that person to mentor them through that process, I think, so we think that the experience and skill is important even in that setting.

So are you suggesting that an inexperienced child safety officer should in an ideal world be accompanied by a more experienced officer?---Yes.

Is that what happens in Queensland Health, inexperienced health professionals accompanied and mentored by more experienced health professionals, or are they exigencies of the budgetary situation and the number of patients you've got to deal with not such as to be able to achieve that ideal outcome?---Agreed.

Okay. No further questions.

COMMISSIONER: Thank you, Mr Copley. Yes, Mr Selfridge?

MR SELFRIDGE: Yes, thank you.

Can I just take you to paragraph 13 of your statement. I think you're already there because the last questions were asked of subparagraph (4) of that same paragraph. At subparagraph (3) of 13 you talk there about a lack of coordination or a coordinated approach between those lead three agencies. We're talking about the Queensland Police Service, Department of Communities and yourselves in dealing with child protection-type issues, yes?---Yes.

From what I can gather or garner, you're suggesting that there should be some form of protocol between the three. Is that a fair analysis of what you're getting at?---Yes. So the experience we have is that if a child has been significantly harmed and ends up in hospital, we have - at times there's - due to capacity and the timing and the different services we might have child safety and police present to the hospital at different times and that's because of what's going on in terms of their own services and their availability. I think it's certainly - and plus the medical staff, their availability. I can see that there's certainly some benefit in the three service coming together and working out some sort of protocol so that everybody's together at the same time so we get all the medical staff together talking about what's going on medically for the child and child safety and the police in the same room or on a tele-link so that everybody is on the same page very quickly and then able to progress and move forward from there very quickly. So it just seems to me it would be a much more efficient way and it certainly would potentially reduce the amount of time that a child might be in distress.

Yes, I'm just going to go to that in terms of proficiency because that obviously has a knock-on effect in terms of what impact it's having on the child to - in a position like this where you're saying it's a child who has been significantly harmed and brought to the emergency department. He's going to see a whole series of different personnel?---Yes.

And deal with the same or similar situations time and time again?---Yes.

Is that what you're getting at in terms of that impact on the child as such?---Yes, so they - I mean, there's a whole range of strangers that they're having to deal with so if we can identify early, then you might be able to get, you know, an appropriate support person in with them more quickly.

Okay, that's an issue. How do we deal with it? I mean, it's good to say we'll have a new identified protocol or something of that nature so that all three services come together and have a coordinated approach. Do you have a suggestion to the commission as to how that could be administered or how it could be dealt with in a more efficient way?---With just planning to try and get - to, you know, liaise and work with the local child safety and police, from our perspective, and develop that together.

Is there anything else you'd like to say on that particular subparagraph other than what I've brought to your attention?
---No.

Thank you very much. I've nothing further, Commissioner.

COMMISSIONER: Thanks, Mr Selfridge. Ms Byles?

MS BYLES: Thank you, commissioner.

Good morning. Ms Buikstra, I'd like to start with paragraph 13 subparagraph (7) of your statement and I'd like to start by asking - you refer in that subparagraph to the term "emotional attachment". I'd like to start by asking what do you mean by that term generally?---So this is the attachment between the infant and the mother. So it's about how well the mother connects with the infant and how she parents that infant. So it's the relationship between the mother and child.

Can I ask you now to apply that concept specifically in relation to Aboriginal and Torres Strait Islander children and your understanding of that concept with respect to indigenous children?---I think that - I know that there are certainly some cultural considerations, but I think that the emotional attachment issue is for all mothers and infants, so how well they relate to each other.

From your experience, has the Department of Child Safety shown that they also possess this knowledge? Have they - - -

MR SELFRIDGE: I don't know if that's a fair question in terms of - - -

MS BYLES: Perhaps if I ask has the witness seen that applied by the Department of Child Safety officers in the way that they conduct their interviews?

COMMISSIONER: Yes, I think that might be a better question?---Yes.

MS BYLES: In what ways have you seen that awareness being applied? Can you provide some examples?---They may be talking to the mum about how - you know, her preparation

for the baby which suggests that she is, you know, ready for her parenting capacity. So her preparation for the baby. They might be talking to her about, you know, what are her expectations for the baby. They might be talking - so a whole range of things around what the baby's needs are. I've seen that type of thing with child safety officers.

Okay, yes. Excuse me for one moment?---Yes.

Thank you very much for that. Now I'd like to talk about another aspect that you refer to in that paragraph. In particular, you identify that there are service gaps in early intervention post delivery of baby. I'd like to talk about that. What I'd also like to ask you questions about, though, I also pre delivery of baby and perhaps the nature of intervention at that point, which I think you discuss at paragraph 10A of your statement. So if I can begin logically with the scenario that occurs before the child is born and I'm particularly interested in circumstances where there's been an unborn notification by the Department of Child Safety. My question is how are women who are subject to that unborn notification, how are they supported by your service?---Okay, so if there's an unborn high risk alert that means that there's a whole range of risk factors. What we're trying to do is move into an early intervention service with these mums. We certainly haven't fully implemented it yet. What we're trying to do is one of our CPLOs where it gets identified - and it may not be necessarily an unborn high risk alert. There might be some identified risk factors there.

So again, it doesn't necessarily have to reach the threshold of a child safety involvement?---That's right, so pre child safety, but some risk perhaps that a report may be made, there's some high risks there. So what we like to do is be - and there has been some work done in this area already where we would engage with the pregnant mum and provide some support and intervention for her. What that could be is some counselling, facilitation of referral to appropriate services and doing some parental capacity work as well and support her through that process until she has the baby and then hopefully follow through with that post delivery. That's where we see if there's a role we can play there as well.

So is that actually happening or is that something that your service aspires to do?---We have been - we did a pilot project in 10-11 and we've been doing a little bit. So it's not every single mother that's been identified but there are small numbers and we want to expand that.

So how at the moment do you identify which mothers can receive this assistance and which might not?---So there's - the mothers are identified in the antenatal clinic and the CPLO will - the risk factors are then identified as part of

that process. So it might be the maternity staff in the antenatal clinic that will identify it, have a talk with the CPLO. The CPLO will then go through, look at the risk factors and then she will – look, at the moment it's really on what capacity she has to be able to take on new referrals. At the moment there's only a small capacity, so we won't – there's a great need out there for it and we haven't been able to meet that need.

So I suppose to - - -?---It's really only a first in, best dressed type of approach.

So perhaps to ask the obvious question, you think that there should be more resourcing in relation to that area? ---That would be great. There's a lot of work we can be doing with pregnant mums and we see that there's a real need in terms of addressing the risk factors and something that someone who has the child protection sort of specialisation and can do parental capacity assessments, we see that there's a real need to do that antenatally and also postnatally as well.

Given that we're talking about circumstances where - we're talking about particularly circumstances that may not at that particular stage necessarily reach the child safety threshold of intervention but there are still concerns nonetheless, in your opinion, if there was more resourcing around assisting mothers to be at that stage do you think that that would flow on to perhaps a lesser level of child safety involvement and maybe in fact no child safety involvement at all at the birth of a child?---Yes, I do believe that.

At the moment with respect to – and perhaps it might be helpful if you could provide an indication as to the number of mothers who are receiving the assistance at the moment. Would you say it was a large number or a relatively small number?---Small. Very small numbers.

Of that small number how successful are these early interventions proving to be?---I couldn't give you any information around whether we've been able to avoid them going to the child protection system at this stage. I can't give you any.

Excuse me for one moment. As part of that package are you aware that there is the directive from Queensland Health to refer people to intensive – I beg your pardon, early intervention for children?---Yes.

And is that followed by your organisation?---Yes.

Is that followed by that program that you were talking about earlier?---Where there's an appropriate service we won't duplicate it.

So it's through that program and then through other referral channels when that program is full?---Yes.

Excuse me for one moment. Are you aware of section 21A of the Child Protection Act?---You'll have to tell me what that says.

I can read that out to you. I have to thank my friend, he's just going to provide you with a copy of the legislation?---Yes.

MR COPLEY: This section doesn't have any application, though, to this witness's department because it speaks about an obligation on the chief executive, which must mean the chief executive of child safety.

COMMISSIONER: What section is that?

MR COPLEY: 21A.

MS BYLES: It's section 21A. Commissioner, I'm asking the witness questions with respect to this provision, not necessarily from the point of notification, but more from the point of the supports that are put in place to assist the mother to be with respect to the health and support that she can receive, particularly obviously from the point of view of Aboriginal and Torres Strait Islander - - -

COMMISSIONER: So it's 21A(3).

MS BYLES: That's correct, Commissioner.

COMMISSIONER: I'll allow that.

MS BYLES: So you're aware of that provisions?---I can see it.

Yes. Is that being followed?---So basically what happens in terms of Queensland Health staff is that if they - and this is - the obligation that we have is if we form a reasonable suspicion we're not mandatorily required but we can make a report. In terms of the health and support, we have the services that are available in Queensland Health that an Aboriginal and Torres Strait Islander woman can access. So we do have the ante-natal service, we have child health service, so the range of services that you can access in order to help her.

And part of your service is to assist a mother-to-be to access those services?---Yes.

COMMISSIONER: Is that just health, or is that on behalf of the chief executive or authorised officer?---Health.

Who's the authorised officer, Mr Copley?

MR COPLEY: It's defined in the dictionary, Mr Commissioner. It means, "A person holding office as an authorised officer under an appointment under this Act."

COMMISSIONER: So a child safety officer might be one? ---Yes.

So either of those people have to consult the recognised entity if the mother gives permission - - -

MR COPLEY: Yes.

COMMISSIONER: - - - about help and support of the mother where the child may be in need of protection after birth.

MR COPLEY: Yes.

COMMISSIONER: All right. How many cases of these are there a year where there are reasonable suspicions held by the chief executive for the welfare of an unborn child?

MR COPLEY: She's not a representative of the chief executive of child safety.

COMMISSIONER: No, but - - -

MR COPLEY: She's not really the appropriate person for anyone to ask, in my submission.

COMMISSIONER: But the child would be born in a hospital and then be taken from the hospital by child safety. I was just wondering how often that happens?---I don't have the stats with me. I can get those stats. Currently we have - I think there's 10 or 15 that are due in the next month and I think there's something like - unborn high risk alerts - I'd be guessing, but I think it's about 40 over a 12-month period. But I'd really like to get the stats for you because I'm guessing.

All right. We'll take it as an educated guess at the moment. I won't hold you to it. But I would like the stats if I can for the last five years?---Yes.

And can you include in them - who triggers the report, is it Health? The high-risk report?---So high risk alert is received by Health from child safety.

From child safety, okay?---But it can be initially triggered off by a report by someone, and that can include

a Queensland Health staff member, the initial reporting.

And could you also give me the break-up by Aboriginal and Torres Strait Islander and rest of the population? I'm assuming - well, I won't make any assumptions, I'll wait till I get the facts.

MR SELFRIDGE: I'll take that question on notice, Commissioner.

MS BYLES: Thank you, Commissioner.

COMMISSIONER: Sorry, last thing: and by comparison with the other intake regions.

MR SELFRIDGE: Absolutely, yes. So across the state of Queensland.

MS BYLES: Thank you.

So obviously you've identified service gaps, particularly with respect to now after children have been born. Can you provide perhaps some examples of additional services or ways that those gaps could be filled?---Certainly in what I suggested there was that at the moment there's - for the women who come down from the communities - the Cape and Torres Strait Islander communities - there's a service called Mookai Rosie and we find them a very valuable service. A woman can come and stay with Mookai Rosie and be provided with some practical and emotional support from them before she has her baby and then after she has the baby. But that service is not available to the Cairns community women. We think that something like that would be very beneficial for the Cairns community. So it just provides some more options that if there are some risk factors there, that they can be provided with an intensive therapeutic support, be working on parenting, and then be followed up more closely. It's for those mums who are at a higher risk than what the other services that we've got can provide.

And is Mookai Rosie a residential facility?---Yes.

So would it be fair to say that that is of particular help to women who may be facing having their children removed - - -?---Yes.

- - - by the Department of Child Safety. So would you say that if there were more of these facilities available, that may assist to reduce the number of children removed at birth?---I think so.

Excuse me for one moment. Thank you. I'd like to move on to now subparagraph (12), still on substantive paragraph 13. I want to ask why you say the role of recognised entity is not clear to parents?---There are

times when the recognised entity turns up and we're not really 100 per cent clear about what their role is: is it there to provide support or provide information for the parents or clarification for the parents, or is it there to provide guidance for child safety about what's culturally and not culturally appropriate? So if we're not clear about what that role is then we think that parents will be just as confused. I think there will be some opportunity for some additional, perhaps, education and training around that role. It would be helpful for parents.

So what would you recommend to improve that? From what you've just said I assume some kind of training session perhaps?---And perhaps being really clear with parents about what their role is when they meet with the parents, and a lot of the time that's not 100 per cent clear for parents when they turn up so they might be introduced, "This is the recognised entity," but perhaps a little bit more information around what that role looks like for parents.

So it's a case of - - -?---Clarification.

This is Joe Bloggs, recognised entity, full stop, without an explanation as to the role. Is that what's currently occurring?---Not in every case but that can be - because they then go straight into the child protection issues.

Thank you. Perhaps as a flow on from that issue, do you see that there is a concern by parents about the recognised entity being seen to be with child safety or, you know, as part of the child safety machinery?---Just to draw a link with that, it's very often because safe kids staff turn up with Child Safety, we get seen as a link with Child Safety and as an arm of Child Safety so it's - parents as well as Queensland Health employees, so it's really easy for people to see if someone turns up with Child Safety that they're automatically associated and part of them.

Do you explain your role though to parents?---Yes.

So if the recognised entity does not explain their role, could that perhaps assist in that misunderstanding?---Yes.

And would you say that if the recognised entity did explain their role, that might assist to dispel that misunderstanding?
---Yes.

Excuse me for one moment. Would you say that if there were more indigenous professionals employed by the department, perhaps employed by the hospitals, that these women could interact with, do you think that that would assist to overcome some of these issues with service deliver that you have identified?---I think it's always important to have the appropriate number of indigenous - Aboriginal and Torres Strait Islander health professionals and certainly the indigenous liaison officers that we work with always are very, very helpful so I think we could always benefit with more professionals working - Aboriginal and Torres Strait Islander professionals working in health, absolutely.

And also in the non-government sector that you deal with in relation to the intervention side of things?---Yes, absolutely.

I now refer to subsection (10), and I apologise for moving backwards. You refer there to a situation where you say parents are very disempowered. How do you think that that issue could be addressed?---A lot of that I think is around - I believe what's that around is how Child Safety goes about explaining the situation that parents face. So if you say to a parent, "If you don't sign this, then we're going to go for a court order anyway," it's not really a voluntary care agreement because there's really no option for them. So it's just about how they approach that.

Do you think that there would be utility in there being perhaps a panel of legal professionals or a requirement to refer somebody to a legal service at that point in time to assist to overcome that disempowerment?---I think that the parents - there's some value in having the parents having legal representation and certainly where we can facilitate that, we will facilitate that process.

You would support that?---Yes. They need to know what their rights are.

Thank you. With respect to subsection (13), again still within paragraph 13 - subparagraph, I should say - what avenues do you think could be explored to improve the consistency issues that you refer to there?---So we've started that process in terms of all the CPLOs. We've got a quarterly CPLO submit work meeting. I provide some professional supervision. It's a little bit tricky because they don't report to me, the five CPLOs outside of the safe kids unit, so, say, perhaps advice that I might give to them might be not appropriate for their service, for example, but we're - and also in terms of the district the CPLO down in Innisfail and the CPLO in the Tablelands - we're working together to do district - hospital and health service procedures and we're working together to do those so that they're consistent. So we're starting to build some consistency across the CPLOs and safe kids unit provides - we did a child protection forum and we had - the CPLOs came down to the forum, you know, to get some additional experience and exposure so that, you know, we're facilitating that process as well so that we all have - you know, we're trying to increase knowledge and skills across all the CPLOs, so we're trying to facilitate that.

I just have one final question and it's a fairly broad question and it's really just based on your experience dealing with mothers and mothers to be in these circumstances and in particular I'm looking at it from the point of view of child safety interventions. Are you able to say how many of those interventions may occur on the basis of physical and sexual abuse and how many might be due to neglect or substance misuse or family dysfunction issues even if it's just roughly?---So what the break-up looks like?

Yes; yes, so with respect to departmental interventions, have you noticed a trend or are you able to articulate sort of the maybe different rationales behind child safety intervention looking at maybe sexual and physical abuse cases as against cases where intervention is the result of family dysfunction or neglect issues?---I can't really comment to that. That would need to go to Child Safety, I think, in terms of their interventions.

Thank you. Excuse me for one moment.

COMMISSIONER: Would you mind providing me with a copy of your report sheet that we send, if you wouldn't mind? ---Yes.

I will see it when I see it, but just before I actually see the document, does that include some context around the report?---Yes; yes, so there are three pages to the SW010, I think we call it, and the first page is all the details around the children and the family and siblings and so forth. The second page is a whole page around the harm and the risk around the harm and the context and the circumstances, presentation and then the third page is, you know, who you've reported it to and who you are and that sort of thing.

So if I worked at Child Safety and I got that report - in relation to the reports I get from Health, I could have a number of bundles or stacks that I could divide the reports into if I wanted to categorise them by the drivers of the harm or the causes of the abuse, suspected causes of the abuse, such as, for example, I could put on this stack chronic history of family violence, drug abuse by parents, neglect, failure to provide necessities, alcohol problems. Could I do that?---The tricky thing around that is that a lot of them co-occur so we've got a lot of - so the big ones for us are substance misuse and domestic violence.

So my biggest pile would be complex multiple issues, could it?---Likely.

Okay.

MR SELFRIDGE: Can I just ask a question just on that very theme or that very notion? Would it assist you to maybe have a few of those reports as opposed to blank sheet but - - -

COMMISSIONER: I was going to ask for depersonalised actual reports – probably need to get a sample of them.

MR SELFRIDGE: A sample.

COMMISSIONER: Yes, so I was going to do that in my notice or letter, whatever suits.

MR SELFRIDGE: Sure. I'm happy to take that on notice just now as something to deal with - - -

COMMISSIONER: Are you? All right. I want it over a range of years.

MR SELFRIDGE: The last five years?

COMMISSIONER: Yes. I just want to see if it's possible to do that exercise I just went through.

MR SELFRIDGE: Yes.

COMMISSIONER: If you did want to keep a tab on a child or a family, you know, if it's possible to do it just through the health reports. If you - - -

MR SELFRIDGE: In a tabular format would suggest it's going to be – that you'd have the same things being repeated time and time again or, you know, on multiple type issues, as such, with each family, or with a family, but a tabular format would still show how those singular issues such as domestic violence, or people with similar issues.

COMMISSIONER: Yes, that's right. What I'm looking at is what you do with the information and which service you might be able to refer the particular child in the report to and would you be able to – did you get enough information from the report to be able to refer out to the appropriate agency. That's what I'm looking for, and if not, can we beef it up so that in the future you can do that.

MR SELFRIDGE: I'm sure we can come up with something there, and if ultimately sort of – to extend that or ask other questions on the same issues, then maybe that's the way it will - - -

COMMISSIONER: Sure.

MR SELFRIDGE: I'm sure we can come back with something in relation to a sample version and what action was taken in each circumstance, something of that nature.

COMMISSIONER: Yes, that would be good. So I'd normally get that through an information notice but if you can provide it in a - a spread sheet would be fine.

MR SELFRIDGE: Thank you.

COMMISSIONER: Thanks, Mr Selfridge. That would be good.

MS BYLES: Yes, thank you, commissioner. I have just one further matter I wish to address to the witness.

Do you think that the current levels of outreach services that are being offered by Queensland Health, particularly, obviously on the Cape, and particularly from a point of view of referral to early intervention services. Do you think that they're sufficient at this present time?---We don't do a lot of referrals to the outreach services. The CPLOs who work in - we have three on the Cape, in Cooktown, based in Weipa and also on Thursday Island - would be very appropriate people to be asking that question, only because we tend to only work with generally the Cairns community and refer out within the Cairns community. I have some knowledge of the outreach services but it's only very limited knowledge, so for me to make, you know, a broad statement about that would be inappropriate.

Thank you. That concludes my questions, thank you, commissioner.

MR CAPPER: We have no questions, thank you.

COMMISSIONER: Thanks, Mr Capper. Yes, Mr Copley?

MR COPLEY: No further questions. May the witness be excused?

COMMISSIONER: Yes. Thanks very much for coming. We appreciate the time that you've spent and the information you've provided?---Thank you.

You're excused.

WITNESS WITHDREW

MR COPLEY: Before we call the next witness I just need to ascertain whether the original statement of Ms McNally is still before you.

COMMISSIONER: I've got my working copy of it.

MR COPLEY: Mr Blumke might know where the original of the statement is. There needs to be some corrections made to the figures in the box through this next witness. Anyway, it looks like I've called her. Pauline Carlton.

CARLTON, PAULINE affirmed:

COMMISSIONER: Good morning, Ms Carlton. Welcome?---Good morning.

Yes, Mr Copley?

MR COPLEY: I tender the statement of Pauline Carlton together with a copy.

COMMISSIONER: Thank you. That will be exhibit 62 and will be published as it is. Thank you.

ADMITTED AND MARKED: "EXHIBIT 62"

MR COPLEY: Ms Carlton, you're the director of the placement services unit for far north Queensland? ---Correct.

Is there such a unit operating in any other part of the state?---The placement services unit is a regional unit and there's one in each of the seven regions of the department.

Okay, so it's not a response of the department that's peculiar to Cairns and the Cape region?---No, and just to clarify, it's for the whole of the region, with is Torres Straits down to Cardwell and out to Croydon. So the Cape York and the Torres Straits is only a component of the region.

Yes, and you've held that position since May of 2009? ---Correct.

Part of your job is to coordinate and negotiate out of home care placements in the region and to recruit, assess, support and train foster and kinship carers?---Correct.

Now, you're aware that Ms McNally provided a statement to the commission yesterday and in that statement she provided information in a tabular form setting out the number of approved carers, the number of current placements and the number of potential carers as at 3 September 2012?---Yes, correct.

But there are some inaccuracies or corrections that need to be made to that table in Ms McNally's statement?---Correct. There was a typographical error against a number of placements for (indistinct) and there was also an amendment to the number of children placed in Napranum.

Well, what we might do is if you can just tell us and - or it might be better if we give you Ms McNally's statement and have you make the corrections and then you can just read into the record the corrections that you've made? ---Okay. I did actually write - I have corrected, I think, on the reverse - - -

Okay, I've got that piece of paper?---Okay. You want me – yes, okay.

So you've now got Ms McNally's original statement?---Sure.

So by reference to the piece of paper that you've got your note on can you correct the figures in her statement? ---Certainly.

Just wait till you get it?---Thank you.

The single piece of paper could go back to the witness? ---Thank you.

If you could just now read into the record the corrections that you've made?---Okay. The correct number of placements with approved foster carers for (indistinct) was two. Approved kinship placements for (indistinct) were four, which was a total of six, and against Napranum, for the residential-safe houses the correct number was six and the total was eight, providing a total of 47.

Now, just so that I can have I memory refreshed, over on the left-hand side under current approved carers, AFC means approved foster carers?---Foster carers, yes.

KIN means kinship carers?---Yes.

LTG means what?---Long-term guardianship to other.

Okay, all right. So if we look down the bottom there for the first three columns, the fourth column total, there's a total of 29 approved foster carers, kinship carers and long-term guardians for the communities listed on the left-hand side of the page?---Correct.

If we look over further, on the fourth column under the heading Current Placements there's 47 children currently placed with 29 carers. Looked at that way is that a particularly bad or a particularly high ratio compared to other regions of the state?---Yes, I mean, it's interesting, and when looking at the data I had a closer look at it yesterday and it was interesting. My question to the staff was why, for example, do we have five – or apparently have five approved carers in a location and no children placed, and when you have a look at it, those carers might be approved for respite only. They might be approved kinship carers who only provide placements during school holidays. They might be foster carers whose preference is nought to five only.

So you actually can't just look at the number of carers and make an assumption about the number of placements that will necessarily provide.

At the moment there are 47 children being looked after by 29 carers?---Mm'hm.

Is that - - - ?---That doesn't surprise me. That's probably - yes, and - - -

Is that the case? Is that what the situation actually is as at 3 September, that 29 people were looking after 47 - - -?---Yes. Just a note of caution with the data, the data is pulled from different locations on the departmental database - - -

Yes?--- - - - which means that each child or young person can only be counted once, so it's probably best to use it as indicative data rather than an absolute.

Right?---But yes, it is sound indicative data.

Are there in fact 20 - - -

COMMISSIONER: Because we don't know what it indicates? ---Yes, sorry.

MR COPLEY: Are there 29 carers?---Yes, there are 29 approved carers.

Does that mean 29 individual people?---Yes.

Or do some of these people actually straddle more than one category?---No, that's 29 discreet carer entities.

Right, 29 individuals?---Yes.

And so there are 29 individuals who, combined, are caring for currently 47 children?---Yes. The number of children in foster or kinship carer placements is actually smaller than that because that includes the number of children in residentials and safe houses.

Right, okay. I understand what you're saying. Because people running the residential or safe houses aren't necessarily approved foster carers or kinship carers? ---That's correct, yes.

So in fact approved foster carers and kinship carers are looking after eight plus 19?---Correct.

So there's 24 approved foster carers or kinship carers and they're looking after 27 children?---Correct.

In total?---Mm'hm.

So is that a particularly high figure or a particularly worrying figure in terms of the number of carers available to look after the number of children?---I don't think it's a particularly bad figure. It's probably a good reflection of the foster carer pool. As I say, we need to recruit carers for primary placements, for respite placements, for emergencies, for holidays. So your pool of carers will always need to be relatively large. As I say, when you have a look at the pool of carers and start to look at their circumstances, it's not as - - -

Yes. Sorry, I was just agreeing?---You know, it's not as easy as saying, "We've got one carer therefore we should have a placement there."

COMMISSIONER: You might have a mis-match between a carer and the child's needs?---Yes. I mean, you know, as an example, the examples I got yesterday of a particular location where we have five general carers, and it looks like we've got one placement, which is the reality, the background was one of the carer couples are required to do training before they can have any placements; another carer, their preference is ages eight to 12 only and won't accept children from a particular community; a third lot of carers both work and prefer children of two to 10, but for respite only; a fourth one, children 11-plus, but again only respite and short-term placements. So for very good reasons we need those people as carers, but they're not necessarily able to provide primary placements.

MR COPLEY: So you have to take effectively the people who are approved as carers on the terms that those people are willing to offer?---That's correct.

Otherwise they may simply say, "Well, look, I can't and won't assist you otherwise"?---That's correct. And I guess we often recruit people as respite carers and then work with them and nurture them and hope that they might end up providing primary placements at some stage.

COMMISSIONER: Could I ask you what are your recruitment strategies?---Such a big region, so I guess it really varies. What we might do down in Innisfail is very different to what we might do in one of the communities. Evidence actually says the most effective recruitment strategy is word of mouth, so the thing that actually is most successful at recruiting foster carers is feedback from other foster carers. However, we also do lots of promotional stuff. In the remote communities, for example, we do lots of - you know, we'll have a barbecue, we have people on the ground, we have leaflets, we put articles in newsletters. We try and be as creative as we can.

Are there incentives apart from funding? What do you promote: you can get paid for this; or this is good for

the - it's a good social - - -?---Yes, I guess being really clear that foster care not paid. You know, foster care allowance is an allowance, it's not an income; foster care is a voluntary activity; and I guess we're appealing to people - you know, we're appealing to people who want to make a difference in children's lives. So that's the focus.

How's that going for you?---It's an ongoing struggle to recruit enough foster carers. We never have enough foster carers.

Do you think you could improve your recruitment strategies, or is it something about the job itself that - - - ?---You know, and I think we struggle. We keep thinking that if only we did it differently or smarter, you know, we'd find the secret. The reality is it's not just this region, it's not this state, it's not just Australia, it's internationally. All jurisdictions are struggling to recruit enough carers.

And all their brainstorming hasn't come up with the magic bullet yet?---No. You know, we - and I think it is that thing about trying to remain flexible, to remain committed to trying different strategies and using every chance we get to promote foster care. But I think that there is a lot of evidence that says societies change, people's circumstances have changed. With the growing number of children and young people in out-of-home care and the increasing complexity of their needs it's actually getting harder.

So you can't think of anything with your experience of - better ways of recruiting or - that might help, that you can't currently do?---No. Look, we can do more of the same. I mean, we can do more training, more support, and are open to those things. Yes, no magic bullet.

MR COPLEY: Is one of the societal changes that you have in mind the - I don't want to sound old-fashioned here - but the increasing prevalence of women working full-time? ---The increasing number of households with two adults working.

All right, that's another way of putting it.

COMMISSIONER: That's the better way of putting it? ---That's the other way - is absolutely the case. You know, particularly when we've got children and young people who are out of education, who are suspended or excluded - - -

MR COPLEY: Or children below school age?---No, children who because of their challenging behaviours might not be in the school system.

Right?---That's a real tension for - if you've got carers who are both working or if you've got children and young people who need to go to counselling or - you know, when you've
got - - -

They've got appointments during the day?---They've got appointments, medical appointments, counselling appointments; then that's a really big ask of people who are perhaps both in full-time jobs.

COMMISSIONER: There are economic forces at work against you?---Yes, absolutely.

MR COPLEY: So there's not much you can do about that? ---No. My personal belief is that I think there will become a point where we may have to consider paid or professional foster care.

So is the foster system as we presently understand it, do you think it's viable in the medium to long term?---I think at the moment I think in this region we've probably got about 80 per cent of our children and young people placed in foster care.

That's a struggle. I think foster care will always be at the core of our out-of-home care system. Whether it can be 80 per cent or 85 per cent I - I'm not convinced of that. I think we need to plan for a world where perhaps 60 per cent of our children and young people can be placed with foster and kinship carers and the question will then be: what are your other options?

And where the foster system is professional or benevolent? ---Yes. I believe - I would hope that as a society the benevolent or the altruistic component will remain at the core, you know, because kids should be in families. If kids can't be in their own family, they should be an alternative family so we want them in families.

And you want the families to be there fostering for the right reasons?---Yes, absolutely.

But money might not necessarily be a bad reason?---No, and if that's an incentive - because what we want for children and young people who have experienced trauma and abuse is someone who's really there for them and by that I mean both emotionally but - - -

Fully available to them?---Yes.

Like Mr Copley's old-fashioned idea, a woman who's currently in the paid workforce, if she had the option of being a paid carer on comparable wage, might choose to do that but can't currently because they need the second income?---Yes, and if we say that children and young people because of their experiences or the reason of coming into care need more time and they need - someone referred to it as "parenting plus", then how do you actually provide that for them in a family environment?

These are the high-needs children - - -?---Yes; yes.

- - - that need more than just standard parenting?---Yes.

They need extra?---Yes.

Extra special aid. Is professional foster care done successfully in any country?---I understand that the UK has got some models of professional or paid care so I think that's where they're heading.

You would have to enhance your accountability in monitoring review systems?---Yes; yes; yes, and perhaps time limited, you know, with a view to - because what you always hope with a placement is that the needs of a child or young person will decrease; like, if you're actually giving a child or young person stability and routine and you're addressing their therapeutic needs, your hope would always be that they can step down, step down into - - -

You would do yourself out of a job?---Yes, or, you know, the support around a placement should decrease if you're doing it well.

MR COPLEY: 40 or 50 years ago, would some of the children or a lot of the children - you can tell me in a moment when I finish the question - who you look to put in foster care now have gone to some sort of an institution such as perhaps an orphanage or a home run by a benevolent society such as the Salvation Army or a church-run institution. Is that the case?---Certainly I think that's what history would show and obviously with the really poor outcomes associated with that.

I was about to say it's now said that that was not a good system and it could be that those institutions that were providing that service years ago don't even want to provide it or can't provide it any more so now the burden increasingly falls onto as a first option for out-of-home care foster carers, doesn't it?---That's right; that's right, we have a very high reliance on foster and kinship care.

COMMISSIONER: In fact history shows there has been an oscillation between fostering and institutions?---Yes.

One was found wanting so they went to institutions, had the horror stories from the institutions, went back to fostering and it's been that way for most of the Twentieth Century, after the war, for example?---That pendulum perhaps went too far and, you know, our experience where we threw out the small group homes and got rid of the residentials, you know, went very much to foster and kinship care and I think our learnings now would be you need good residential care and you need good foster and kinship care.

And size might matter in institutions because the more manageable the size, hopefully the better outcome and the accountability measures can be more readily enforced than if you've got big institutions to run?---Yes, and I'm talking about residential so this would be talking about, for example, our four-place residents.

Is that the biggest residential you have got, four places?---Our biggest is four, yes.

Four?---Yes.

What do you say though to something like eight?---I think it's about design. It's about ensuring that children - well, young people, I guess, if you're talking primarily about residential care. With sibling groups, for example, there are occasions when we have a lot of large sibling groups and so the opportunity - you know, we know how

important it is to keep sibling groups together so there may be occasion, you know, to - - -

Are there any bigger than four in the state?---There's certainly a six place. I'm not aware of anything larger than six places.

And it ranges from one on one to six?---Yes.

But normally four?---Yes.

What about boarding schools as an option?---Boarding schools often for children - sorry, for young people from Cape York in particular going to boarding school is a fairly normal activity so not just for children in the child protection system. So a reasonable number of young people in out-of-home care from the cape would be in boarding schools and that works - can work really well, particularly when you've got a foster-care placement back in community and that's where the safe houses have also been really valuable. So you might have young people who are away at boarding school but can return to community and have a placement in a safe house and have that safe connection back to family and back to community.

On holidays?---Yes, during school holidays.

MR COPLEY: Are there any difficulties that you encounter in this region in recruiting or retaining foster carers that are peculiar to this region that you don't encounter in other regions of Queensland?---Probably one of the biggest things that is characteristic of this region is just the very, very large proportion of children and young people who are Aboriginal and Torres Strait Islander. So know the commission has heard the statistics about the state-wide proportion, the over-representation. I think it's 40 per cent. In this region it's 79 per cent so - - -

COMMISSIONER: It's twice the state average here?---Yes; yes, and some of that's the geographic make-up of our region, the fact that we do include Cape York and the Torres Strait, so obviously recruiting sufficient Aboriginal and Torres Strait Islander carers is always on our agenda.

MR COPLEY: So do you try to find Aboriginal and Torres Strait Islander adults to be foster or kinship carers for Aboriginal or Torres Strait Islander children?---That would always be the first preference.

And that's a legislative obligation - - -?---That's right.

- - - imposed on you?---That's right and a requirement.

Yes, and is it harder to find foster carers from those backgrounds than it is to find foster carers from the white

community for the children?---Again my understanding of the evidence is that Aboriginal and Torres Strait Islander people are actually - - -

I wasn't really asking you about the evidence but about - - -?---Yes, but are more likely to be foster and kinship carers.

Right, but I wasn't really asking you about the evidence? ---Yes.

I was asking you about your experience because you're the lady in charge of the placement services unit?---So, yes, we need so many Aboriginal and Torres Strait Islander carers.

Yes?---So, yes, that's hard. Proportionately there are more indigenous people who put up their hands to foster than non-indigenous people.

Okay, yes.

COMMISSIONER: What about other cultures, you know, other migrant cultures?---Yes.

Do they usually – do the put up their hand for their own? ---I think because we have such a high proportion of Aboriginal and Torres Strait Islander people that we don't – our numbers of children in the system from other cultures is fairly small. So you'll probably get less of that as an issue from us than you would in south-east Queensland. Sometimes, you know, particular recruitment in particular community groups can be quite successful.

MR COPLEY: So what do you think can be done to improve the recruitment of Aboriginal and Torres Strait Islander adults as foster or kinship carers?---I think particularly in the remote communities there are particular challenges and that's tied up with housing, overcrowding. The issue of blue cards is an issue, so people accessing blue cards.

Yes, so you're identifying the problems or the barriers to finding these carers?---Yes.

But my question is what can be done to improve – or put it another way, what can be done to reduce, minimise or get rid of these barriers to recruitment, in your opinion? For example, would you say they need to build more houses there?---I think whatever you've got, yes. So, yes, I think issues around an adequate number, adequate supply of housing for the population is part of it.

Yes?---I think in terms of what's within our mandate or the shared responsibilities around this I think the possibility of looking at the strict requirements around the blue card.

What do you mean by that? Tell us what you mean?---Okay, so at the moment it's a requirement that all adult household members are required to have a blue card.

Yes?---Absolutely understand the importance of that in traditional households where you might have two adults or perhaps three. I understand the need for everyone to have a blue card.

Why is it important for everyone to have a blue card?---I guess where we need to ensure that children are placed with safe adults and the Children's Commission has made a determination that if someone is not able to have a blue card then that's not a safe place.

But there would be lots of parents – well, it's the case, isn't it, that you don't – we haven't yet got to the position in this state where a person that fathers a child needs to have a blue card to be the father, does he, or the mother?---No. I believe that the state has higher level responsibilities towards children in our care who have experienced abuse.

So do you endorse the idea that if someone in the house is ineligible to get a blue card then no child should go to that house?---A child – no, look, should there be some discretion around that? There are occasions when some discretion would be useful. We had an example recently where a carer was issued with a negative notice and we had two children who had been placed there for some extended period of time. We in consultation with the manager assessed the situation and the issues around the blue card were known to the manager who had the delegation and there had been a request for the person to make a submission which they had not responded to. So in that case we actually made the decision for the children to remain in that placement because it was in their best interests.

And nothing had come to light to suggest that the - - -? ---Well, people knew – it was a very old matter.

Yes. He'd offended a long time ago, had he?---Yes, and it was actually able to be dealt with very swiftly, within a couple of days, by the communication between the carer and the commission and the department. So, I mean - - -

But someone must have checked departmental records to see if there had been anything untoward?---Absolutely. Absolutely.

And nothing untoward had occurred whilst the children were at that house?---Yes, that's right.

So there was an exercise of discretion, was there, that the children would stay at the house notwithstanding there was an occupant of the house who didn't have a blue card? ---That's right.

So that was an example of a situation where a decision-maker looked at all of the facts - - -?---And took a risk.

Took a risk?---And in the best interests of the children – and that was seen as a – it was treated very seriously as a decision but it was in the best interests of the children for those couple of days.

COMMISSIONER: The risk was acceptable in the circumstances?---In the circumstances.

MR COPLEY: Just as a matter of interest, how high up the chain of command did it have to go before there was a person who was willing to take a risk and make that decision?---We managed that risk regionally.

So who made the decision?---Well, the delegate will always make the decision, so the delegate is the manager under the legislation.

What was the name of the decision-maker who made the decision?

COMMISSIONER: Who is the regional manager, I think?---It was – well, it was a shared – it was a three-way conversation between the Child Safety Service centre manager of the Cairns North office and the regional director, Arna Brosnan, and myself.

MR COPLEY: Okay, so the three of you brought your collective wisdom, experience and common sense to a matter and applied that to achieve an outcome that you thought was in the best interests of the children – of the child or children concerned?---Yes.

COMMISSIONER: And so far, so good?---It really was only a couple of days till the matter was resolved. We had a – you know, we were able to resolve the issue and - - -

MR COPLEY: The children are still living in that place? ---Correct.

Nothing so far has occurred that's of concern?---No, it's fine.

Okay?---But, you know, and I guess that risk is that question of if something had occurred in that time.

Yes, but you brought, as I said, your combined wisdom, experience and common sense, the three of you, to the problem and made a decision that you're all comfortable with?---Yes.

COMMISSIONER: You took a calculate risk in the overall best interests?---We did.

MR COPLEY: No further questions.

COMMISSIONER: Thank you. I have one before I ask Mr Selfridge to ask his questions. You mention at paragraph 15 the therapeutic placement service. I've been there?---Yes.

Can you tell me – I have two questions arising out of that. In your capacity, when you're looking for a service provider do you determine what you need and then go

shopping for it and then call for tenders to provide it and then choose or do you ask the service provider what services they can provide so that you shop for the needs to meet the service? Which one is it?---Okay, first step would be we'd do some regional look at, well, what is it that we need? You know, we've got 920 kids in out of home care. We've got a big region. Where have we got services, what are our gaps? The department probably then has a number of service models that it funds. So, you know, it would fund therapeutic residentials, residential services. Each of those services would have program specifications. So if as a region we say we need a therapeutic residential there are broad program specifications that say, "Look, for that kind of service it should look a bit like this." Probably less about the inputs but more about outputs and outcomes. So the department would say, "That service should cost between this and this."

So the program specifications would end up in a funding information paper that's publicly - nearly always publicly advertised, an open process. Services then submit to the department and there is then a process of assessing the most appropriate. Within that there's a fair bit of room for services to design their own program model within the program model.

And they sell that to you?---Yes; yes.

But you identify the unmet need that you want met by them? ---That's right.

And tell them how much you're prepared to pay for it? ---Yes.

Are they a not-for-profit organisation?---The department funds not for profits and for profits, yes.

And the Therapeutic Placement Services - is it for profit? ---For profit, yes.

How do you work out how much you're prepared to pay the successful bidder?---I guess the department has got more sophisticated over the years and works backwards a bit, you know, in terms of there's been a big - you know, additional injection of growth over recent years into the non-government sector so the benchmarking probably started with saying, "What have we got out there and what does it cost us to buy that?" and then feedback from the sector while ever you've got people putting their hands up and saying, "We can do it for that amount of money."

If you get thousands of applicants, you know that you have over-quoted?---That's right, yes.

So it's a competitive tender process?---Yes.

The Therapeutic Placement Services - would that be dealing with the high-end need sector?---We talk about children and young people with complex and extreme needs so, you know, you think about your population of children and young people in out-of-home care. We refer to the pointy end being about 17 per cent at any one time will have complex and extreme needs and that's the target group for the therapeutic resi.

Right; and so the department works on the basis of we know that any point in time we will have a 17 per cent cohort that we need to meet needs - will have similar needs? ---Yes.

So then what do you buy, say, from Therapeutic Placement Services? Do you buy a number of years or do you buy a number of services for a particular cohort of children? ---We buy a number of placements which is what we call - a

placement is an out-of-home care placement for a child or young person so, for example, we would say we'll buy four placements, therapeutic residential placements, and that will be, for example, over a three-year time frame.

But it won't be the same four?---No; no.

The idea would be to progress all those in need through as quickly as reasonably appropriately possible so that you can replace - backfill?---Yes, that's right, and I guess that's - one of the reasons why I would say that therapeutic residential has been reasonably successful is that we've actually seen that stepping down which you don't always see in other residential services, but if you actually have intensive supports, clinical intervention, structure, good training support, you'll actually see young people going in and then stepping down into perhaps a specialist foster-care placement which is a really positive outcome.

So you have the therapeutic placement and then maybe to specialist foster care and then hopefully into general foster care?---Yes.

Or reunification?---Correct.

So the idea of the therapeutic placement is to mould the child, shape the child's needs and treat the needs - meet the needs to the point where some other less intensive and cheaper option can fulfil those needs adequately. Is that right?
---That's correct, and so it's, I guess, responding to the very real grief and form and attachment needs of kids are in the out-of-home care system and actually doing that within a framework you can actually make changes.

I met all those four kids the other day?---Yes.

So can you tell me how much a placement of one those kids costs per year to buy?---It would be - I think it's about $300,000 a year for the residential component per placement. I'm happy to get that accurate information to you.

Yes, thanks, I appreciate that. That's a lot of money?
---It is a lot of money.

That's not the only component of the question. The question is: despite the cost, is it value for money?---I think it's value for money when you actually see outcomes for children and young people that - and it's cost effective in that if you can actually get a child or young person to step down out of that and not spend six years in residential that might be $300,000 a year, that very focused intervention is absolutely value for money.

And if you evaluate it over a lifetime in social cost savings - if you balance social cost savings against financial cost, that's how you should do it, to be fair, in assessing it's value for money?---Yes.

I understand that. Now, you said for the residential component. What other components are there?---That particular model was funded with four residential placements. It's actually also got two specialist foster-care placements attached to it so you've got six children in total.

So four in one house - - -?---Four in a residential.

- - - and two one on one in different places?---But with families.

But with families?---So with foster carers but with lots of support and still within this therapeutic framework.

Right?---So you've got six children placed.

What about the other component? Is there an education component?---Well, I guess what it is, is it's an integrated - I think it's about what works is having a very systems approach to children so if they need to have education support, they get education support.

So if I was to ask you what the total cost of the placements were, residential and all other components, could you tell me?
---I think it's about $1.6 million across the six placements but I will get you that breakdown, yes.

Okay, thanks. Now, the last question I wanted to ask you about that is: there's probably no-one who would want to qualify for being placed there because you would have to have high complex multiple needs to be eligible, but what of those four children in that residential placement - why are they in need of protection of the department? I know they have needs, but what makes them in need of protection?---All four currently placed have, from memory, quite long child protection involvement and are on long-term orders. So I can't speak to their particular backgrounds but they are all - - -

They have been assessed as being in need of protection?
---Absolutely, so they're on orders.

On an ongoing basis?---They're on long-term orders. The therapeutic resi is what we would term medium-term placements so you wouldn't place someone there who was on a very short-term order with a view to going home soon. You are making a commitment of up to 12 months at least.

It's a program of treatment?---That's right, yes.

So it takes time?---Yes.

Is the experience that the goals are being met through this placement or is it too early to tell?---I think we've seen some really good successes. It's not 100 per cent success and I think part of the learning is what kids does it work with. It's just as important to say who doesn't it work with.

And, you know, we've had a couple of cases where you'd agree it didn't work, and they're probably young people who are leading quite adult lifestyles, they're absconding.

They're not suited?---No.

All right. So you measure success for a therapeutic placement how? Stepping down?---I think the broad indicators would be maintaining the placement, you know, the throughput, the stepping down. I think that's a really important one that we don't always see a lot of with residential services; children or young people - because it's 12 and up - exiting to family-based or to going home, so they're your big-picture indicators. And then within that it might be things like greater engagement in the education system; you know, the fact that they're engaged in sports and activity, less absconding. So they'd be your indicators that would sit behind that.

And what if you - how many children have been through the four placement - - - ?---I can't answer that accurately.

Do you know how long it's been going?---It's probably about three years now and - - -

And the longest anyone has stayed there? Do you know how long that is?---I would estimate it wouldn't be more than 18 months, would be my best recollection.

A placement will leave because they've met the goal or because their time is up?---We've never said, "Your time's up," if we thought there was still benefit to be made. So it would be that discussion about: is this still achieving anything? And I think that there becomes a point where kids do have to move through, that you can't live in that kind of therapeutic environment beyond a certain point.

So where do they go then if they're not appropriate for intensive foster or there's no intensive foster carer available?---I guess the examples where we would say there's been positive outcomes, they have gone to family-based care of some kind; we've had a couple who've gone home; and then we've had a couple who probably exited the negative stream, which is detention or back into more adult lifestyle. So when I say, you know, the successes have been really positive, that's not to say it's 100 per cent. No model is ever going to be 100 per cent.

All right, thanks. Anything arising out of that? We're going to break for lunch anyway before I call on you.

MR SELFRIDGE: Yes. And as I indicated earlier, I'll talk to my colleagues over the luncheon period and we can organise a timeframe subject to your affirmation of that.

COMMISSIONER: All right. Quarter past 2.

THE COMMISSION ADJOURNED AT 1.05 PM UNTIL 2.15 PM

COMMISSIONER: Good afternoon. Mr Selfridge, how did you go?

MR SELFRIDGE: Good afternoon, commissioner. I've had some discussions with my colleagues in the lunch adjournment and the general consensus is this, that as far as those witnesses that remain are concerned, and after we're finished with this witness there's two more, Mr David Goodinson, who is the regional director of youth justice services and Patricia Anderson who is the Cairns North Child Safety Service Centre manager. All in all, without going into the detail - the devil is in the detail, but without going into that, we'll be finished if we sat a little bit later tonight, if you would be so minded to do.

COMMISSIONER: Sure.

MR SELFRIDGE: Possibly up to 6 o'clock if that would be necessary. I think that's the general consensus, is everyone is hoping that they will be able to do that and the commission will be able to sit a little bit later tonight.

COMMISSIONER: Sure.

MR SELFRIDGE: Yes, but I think we'll get through - based on the times that have been given to me I think we'll be able to get through those witnesses this afternoon.

COMMISSIONER: Let's get to it.

MR SELFRIDGE: Okay, thank you.

Ms Carlton, in your statement at paragraph 22 on page 3 onwards you talk about current challenges and what needs to be fixed in terms of policies and procedures. Now, when one reads paragraphs 22 through to 28 the general theme there is about early intervention and about the children and communities and about cost-effectiveness in doing so. You know that. In terms of impact from a different perspective, and I'm talking about on an emotional and a psychological level for those children that are taken from communities and placed in areas such as in this instance Cairns and surrounding areas. Can you comment or can you - do you care to comment to the commissioner in relation to what impact that would have on those children in terms of their futures emotionally and intellectually?---Yes. I guess only - you know, it's very hard for us to understand how dislocating it must be for children to come out of their community. We also know that the vast majority of children or young people when they leave care return to their families and to their communities and, you know, that's not only indigenous children, but we know that children often return to their families, so I guess wherever we can put supports in to keep families together

then that's what we should be doing and in terms of when we need to bring children out of communities, you know, how very difficult at so many levels that is for them, particularly Aboriginal and Torres Strait Islander children who are then perhaps placed with non-indigenous carers in Cairns and surrounds. So I'm not sure if I've answered your question.

Can I put this question to you: is there a risk in taking these children from communities and placing them elsewhere in out of home care of them being culturally detached? ---Absolutely. I think that it's part of the complexity of working in this environment where we have so many Aboriginal and Torres Strait Islander children, yes.

If they're taken from the community at an early age – or the earlier they're taken from community and placed in out of home care then obviously the risk is magnified somewhat, to state the obvious?---Yes.

Yes, you'd agree with that?---Yes.

Yes, I have no further questions for you. Thank you? ---Thank you.

MS BYLES: Thank you, commissioner. Good afternoon, Ms Carlton?---Good afternoon.

I just wanted to ask some questions based on your statement, starting with paragraph 9. Perhaps it would be of benefit if perhaps you could describe exactly what the process for approvals is. You mention that it's been streamlined, so it just would be helpful to know exactly what's involved in relation to an application?---You're asking me – so the reference there is to having a regional placement services unit, so the role of the unit is actually much broader than just being about foster and kinship carers. So talking there about streamlining processes refers to the fact that the functions of the unit include – the unit is responsible for negotiating all out of home care placements in the region. So previously individual Child Safety Service centres would be contacting agencies or contacting foster carers so by establishing a regional unit that now all happens from the one area in the department. I think you're asking specifically about the approval of foster carers.

Well, yes, and if you could answer that question and then I'll go back to the streamlining issue as well?---Okay. So as a unit we also are responsible for managing the administration of the carer approvals and reapprovals. So, for example, in the region we've got about 520 discrete carers who have about – yes, so 520 discrete carers. Some of those are affiliated departmentally and some of them are affiliated with the non-government sector, so by that I mean responsible for recruiting and assessing and training

and supporting them, however the unit is responsible for managing all of the paperwork around the approvals and reapprovals.

So if - and now talking, I suppose, more about kinship carers?---Yes.

If you have, for example, an aunt who decided that they wished to apply to be a kinship carer what's involved with that process?---So if it's - it depends a little bit about the circumstances. So if it's that the Child Safety Service centre staff are out in the environment and a family might identify that there's a potential kin carer who's able to - who might be able to care for the child there is some potential for those staff to do an on the spot provisional approval application.

So like a safety assessment?---Yes. It's a little bit more than a safety assessment. It is actually - we can fast-track the processes around what we call a provisional approval, which is, you know, I guess, the fundamentals about the safety of the house, a very brief assessment and doing some of the personal history checks and criminal history checks.

I apologise for interrupting, but if I can just ask about those provisional approvals while we're there?---Yes.

So approximately how long does it take for one of those provisional approvals to be finalised - and obviously on average?---Okay. There's a maximum allowable of 90 days for provisional approval application, so in terms of getting the approvals for that to happen it can sometimes happen as quickly as within 48 hours or shorter.

How frequently are those provisional approvals taken advantage of?---More often - most commonly around kinship carers, obviously, because that's when you're on the spot and staff would be trying to find, you know, a family based option wherever possible. I can't actually give you a proportion, I'm sorry.

No. Would it be - could you even say that it's something that happens often or - - -?---Yes, it is a process that happens - it's one of those processes that generates a whole lot of processes, so in some ways it happens more often than we want, but in terms of the best interests of the child it's usually got a good outcome.

So now talking with respect to full assessments, how long do they usually take, again, on average, for the assessment to go through its process?---Yes, look, I'll refer to an appendix that was provided as part of Brad Swan's evidence and it's probably one of the best overviews I've seen of the time-frames around the approvals of foster carers where it can identify that it can take - I think it says an

average of six to nine months or it can take up to a year, and that's a really good overview of the steps involved and some of the time frames.

So based on your experience as a manager of the placement services unit in this region, could you provide an average as to how long applications took to be processed in this particular region?---The last data I saw demonstrated that we were fairly average - I mean, that we were around the average so consistent with what Mr Swan was saying.

So up to 12 months?---Yes; yes; yes.

So why does it take that long?---Again it is probably useful to refer to that documentation so it's - just again carer approval, key steps and indicative time frames was an attachment that was included. It talks about the steps prior to an application actually being lodged so, you know, the expression of interest and the pre-application so that's all of that discussion where people, you know, might have seen something on the television or read something. That's entirely or almost entirely driven by the person themselves. Once it hits application stage, there are some quite formal steps and activities that need to occur and that's the training that's required, a full assessment, household check. So I think people are always surprised at how can it take so long which is why I think it's useful to see it set out the way it was in that document.

So aside from the provisional assessment that you spoke about before, is there any way to - and I'm particularly thinking about the kinship care applicants?---Yes.

Is there any way to essentially speed that process up? ---No, the options are to approve as in an approved foster carer, approve as a kinship carer or there is that option of approving as a provisionally approved carer.

COMMISSIONER: Is the department the sole approver?---Yes; yes, so the department is not the sole person who does the work but the delegation actually sits - to approve the carer sits with the Child Safety Service centre manager so the decision sits with the department.

But the information on which the decision is based will be gathered by the NGO that employs the - - -?---Very often, yes.

You said before that some carers were affiliated with the department and others with an NGO. Is that historical, the demarcation?---It's historical and there's been more money rolled out to the non-government sector. We've seen more of that work shift from the department to the sector.

Would it be more efficient to have them all affiliated to one rather than split in two? What's the benefit of the current system over - - -?---Traditionally or historically in this region the department has tended to manage the foster carers in Cape York and the Torres Strait and that's primarily been because we don't have a well-developed - we

haven't had a well-developed service sector up there. Look, the advantage of the non-government sector doing it is very often they're better placed. There might be less suspicion of the NGO than there might be of the department.

Would the recognised entities - do you think their role could be redefined to include something like that?---I think perhaps where a recognised entity may be under utilised is about identifying suitable kin because if we're talking about part of the - and we know that kids do just as well or better in kinship placement than stranger, foster-care placements. So I think that there's a real - an area that we need to look at is how do we get a bit more tenacious about identifying kinship care options and following up kinship care options because once children are placed in your generalist system, often we may lack that tenacity about trying to continue to find a kinship option.

There might be a strong argument to be made on the basis of more inclusive and better informed by local community involvement to bolster up the role of the recognised entity from just a consultant to a body that might actually made decisions. What do you think about that?---It's probably a little bit outside my area of involvement.

Okay. I don't want Mr Selfridge jumping up. I will leave it, but it's a thought?---Mm.

MS BYLES: So moving on now to the departmental obligations involved when children are placed in care, I want to go through those obligations and particularly the departmental obligations that are contained at sections 5C of the legislation, the child placement principle, and also section 83. Are you familiar with those sections that I refer to or would you like me to read them out to you?---It would be good if you could read them out, thank you.

So section 5C - perhaps my friend may actually provide a copy of his legislation and thank him very much for that? ---Thank you.

I will give you a moment to read those sections. With respect to section 83 of particular interest is subsection (7)?---So I'm on 5C?

Yes?---Yes.

I beg your pardon, I would like you to read section 5C and section 83 subsection (7), thank you?---Sorry, 83?

Subsection (7)?---Yes.

So my question is: how does your service ensure that the department complies with these obligations with respect to Aboriginal and Torres Strait Islander children?---Okay. So the unit that I manage, I guess, has an indirect role which

is about trying to build the supply of foster and kinship carers to start with so that's kind of their side. In terms of when we get contacted to make a placement, obviously those principles are part of how we go about trying to identify a placement. One of the first things we need to do is always to push back to the person referring to see what kinship options they have explored.

That would be more of a direct role, I suppose?---Yes, so just remember the unit I manage isn't doing the direct work where - we have a facilitating role which is between the Child Safety Services centre staff who are the direct field staff, the supply of placement - the pool of placement options are out there so our role is the facilitating role. So when we get requests, what we would do is, first of all, push back to see that people have explored kinship-care options and then we would look at the range of options that are available that are suitable in terms of them contacting the relevant services. We don't make placement decisions. We provide offers to the Child Safety Services centres. As part of their decision-making, that's when any consultation with the recognised entity needs to occur at that time.

But are your placement offers, as you refer to them, made in accordance with those obligations?---We are certainly aware of that and aware of - so for example if we are looking for - if we have an Aboriginal or Torres Strait Islander child to place we would certainly, as a priority, be looking for a placement in community or within location, and that's for all children. We would certainly be going to our indigenous-funded foster and kinship care service as a priority and we would be hoping that our other funded services might have an Aboriginal and Torres Strait Islander carer, so we would certainly be exploring those options as part of the discussion.

What about in circumstances where a child cannot be placed with either kin or an indigenous carer? And I suppose a good example might be the residential care facility example that's been spoken about at some length today. How does your organisation ensure that those requirements are met? ---You're probably asking something outside my sphere because once we make a placement offer our role is to step back at that time, so the casework that sits around that is then the business of the child safety service centres.

Excuse me for one moment. So going back specifically to section 83 subsection (7), which is before you, I know you've spoken generally about this but perhaps you could be more specific in exactly how those considerations are applied when you're putting together your placement offer in response to a request for that?---I guess as I said, we certainly - the push-back around kin and community.

So how does that happen? Do you consult with the recognised entity?---We don't, no, so that's not our role, that's the role of the child safety service centre. Look, it depends so much, if children are first coming into care we may know very little about them at that point so the information that we get might be very - you know, we might have a name and a location. So you would hope that your processes get more sophisticated the more you learn about the child, the priority being about trying to push back around kin.

What do you mean when you say "push back"? Do you mean go back to the child safety officer and say - - -?---Our first question should always be, "What kin options have you explored?" So before you make a referral to us for a general placement we need to have some level of confidence - because that is our responsibility under the legislation - that all kinship options have been explored. Often it is too early, you know, that a child has just - or is about to be removed or has been removed, and that's probably an area that collectively we could get better at about continuing to revisit the question of kin as time goes on.

Is that something you think would be a good idea - - -? ---Yes, I think, and I think we need to keep kin more on

the agenda right through the process. So understandably at that very pointy end early days there's not time to explore or the family aren't in the space to identify possibilities. I think what we do need to get better at is going back and revisiting that at very regular intervals.

How do you think that may occur?---I think that we're starting to see some improvements in that. I think that there is a greater emphasis on - the department has got a number of projects happening around trying to improve or increase our number of kinship carers, so case workers are being encouraged through family group meetings or case reviews, at all of those points, to re-look at whether there are kin options available.

Do you think it would be of benefit to have someone specifically from the placement services unit attending family group meetings and being based in child safety service centres as a more direct contact for these child safety workers, rather than having this referral basis? ---No.

Why not?---I think it's core casework. It's absolutely central to the role of the child safety service centre officer to actually be doing that work. I mean, I think that's a really fundamental role of working with children and families, is trying to identify kin.

Thank you. Excuse me for one moment. And again, just my final question in relation to section 83 subsection (7), when there aren't indigenous placement options - and not talking about residential care options, but not indigenous family-based options - are there any additional steps that you would take to make sure that those obligations were met? So for example maybe in the placement agreement would you put something in there specific to make sure that those obligations were met?---That would be highly desirable. Again, the placement - I'm not trying to duck the question, but placement agreement is done by the child safety service centre, so that's that, my point about it being core to casework for people to understand the importance of those relationships and contacts.

Thank you. Moving along now to be safe houses that you speak about in your statement, and in particular paragraph 12 of your statement. There's been evidence that those safe houses were set up with the intention that there would be staff members attached to them whose role was to assist with respect to recruiting kinship particularly, and also foster carers. Obviously the evidence has been that there are recruitment issues and those positions did not end up being filled. Leaving aside the issue of recruitment for one moment, do you think that the original concept had value?---Absolutely. Absolutely. I think the safe houses have been a really, really important development in terms of actually providing placement option within community for

kids. However, the model is flawed if all you do is to fill up those six places and there is nowhere for those children - and they are primarily children - if there is nowhere for them to move to.

And is that not what's happening? Is that what is occurring?---What we're seeing is children staying in the safe houses for much longer than was originally intended because of the lack of foster and kinship care options within community.

So it's not working as it was originally intended?---It's not working to the extent originally anticipated. I'm not saying that they're not working at all.

No. So what it perhaps be an idea to maybe look at diverting some of the funding or perhaps a lot of the funding from the safe house option, maybe looking more towards diverting that funding into an early intervention strategies to try and keep children with families, given that one of the key ideas behind the safe house concept, being a recruitment of kin carers, is not working?---Hasn't worked to date. I'm the eternal optimist. I do have to believe that by continuing to work with communities we will build more capacity over time.

I think we're talking about dilemma about we need to do early intervention to prevent more children coming into the system, however we also need to acknowledge we've got children in the system and we need options for them. So you do need a parallel strategy that's about - you have to put money into early intervention but you also have to build the capacity when children and young people come into the system.

I suppose I'm talking about where the money should go as a priority and would you think that there was benefit of the money going as a priority to early intervention strategies as opposed to strategies like the safe houses?---You know, that question - at the end of day we have to provide placements for children in the care of the state, so safe houses, foster and kinship carers are an absolute necessity, you know, we have children, we have responsibilities for, so that's non-negotiable, however from a more systems perspective of course you want to try and divert future populations.

Because of course the reality is that you only need a kinship or foster carer if the child can't remain at home?---That's right, yes.

So obviously the best situation would be that the child remain home?---Absolutely, with support.

You would be supportive of that?---Yes.

So now I'd like to talk about the matters raised in paragraph 17 of your statement and obviously there you're talking about what seems to be a fairly unique model. Would you agree with that?---I think it is unique to this region.

Do you think that a response such as that aligns more with the unique needs of Aboriginal and Torres Strait Islander families because of that therapeutic basis of the support and also the wholistic type support that it seems to provide based on your statement?---Yes. I think it's got some universal application, because it is about intensive initial supports, it's about early intervention, it's about working with families, it's about providing that support right at the beginning of a child or young person coming into the system and the fact that we - you know, and I do note that it hasn't been operating very long and it's only very small, so with some caution, but that we are seeing some positive outcomes of children returning home or children going to kin.

So do you think that that would be a system that should be supported by additional funding?---Yes.

And obviously ongoing funding?---Yes.

Do you think that that would be - it would be of benefit to have qualified indigenous professionals in roles, in pathways such as that?---Absolutely, and I think that all of our grant funded services would share that as a priority and would try and fill positions wherever possible with suitably skilled and qualified Aboriginal and Torres Strait Islander people, yes.

So moving on to paragraph 19, you make reference to certain services. Can you please explain exactly what organisations you're referring to when you make reference to those services?---It's probably - my purpose there is the complexity of the system. When you've got over 900 children in out of home care you obviously need a range of service responses so the role of the placement management team is finding the best possible placement option for any referral we get within the resources of the region on the day. So the department grant funds a broad number of agencies to deliver those services. I think I refer there to we currently grant fund 28 out of home care services and they include kinship foster care services, safe houses, residentials. So they would be the primary places that the placement management team would contact in terms of a referral.

Excuse me for one moment. So just going back to the safe house concept for a moment and we've acknowledged there are some difficulties there and I suppose my initial questions were more about the front end side of things. Now I'd like to ask a question, I suppose, about the exit strategies with respect to children being in safe houses and perhaps it would be of help to explain what happens at the moment when it's decided that a child should leave a safe house? ---Okay. I would hope that the circumstances of a child leaving the safe house is that an alternative, more appropriate placement has been found. I guess just to be clear, safe houses are used in a number of ways. Sometimes it's for a primary placement, other times, however, it's for a respite or school holiday. So a number of children and young people who may live in Cairns for a whole variety reasons, maybe at boarding school, would get placed in a safe house say for the school holidays for family community connection, so quite straightforward.

I suppose I'm talking more about the primary placement? ---The primary, okay.

Or a circumstance where there's a wait in a kinship care or foster care?---Sometimes children are placed there because they're on a reunification order and by being placed in community obviously might need to be placed in community around reunification, so that's a stepping stone back home.

So are there services in place to assist with that transition?---Yes. Part of the safe house funding is

family support workers to assist with doing that kind of support of family.

In your experience how is that working?---I think the service – and again, the safe houses are still a relatively new concept. I think in some locations services have struggled to employ staff, which is a fairly familiar pattern, and also our own Child Safety Service centre staff in terms of a case work role have got some responsibilities around working with families as well.

Is there perhaps a role there then for that role to perhaps be supported or even perhaps removed to maybe, you know, a local indigenous organisation, for example?---Instead of being employed by the safe house?

That's correct - obviously with appropriate training and proper setting up?---Yes. Look, without making any comment about the individual merits of that I think that there is an advantage of having the services within the one banner, I think, in terms of streamlined small communities, and whether that's an external agency or whether it's a local indigenous agency, that would be my only comment. I guess I would make the comment that it's actually hard work. You know, the safe houses and working with kids, the experience of trying to fill the foster and kinship care staff, it has actually been a real challenge for agencies.

Thank you. Now I'd like to move on to paragraph 24 and you refer there to a strong framework. Can you explain what you mean by that?---I think that there's a lot of family support services funded in a lot of locations and I don't necessarily thing that they've always got sound frameworks for intervention.

What do you mean by that?---Look, I think family support traditionally has been a very vague concept. You know, it's about, well, are you going into the home to assist with budgeting or householding or are you actually going in with some kind of therapeutic framework around helping people with addictions, and it's a little bit like the discussion earlier about the therapeutic residential, that we've actually seen a movement from your more general residentials to something that's got a much clearer framework about – more purposeful, I guess.

So you think that there would be benefit in having a better understanding in relation to exactly what intervention is required in a particular case?---I think we collectively have to be much more purposeful in what we do and when we do it and particularly around the notion of family support. I'm not convinced that we always have a shared language or framework around what that looks like and how you do it.

If that was implemented, do you think that that would have a flow-on effect in relation to improved outcomes for children either remaining in the home or being reunified into the home sooner?---Yes. I mean, it's simply saying the resources we've got - how do we make the best use of them? How do we structure those and how do we do things in a purposeful way?

Could perhaps one of those options be to have those services specifically linked with the safe houses in communities?
---Yes. Look, I think the communities are so small everything has to be linked. I think it's our responsibility to make sense of the different services for children and families. People must get so confused about the range of services and people so the more that we can integrate that, the better the outcomes.

Thank you. I would like now to move to paragraph 26 and talking about this professional carer model which I know has been discussed previously earlier today and again my question is - and obviously we have heard your evidence as to why you think that is something that you advocate, but again I would ask is that a circumstance where it may be better to look at putting money, firstly, into early intervention support services so as to avoid the need to necessarily explore this road?---I'd probably say again it's not an either-or because you have to provide a placement for a child. That's non-negotiable so we have to do that, but any longer term or more strategic or systems approach would have to say we have to turn this around somehow and turning it around means putting money into early intervention.

I suppose that's where I was going and I put it to you that a focus on finding money for carers would seem to be a backward approach in that if the focus is on providing funding for early intervention so as to avoid the need for carers, would that be the better outcome to essentially have a situation where carers were not required in the first place?---It would be great if we didn't need carers. At the moment we need carers because we've got children in the system who need placement so - and at the end of the day we don't go home till we find a placement for those children. So if it's not a foster and kinship carer, that's when you start getting into much more costly options because you have to purchase other options.

Which we have discussed earlier. I'd just like to finish by just a brief discussion with respect to paragraph 29. Again it's with respect to the residential care services. Would you excuse me for one moment? I beg your pardon, if we could actually go to paragraph 28. I apologise for the confusion?---That's okay.

You speak in that paragraph about family, clan and cultural complexities. Could you expand on what you mean when you use these terms?---When we recruit or attempt to recruit carers particularly in remote communities, the complexity of the environment, I guess, is one we try and navigate all the time and things that might otherwise look relatively straightforward, for example, looking at the number of carers to the number of children placed, it's actually not as simple as saying, "We've got X number of carers. Why don't we have X number of placements?" We very often experience the situation where there are family reasons why someone can't care for another child. There might be family reasons why the family don't want a particular different side of the family to care for that child. So I think my point there is that every community is unique and those factors are just things that we need to navigate around.

Again I will ask, would you think that there would be utility in those circumstances, given those unique complexities you make mention of, if there was an appropriately qualified indigenous professional on the ground in the community who is obviously from the community and knew the community to assist your officers to try and overcome some of those complexities?---Yes, which I guess is the intention of the recognised entity in many ways. I think talking specifically about my area of responsibility which is foster carer or kinship carer recruitment, et cetera, certainly having staff located closer so where we have got staff located either on Thursday Island or Weipa or Cooktown and wherever possible try to employ indigenous staff and certainly the intent when we funded - when the department funded the non-government sector to do foster and kinship care was precisely that, about, you know, if you build local capacity and use local knowledge, then the better outcomes.

Thank you. Please excuse me. So just by way of summary, is it a fair summary of what you have said that it would be of benefit to the system if there was that building up of that local capacity to assist with respect to the challenges that you have raised in your evidence today? ---Yes; however, not to underestimate the complexity of doing the work. So I think we have seen some examples where NGOs have put their hands up to say, "We'll do this work." The reality of recruiting, assessing, supporting and training foster and kinship carers is actually fairly

complex and very process driven.

So there would need to be training?---Yes, and people do tend to underestimate it. They see it as a fairly simple process and it's actually not.

No, but it could obviously occur?---Absolutely; absolutely.

And if it did occur - - -?---It would be highly appropriate, yes.

Thank you. That concludes my questions for this witness, thank you.

COMMISSIONER: Thank you, Ms Byles. Yes, Mr Capper?

MR CAPPER: Thank you.

Craig Capper for the Commission for Children and Young People and Child Guardian. I just wish to pick up on a couple of things that you were raising. You indicated that you acknowledge there was a need for early intervention but you kept on reiterating the point that it can't replace the need to fund foster care?---Yes.

So in that sense we acknowledge that we need to move towards this notion of early intervention and try and reduce the later need for foster carers but we can't remove the funding for the tertiary right now. Would that be right?---Yes.

To use the words that Ms Apelt used early in evidence in Brisbane, she spoke about the notion of perhaps there needed to be some level of hump funding, as it were, or hump resourcing to allow for that investment in early intervention before you remove or downsize the tertiary system. Would that be right?

---I'd absolutely agree with that, that you actually need to have some parallel strategies for a period of time because your early intervention will take some time and yet we've got needs now that also have to be met.

COMMISSIONER: What does "early intervention" mean in this context that would require hump funding? What have you got in mind there? I just want to make sure you and Mr Capper are talking about the same thing?---Sure. I guess resources that are going into families prior to them actually coming to the attention of the department or at that point that reflects the need that if you put the resources in - intensively or appropriate resources at that point - you can divert them from having to come into the formal child protection system.

Can I just tease that out and find out what that means in practical terms. Looking at the system that we've got, when everything is going along, nobody knows anything, then somebody notifies the department of a suspicion of harm; the department screens, determines whether or not it's for information only, should be referred on to somebody else, or requires an investigation and assessment within a certain time frame. Okay. This is the very first point of entry into the child protection system that we're at? ---Mm'hm.

Early intervention could occur here when information is identified as a child concern report that doesn't meet the threshold and can be referred out to somewhere else. That is what I call secondary intervention, but that's already there. The resources are already there. There is already someone who's already programmed to refer that person to, if that's being done; if anyone decides that that's what should happen to that information. Then the only other role for the department is to work out: is this child in need of protection? And if the answer is no then again here's another opportunity for early intervention; the child is at risk for some reason, maybe in order to even get an assessment done the chief executive has to reasonably suspect that the child needs protection, but on further investigation the CSO decides that that child is not in need of protection, so that's another opportunity for that child who doesn't meet the threshold to be referred on to somewhere else. That would be early intervention. But other than that what capacity is there within the existing system to utilise the theory of early intervention? Because the next step is custody or guardianship order or not order, or placement by the chief executive. That's tertiary, we are dealing with early intervention?---So I guess the question is have we got the right services in the right place at the right time? I think some of it does go back to that, what we get services to do, so that need to be purposeful; and it is about the spread of services, we don't have equally good access to early intervention services everywhere in the state. So

it's about where we have services, how much services we have, and then what you get services to do. While ever we've got the number of children coming into the system, I can't believe we have that mix right. I don't have the answers.

According to the evidence of heard so far, 80 per cent of the information on the reports they get don't meet their criteria for a statutory intervention. Okay. So therefore that 80 per cent other candidates for early intervention within the context of the system that we have?---Yes.

Okay. So what is it that needs to happen? Does the department, who has got control of the information at this point, need more options; or are the options already there, do they just need to access them?---I don't believe the options are there, or they're not there in a consistent spread way. I'm sure you can always give an example of, "There's a service here or a service there," do we have a well-developed early intervention?

So what needs to be there that isn't there?---More of, is probably part of the answer; more of. And again, going back - - -

Can I just ask you this, how do we know more of? The first thing we need to know is this: is the department referring children and families in need of support that don't reach the threshold to a service that can't meet their needs? Do we know that or do we assume that that's - - -?---And I don't - I can't answer it. I mean, there's - - -

No, we need to interrogate the figures?---Yes.

Obviously that's what needs to happen, and if it's not happening we need to ensure it does. But until we know that that is not happening then we don't know whether the department needs to have more options or not because it might be that there are enough options, it is just not accessing it for anybody?---I guess one group of children and young people where we're absolutely not doing the right thing is those with disabilities whose parents end up relinquishing them into the care of the department.

Okay. But that's the responsibility of Disabilities - the department in its broader role?---Yes.

So you might say that the government services are not meeting the disability needs of children?---Yes.

Okay. That's a different thing from saying the child protection system needs to meet those needs?---Absolutely.

It doesn't?---Yes, no.

It needs to meet the needs of children - - -?---I

absolutely agree.

- - - in need of protection?---Yes.

But at the moment the evidence I've heard is that because the children with disabilities needs are not being met anywhere else, parents are relinquishing, and because it is a cost to government anyway, child protection is picking up the slack?---Mm.

Okay. It is a strong argument to say that is a misdirection of funds?---And a much more expensive - - -

And function?---Much more expensive.

And much more expensive. It takes up money that should be available to children who are in need of protection - - -? ---In need of protection.

- - - not in need, in need of protection. There are lots of other needs other than protection, but the child protection system is only concerned children in need of protection. And if it does that well then it's doing its job?---That's right.

It doesn't mean to say it's responsible for any other faults or shortcomings of government services?---Yes.

So that's why I ask what does "early intervention" mean to the commissioner of the child protection system?---Yes. I can't answer that. All I can say is that I have to believe that we can get smarter, clever, work differently, in a way at that front end that just stops the number of children coming into the system, so better supports in a more timely way - - -

So you might say the communities department needs to be broadened into a family support department and it needs, in its communities role, to beef up those early intervention and prevention programs?---Yes.

And that, most importantly from my point of view, the child protection system that has relevant information about children at risk and families in need of support actually refers them to those programs?---Yes.

So firstly that got to exist and then they've got to be preferred by someone?---That's right.

Whether it is health, education, or child protection, or themselves?---Yes.

Self-referred?---Mm.

Sorry.

MR CAPPER: No, thank you. You did my job for me, Commissioner. I have no further questions.

COMMISSIONER: Thanks, Mr Copley.

MR COPLEY: May the witness be excused?

COMMISSIONER: Thank you. Thank you very much for coming, Ms Carlton. You've been very helpful.

WITNESS WITHDREW

MR COPLEY: Mr Commissioner, just for my own understanding, is it the case that you see section 7 subsection (1)(b) as providing a legislative basis for the chief executive to get active in the area of early intervention?

COMMISSIONER: Well, the way I read it at the moment, subject to submission and argument, is that it's a function she has, along with all the other functions, and the question I'm interested in exploring is whether she's exercising that function enough in comparison to the removal function, and if she exercised more of that function at the appropriate point would she relieve the pressure on her other functions closer to the tertiary point of entry?

MR COPLEY: Yes. I call David Goodinson.

COMMISSIONER: So that yes means that there's no challenge to that at the moment from you?

MR COPLEY: I really just wanted to clarify what the legislative basis was for secondary – or referral to secondary support services that you said the chief executive had the power to do, and it struck me that it's probably section 7(1)(b) and I wanted to find out if that's the provision you had in mind.

COMMISSIONER: That's what I see as the legislative underpinning.

MR COPLEY: Yes.

COMMISSIONER: But it's also relevant because the current system, whether it's got a legislative underpinning or not, that's what currently happens according to the bits of paper I've got.

MR COPLEY: But unless there's - - -

COMMISSIONER: The extent to whether it happens and whether it needs to happen more, I'm unsure.

MR COPLEY: But of course if there was no legislative authority for the chief executive to - - -

COMMISSIONER: To do what she's doing.

MR COPLEY: To be exercising a function in relation to early intervention or referral to secondary support services, then she arguably - - -

COMMISSIONER: Shouldn't do - - -

MR COPLEY: - - - would simply have her hands tied in that area.

COMMISSIONER: If we thought that she can't legislatively deal with it but she should, we'd have to make a recommendation for an amendment, but if we thought that she can and legislatively can but isn't doing it enough then we'll make a recommendation along those lines.

MR COPLEY: Well, it does seem that section 7(1)(b) provides a legislative mandate for it.

COMMISSIONER: I think maybe it's even a duty.

MR COPLEY: Yes.

COMMISSIONER: If you have a look at the principles on which the act is based, or the chief executive's functions are based, then it might even be higher than a function, it might be a duty.

MR COPLEY: Yes, well, I'll have to have a look at the Acts Interpretation Act as well. I call David Goodinson.

GOODINSON, DAVID affirmed:

COMMISSIONER: Just before you tender the statement, see, what I've got in mind here is 5BC in the principles, which is the preferred way of ensuring safety is by supporting the family. So once you get to the point where you think the child needs to be kept safe by taking some measure the preferred measure as far as the principles are concerned is to support the family.

MR COPLEY: Yes.

COMMISSIONER: Which may not be given enough preference as a measure, or it may be, but that's what we'll investigate. Sorry.

MR COPLEY: I tender the statement of David Goodinson, five pages long, dated 5 September 2012, and hand up a copy.

COMMISSIONER: That's exhibit 62, Mr Copley, and it will be published.

ADMITTED AND MARKED: "EXHIBIT 62"

MR COPLEY: Mr Goodinson, you're no longer an employee of the Department of Child Safety. You now work for the Department of Justice and Attorney General?---That is correct.

And have done since June of this year?---Correct.

I have no further questions.

COMMISSIONER: Thank you. Mr Selfridge?

MR SELFRIDGE: I've got a couple of questions for you, Mr Goodinson and they relate to these frameworks or models of intervention, service models, models of service delivery. Other than frameworks, are they applicable here up in far northern Queensland?---I think we have to look

really closely at models of service deliveries, particularly when we're looking at remote communities. Generally speaking, I think over the last – and universally across the first world, we've seen an increase of specialisation in service delivery and a large multiplication of different agencies that provide those particular services. If you actually try and apply that into a remote setting then (1) they become very expensive, (2) I would suggest long-term not sustainable, and (3) I don't believe that they are culturally sensitive or appropriate to discrete indigenous communities. Some of the reason I say that is that what we time and time – and certainly around the protocols for engaging in working with indigenous persons and indigenous communities is that – all issue of building a relationship and building trust. You do that over time and you do that by being in community and you do that by building relationships. If you're only going to go into community to do very small aspects of a particular continuum and need to meet that need then I would suggest you're not going to build those relationships.

Okay, let me take from that then - those principles, are those issues that have been identified by previous witnesses before the commission, such as fly-in, fly-out type principles. You're not a big fan of those. You've been advocating on behalf – you're saying essentially we've got to have people resident within communities to establish a relationship, a trust and a bond and be able - to give better service delivery there?---I think where possible to have services located as near as to the population group that you're going to service is beneficial and that is the way we should go. I wouldn't rule out certainly in service in an area like the Cape fly-in, fly-out. What I would say is that people who fly in and fly out need to be consistent, they need to be as small in number as possible to meet the needs of the people they're working with amongst that continuum of need as much as they can. So in other words what I'm looking at there is the people who look into an issue of concern, the people who support people who need early intervention, the people who provide the early intervention, the people who provide the services that might occur for a reunification, need to be as much as possible the same people in that process.

Okay, because that's something a wee bit different to what's already been before the commission. You're saying in effect that those who might be assessing – and I'm talking about the I and A teams, might also be the same people who are delivering services. That's what you're advocating, as I understand it, isn't it?---I think it's one of many models, but certainly generic teams – and maybe I can give you some example of this, is that traditionally within Queensland in urban models what you would have is the intake and assessment, you would have the short-term

and the long-term teams. If you're going to the Cape offices then you would have the intake and assessment and you would have then ongoing care teams which cuts across both short term and long term in order to provide a continuum of care in a cost efficient manner and, I think, a more culturally appropriate manner than having those multiples of people involved in a family or a child's experience of being part of the child protection system. The model, there's several ways you can look at it. One of the things that we learnt from, I guess, really the Cape and the split of the Cape office was about a smaller geographic area which allows that team to focus more intensely upon those communities within it, for example on the south Cape, which actually means the staff are servicing seven communities rather than servicing the 14 communities of the Cape and the 17 communities of the islands. When you do that then you learn your communities better. You can take that to – you know, you can take that to its next step and you could say, for example, well, child protection are a generic service. You can split it again and you could say we will service three communities and we will service people from when there is a concern to when we actually withdraw service provision, the same few people doing those particular tasks.

Just so I understand it, what you're suggesting is that any service delivery with the regional areas up here in the Cape in particular, that we should adopt a different model, in essence, to that urban framework where there's specific roles, both short term and long term, that are applied to intervention, people going into - being the local community as such.

Is that what you're suggesting?---Yes.

It's more of a generic-type approach should be adopted here. Is that what you're saying?---Yes.

Okay. Have you had any exposure yourself to that type of environment or that type of service?---I have. Certainly in the child protection environment now some years ago - would actually be probably about 18 years ago, but working in the very far northern regions of Scotland and I worked as one of five social workers in a generic team that provided services from Thurso to Durness. The legislation is different. The framework that we worked in is different and certainly at that time as part of that team I would've covered everything from disability to mental health assessment, aged care assessment, child protection assessment, ongoing care to families in very small rural locations on that northern edge of Scotland.

In a practical sense, how does that work? If you're responsible for all those roles as an individual in a remote area or remote community, how does that work in practical terms?---My sense is it was probably one of the most efficient ways to deliver services. I think if you look at anyone who is delivering a generic service as to a specialist service, then there is always room for criticism certainly by any purist within specialisation because, of course, what you're doing is much broader, therefore the depth is something that develops over a much longer period of time. Also it's developed through an education opportunity during the period before you'd becoming to employment. However, you do understand communities much better. You do have a broader framework and understanding of families. You are seen differently by communities but not only are you assessing and making decisions which may be unpopular for a family but you're also seen to be intervening and providing services that are much more popular for a community and a family at the same time.

On a different level or from a different perspective, is it a no-wrong-door-type approach? So you're the go-to man in all respects?---That's right.

Did that work in your former employment, that model? The application of that model - did it work?---I would suggest that it was successful. When you say, "Does it work?" I guess really you've got to look at the other models that are out there and ask whether they're working and whether they're any better and for me it's really just about my experience, I guess, really in looking at those models and having experience in working with them, but I would suggest for working in remote communities the model I worked in, in far northern Scotland was certainly more sustainable. You were understood by communities. It was much more the GP model that if you have an health issue, that's where you go. You were the geneticist in respect of gaining expert

advice and help and we would often link into larger centres such as Inverness or Aberdeen in the far north in respect of informing practice and what you might be doing with the family. Just to give you a really quick example of that, I think back to a young couple who were clearly not getting on and two very young children who were suffering as a consequence of that dysfunction between the carers, the mother and the father. In talking to the psychology department - and that time was in Inverness - it was suggested what we needed to do was some family-type relational counselling and have a look at, firstly, getting these people talking and looking at the issues. My response to that was, "I have no experience in doing this," and the response back was, "Well, if we guide you and you did it, do you think the consequences would be better or worse?" The outcome was we believed it would be better so we did it and, in doing that, then you build your skills base and your knowledge base and you tie into where the expertise sits to guide you in so doing.

That obviously had to be built on a premise of someone who's going to be there - an enduring-type thing where they're going to be there and they're going to be there for a long time to come?---That's what you ought to have. I do think that any type of job evaluation, work research suggests that persons do achieve an high level of satisfaction when they're actually working from the start to the finish and they're actually seeing those outcomes themselves rather than it being a fragmented approach within that whole outcome.

Yes, thanks. I have no further questions for you, thank you?---Thank you.

COMMISSIONER: Thank you. Ms Byles?

MS BYLES: Thank you.

Good afternoon, Mr Goodinson. My name is Samantha Byles. I'm a solicitor with the Aboriginal and Torres Strait Islander Legal Service and obviously I'm representing that organisation today. I just have some questions particularly with respect to just moving forward with what you were just discussing. So is it correct for me to say that you support an approach that is locally based and has consistent decision-makers throughout the process? Is that an accurate summary of - - -?---As locally based as is possible.

Yes?---That doesn't mean locally based at the expense of the quality of what's being tried to be provided, but as locally based as possible, yes.

So there are you talking about circumstances where you may not have locally trained people who can provide the

necessary services so it would be better to make sure that those services were provided by people who had the appropriate training?---Yes, but also I think in answering that question it's not about saying this can't - look, when I say "locally based", there's two ways of looking at that. One is on the ground, if we look at communities and saying, "What is it in community could be best to address these issues?" So we do have some examples of that if you look at welfare reform communities where you have got those services that have been developed and you've got the coordination of those services to actually have a look at some of the - not only outputs but outcomes, you know, through the conferencing system that is run in FRC communities. When we look at fly-in, fly-out services, for example, as you would look in the south cape largely around ongoing care apart from the services provided from Cooktown to those outlying communities, the issue then becomes how localised can you provide those services for those communities by the same staff? So, you know, if you can divide your service provision to be holistic within that continuum within the child protection service, so the same people, same-face deliverers are made within two communities rather than four communities, then that is more desirable.

But it's still local in that it's not Cairns based, for example?---Well, it may be Cairns based because that may be the most local facility that you're going to find.

Yes, but talking about your example there in the Cooktown region?---I would always say services should be located as near to the population that they're serving as is reasonably practicable.

And would you expect that outcomes with respect to service delivery would be improved if that avenue was explored?---I would have to say long term, yes. If you look at the south cape - and at the moment that's all I'm going to really - I'll just focus on that. I think to some degree we've already done that. I think you've already got based on the cape in the south cape within those communities the team where you could locate it as a cluster. I think if you look at the rest of that geography, then you'd be very hard pushed to find somewhere where you could locate those types of services so you do have a fly-in, fly-out team. However, if you follow the direction of same-face service delivery, then it would lead you not to looking in geography but it would lead you also to look at who actually does deliver those services. Does it have to be split between a multiple or could it be done between - with a particular group of staff.

What's the most efficient way to provide those services? Is that what your point is there?---Well, it is because if you've got people providing the continuum services, then you would have people working across fewer communities; not

utilising more resources or needing more resources but just a tighter focus so you would have people spending longer in communities because they would be doing more of the work.

And you would expect that approach to result in better outcomes in relation to service delivery for child safety matters?---I would think that that type of approach - what it would facilitate is it would facilitate a relationship with community which is not seen as being just about the removal of children or working with children who have been removed.

And you would consider that to be more culturally appropriate?---And advantageous for staff too and also for families who do come into contact with the department. It's about that old perception of, "What are these people here to do?" and "Is it legitimate?" or "Is it seen as positive or negative that other people believe and see that they're involved with me?"

I understand, thank you.

Now moving on to your statement, and particularly paragraph 9 in your statement - and I see you have that before you. With respect, what impacts have you seen from the multiple layers of management that has occurred with families that are managed both by the Family Responsibly Commission and also those that are also managed by the Department of Child Safety?---I think in - look, some of the benefits I've seen of the FRC communities are things like when a referral is made to the department of a concern and it's screened that this is not a child protection issue, so all of those, what we would call CCRs, these are pieces of concern that come to us that don't meet our criteria for investigation. If it's a welfare reform community, those go to the FRC. We'll then look at the issues of concern and can take up those issues of concern with those families where there have been concerns flagged.

So that sort of works in an early intervention kind of way, so rather than waiting to get to the point where the Department of Child Safety - you might reach the threshold of involvement by the Department of Child Safety, the idea with respect to that Family Responsibilities Commission involvement would be to set up the supports around the family so that the concerns didn't have to reach that level?---I would agree, yes.

So that's positive. What other impacts have you seen?---An understanding of issues in the community; an agency - and I think the Family Responsibility Commission has certainly not been afraid to push the discussion out where they see problems. I think also in doing that then they have played somewhat of a coordination role and a pressure role also on departments and service providers to actually make sure that they are providing services that meet need. It's not for me to speak on behalf of the FRC's experience, but I'm sure when the commission does speak to the FRC they'll certainly hear some of those stories and experiences.

So in your experience are you able to identify any problems that might have occurred in relation to families that have been managed by both organisations?---No, but I don't think - generally speaking if we - a referral wouldn’t go to the FRC if we were going to investigate or proceed with that particular family; it would only go to the FRC if we weren't.

What about in the circumstances where the FRC was already involved with the family?---Then yes, there may be some co-work that would occur.

Yes?---And also I think we have to remember that the Family Responsibility Commission in itself is not a service provider. The wellbeing centres run by Royal Flying Doctor, et cetera, would hopefully be providing some of those services.

Similar to the Department of Child Safety?---Yes, but certainly the therapeutic - the early intervention-type services. And not only Royal Flying Doctor, I mean, there's a whole array of services on the Cape that are really looking at the parenting, the health, all those other types of things.

So the Family Responsibility Commission approach, with respect to the early intervention side of things, you would say that that was a positive situation?---Yes, I would.

And do you think that there would be scope for - because obviously the Family Responsibility Commission is an example of an indigenous statutory power essentially managing the affairs of indigenous families that have come to its attention for various reasons. Do you think there are certain principles that could be extracted from that approach and put into the child protection system that may be of benefit?---Yes and no. I mean, yes, I do. And I say no as well because child protection is everyone's business and the service delivery in communities and to children and to families is very broad. In some of my concerns earlier around service fragmentation, the fewer people who are providing the services, the better; the fewer organisations who are providing the services, the better. It's really about meeting need, and meeting need as we best can.

Would it then not be of benefit perhaps to have a local indigenous organisation obviously with appropriately qualified staff to assist with various aspects with respect to perhaps therapeutic intervention, so you could have a place where people could go where they could get a wide range of assistance to be able to assist in relation to addressing the child protection concerns?---I think in communities where you don't have that - in the FRC communities you have got the wellbeing centres. It would be nice to think that the wellbeing centres would employ suitably skilled and appropriate staff who were local - of course it would; in a place which is comfortable and where people feel that they can attend, or should they be experiencing difficulties, they can be referred to; in that sense, yes.

What about - and that's obviously therapeutic intervention - what about those organisations - obviously hypothetical organisations at this stage - taking on a more statutory role? So taking on some of the casework assistance, for example?---Look, I don't - just go back one step because I don't think - certainly in my thinking I'm thinking just about the delivery of therapeutic services. I would broaden it from that and talk about practical help and therapeutic where need and defining what is therapy anyway. If I do something and that helps then you can call it therapy or whatever else you want to call it. If it gets the outcome, then why not do it? So I would take that

basis. When we talk about local communities being themselves, taking responsibility for their communities, and some of the things that you're talking about here, I would think in that statutory component of child protection, for example. In an ideal world then yes, wouldn't it be great if we could see that occurring - in an ideal world. How near we are to seeing that occurring, I would suggest we're a long way from it.

But you think it would be a positive thing to look at putting in place strategies to try and achieve that?---I think long-term it's certainly something we should be aiming towards.

Thank you. I'd like to move on now and speak to paragraph 22 of your statement. You talk there about a formula of service delivery that's Child Safety Services-specific, obviously. Do you think that a similar formula would work well for non-government organisations? ---We have no formula at the moment. That's why I put it there.

No, but I'm asking, I suppose, for you to say - - -? ---Yes.

- - - do you think that a similar - - -?---Yes, absolutely.

- - - put forward model would work for non-government organisations?---Yes.

And do you think that that would assist for those non-government organisations to be more culturally appropriate?---I don't know if it would assist them to be more culturally appropriate. I think what it would do is if you have such a formula then it would lay a basis of understanding that the travel associated or the cost of living and all those other things which negatively impact on the capability of an organisation to deliver its services are taken into account in any formulas that were developed around funding, et cetera, and also understanding performance.

Thank you. Excuse me for one moment. So I suppose I just want to again just ask you whether you would agree with a statement that I'm about to make: given the benefits that you've explained with respect to the Family Responsibility Commission model, and obviously accepting that no one model is perfect, and given what you've mentioned about the current system and perhaps aspirations for a better system, do you think that outcomes for indigenous children within the child protection system would be better if we moved to a system that empowered local people to look at exercising some of those functions themselves and appropriately qualified indigenous professionals providing those services?---Yes, I would agree with it.

Thank you. I have no further questions.

MR COPLEY: Mr Goodinson, do you know whether the legislation which currently governs the child protection in Scotland is legislation passed by the United Kingdom parliament or legislation passed by the devolved parliament in Edinburgh?---I actually couldn't answer that. The core legislation was the 1968 Social Work Scotland Act; it was then the 1996, I believe, Children's Scotland Act, which was a new piece of legislation on top. I'm really not sure of the legislative changes that have occurred over the last 15 years or so.

Okay. I just thought I'd ask you seeing - - - ?---Yes, I really - - -

- - - as you had worked in that country in that system at some stage in the past?---Yes.

Yes, thank you. No further questions. May the witness be excused?

COMMISSIONER: Yes. Mr Goodinson, thanks very much for coming. I appreciate your time and the information you've given?---Thank you.

WITNESS WITHDREW

MR COPLEY: May we just have a five minute adjournment now?

COMMISSIONER: Yes.

THE COMMISSION ADJOURNED AT 3.49 PM UNTIL 3.53 PM

THE COMMISSION RESUMED AT 3.53 PM

MR COPLEY: I call Patricia Anderson.

ANDERSON, PATRICIA sworn:

COMMISSIONER: Please be seated. Welcome. Mr Copley, just before you start, I understand if we go beyond 5 o'clock there will be a financial consequence for the commission which is painful. We will have to pay the overtime of the security people. I'd rather not have to do that.

MR COPLEY: No, we should adjourn then before 5.00, yes.

COMMISSIONER: We might be finished, but if we're not we'll do the rest tomorrow morning rather than - - -

MR COPLEY: Do you want to start any earlier tomorrow morning?

COMMISSIONER: Yes, I'd start at 9 o'clock tomorrow if we were - - -

MR COPLEY: I think that would be acceptable to everybody.

COMMISSIONER: If we're still going.

MR COPLEY: Yes, that seems acceptable to everybody. So we'd adjourn a bit before 5.00 then. Is that what you think?

COMMISSIONER: Yes, a bit before 5.00 and then resume at 9 o'clock tomorrow morning.

MR COPLEY: Okay. I tender the statement of Patricia Anderson which was sworn on the 6th of – or declared on 6 September 2012 and provide a copy to you.

COMMISSIONER: Thank you. The previous witness's statement was given the wrong number. That should have been exhibit 63 and Ms Anderson's statement will be exhibit 64 and it will be published.

ADMITTED AND MARKED: "EXHIBIT 64"

MR COPLEY: There's no difficulty with that.

COMMISSIONER: Thank you, Mr Copley.

MR COPLEY: Ms Anderson, you've had in excess of 30 years' experience in the Department of Child Safety or its predecessor departments?---Yes.

You're the manager of the Cairns North Child Safety Service Centre?---Yes, that's right.

Just so that we understand, what geographical area does the Cairns North Child Safety Service Centre take in?---The Cairns North covers the geographic boundary south to the suburb of Earlville, north to the Daintree and west up to Koah via Kuranda, and that includes all of the northern beaches.

Yes. Now, one of the issues that you have referred to in your statement is that the Cairns North office has to manage a total of 364 child protection order orders and intervention with parental agreement cases?---That's right, yes.

Are you able to enlighten us as to how many are child protection order cases of the 364 as opposed to intervention with parental agreement cases?---264 are child protection orders, either short term or long term or interim orders, currently, and there are 100 intervention with parental agreement cases.

Now, intervention with parental agreement occurs when the chief executive forms a reasonable suspicion that a child is in need of protection because he or she has been, for example, subjected to harm and there isn't a parent willing or able to care for the child. Is that the case?---Well, actually the intervention with parental agreement occurs when we investigate a notification and consider the child to be at risk but we believe the parent or parents have the capacity to work with the department to address some of those risk factors that cause the child to have come to our notice.

COMMISSIONER: Which means the child is not assessed to be in need of protection?---That's correct.

MR COPLEY: Well, I'll perhaps explore that.

COMMISSIONER: Yes, because - - -

MR COPLEY: I was thinking about whether it's worth exploring it.

COMMISSIONER: It's a bit tricky, because it's a notification that's both I think an admission – yes, you explore it if you want.

MR COPLEY: Okay. According to section 10 of the Child Protection Act, and if you need to see it – Mr Selfridge is going to have it provided to you and maybe you should see it. You've probably read it dozens of times but it doesn't hurt to have it in front of you. We'll perhaps just

paraphrase it. A child is in need of protection if there's an unacceptable risk that he will suffer harm and he doesn't have parents able and willing to protect him from harm?---Yes.

Okay, so that's the starting point. If you turn then to part 3B of chapter 2 which is at page 85 of the statute you've got there you will see section 51Z?---Yes.

It says that this part, which is headed Intervention with Parents Agreement, only will apply if, go down to 51ZB, there's no child protection order in force and the chief executive is satisfied the child is in need of protection? ---Yes.

So that must mean that the chief executive has formed the view that the child is at a significant risk of harm and there's no parent willing or able to protect the child otherwise an intervention with parental agreement statutorily at least couldn't occur, could it?---No.

No, and then when you turn over to the next page, section 51ZE provides that the chief executive must give proper consideration to intervening with the parents' agreement if (a) the child's wishes and views have been ascertained, if possible and, relevantly, paragraph (c), because we're keeping with the paragraph (b) from the previous section, the chief executive is satisfied that the child's parents are able and willing to work with the chief executive to meet the child's protection and care needs?---Yes.

What I wanted to ask you was how is it that there can be satisfaction on the one hand that the parents aren't willing and able to provide care and protection for the child and yet there be satisfaction in the mind of the chief executive on the other hand that the parents are willing and able to meet the protective needs of the child, because if the parents are willing and able to meet the protective needs is the child therefore not a child in need of protection under the definition in section 10?---I guess the key is that they're willing to work with the department to meet the child's care and protective needs, which means we may introduce agencies to work with the parents to address some of the risk factors that occur.

Yes?---For example, substance abuse or mental health problems or domestic violence.

So does the department see the option of an intervention with parental agreement as being appropriate to parents who perhaps whilst not presently willing and capable of providing protection demonstrate to the departmental officers some both aptitude for and willingness to change their behaviour or their life situation so that they can provide those protective needs?---Yes, that's what we believe.

COMMISSIONER: So we would call that in the context of the current child protection system an early intervention strategy, because it would stop the child being - - -?
---Technically, yes, that is - - -

- - - assessed as being in need of protection?---That is correct, yes. Early intervention can occur before that. So you talked previously with previous witnesses about child concern reports. This is at the first stage of departmental intervention where we can start to work with the family.

But it's short of what we commonly call statutory intervention, tertiary intervention, because that's reserved for the child who is assessed to have been in need of protection and that doesn't happen necessarily until you've had the temporary custody orders, and the first time the chief executive has to actually do something about a child in need of protection, that is, who has been harmed or at risk of being harmed and no parent able and willing is when they have to make a case plan?---Yes.

When she has to make a case plan?---Well, a case plan occurs within IPA as well.

Is that called a case plan or a support plan?---Yes, a case plan.

But it doesn't have any statutory basis, does it?---Yes, it does.

Does it? Where does that come from?

MR COPLEY: If you can find it in the act by flicking through, you're welcome to?---I probably would not find it easily.

COMMISSIONER: It doesn't matter. It's my job. I will find it, but you say it does. It's not just a policy of the department. It's a legislative requirement?---It's my understanding it is. I could be wrong.

Okay?---Managers are not the most adept at the practice.

You probably are at the practice. It's just whether the practice reflects the law of it, that's all, and we're just keen to find out whether there needs to be any fine-tuning of the law to make sure that practice and legislative aspects coincide. Sometimes over time they get out of whack because the practice might actually be better than the law but we have to bring the law back into line with the practice at some point?---Yes.

MR COPLEY: Ms Anderson, is the possibility of an intervention with parental agreement considered in every case in which the department finds that there's a child in need of protection?---Potentially, yes, but where there have been previous notifications - and maybe the current notification would somewhat tip the case over the edge because we believe we have attempted to do an intervention with parental agreement previously with the family that they have withdrawn from that engagement with the department. We might say that trying another intervention with parental agreement might not be the best thing for the children.

So if we confine the discussion then to a child or children of a family who come to the attention of the department for the very first time, is an intervention with parental agreement the first step that the department considers if it is satisfied the child is need of care and protection? ---It would be if the parents are indicating a willingness to work with us. If the parents are what we might call shut down and not wanting to engage with the department, it may be very difficult to look at that option.

Do officers in your area, because you can probably only speak for your area, inform parents about the possibility

of an intervention with their consent and agreement?---Yes; yes, we always try to look at the least intrusive intervention and IPA would be considered less intrusive than taking a child protection order.

Can you comment on this proposition: from time to time it's put to parents, "Well, it will be an intervention with parental agreement or we'll have to bring an application to have your child taken away"?---I think those various options would be made known to parents so that they can then choose to accept or not accept the intervention.

Does the department consider it desirable that parents be able to get independent advice, that is, advice or knowledge or advice or information, to assess their options other than from the departmental officers themselves? For example, does the department suggest to these parents that they might like to see a solicitor or see Legal Aid or a community legal service to discuss their options?---Yes, we would. We would always encourage parents to seek legal advice.

And are parents given the time to do so?---I would believe so. If we take the child on a care agreement where that means that - an assessment care agreement where the parents agree for the child to - may be taken into care - if that is indicated in the first instance, it's during that time we would encourage the parents to seek that advice.

Okay?---So the parents normally sign that for about 28 days.

And when that child is, as you put it, taken into care, is the protection practically removed - is he removed from the family home?---Yes, in most cases; yes.

And what, put with a foster carer or something?---Yes.

You say in paragraph 13 that the relinquishment by parents of disabled children has become an emerging and ongoing problem. Are you meaning to convey there by the use of the word "relinquishment" that the parents that you have in mind who are looking after their own disabled child or children are willing to look after and protect their child or children but simply are not able to do so?---Yes, in most cases that would be the situation.

So if those parents are willing to look after their children but simply can't, how is it that those children find their way into your area of authority because by definition the child or children concerned are not children in need of care and protection because the parent is willing but just can't?---So I guess, yes, the relinquishment of children with a disability comes to our notice either via the Department of Communities, Disability Services who may be working with the family to provide some

support services, for example, respite, and who the parent believes that those support services are insufficient for them as a parent to meet the care needs of their child. For example, a parent might work full-time and have to have support after the child comes home from school until the parent gets home from school. If the funding provided to the parent in the disability package is insufficient to meet the needs that that parent has identified, the parent effectively has no choice but to say, "Well, I can no longer do this," so sometimes Disability Services notify us that this parent is about to relinquish a child. They will give us the heads up, if you like. On other occasions parents will ring us directly and they may come through Child Safety after hours where a parent who has had a particularly bad period with their child with a disability rings up and says, "I can't do this any more."

But if those parents are still willing to look after and protect their child but just can't, would you agree that there should be some agency of the state other than the Child Safety office who should be stepping in to help and support those parents?---My personal view is yes.

Okay?---The parents need to be both willing and able so we may have a parent with a mental health problem who is willing but who by virtue of their mental health issues are placing the children at considerable risk potentially because their mental health may not be stabilised at the present time, and it has come to my attention in the past that parents who have children with a disability have said, you know, "I can't care for them because I may hurt them. I'm getting to the end of my tether."

COMMISSIONER: Or, "I may not be able to protect them from somebody else hurting them"?---Potentially, yes.

MR COPLEY: So why is it that they fall to the Child Safety Services centre to look after them rather than disabilities?---I suppose because - - -

Is it simply because they're children?---Yes, because they're under the age of 18 and Disability Services meets the needs of those over that age or provide supports to families to care for their own children.

So therefore, because they're coming to you, you're having to work with families where the parents - you're having work with children where there are parents who aren't willing and able to look after them and to try to effect a reconciliation or a reunification sometimes with the children and those parents and you're also having to look after and care for the needs of a child whose only perhaps issue is that his disabilities are so great and his parents' capacity is so limited that even though the parents are still willing and want that child to live with them, they just can't manage the child?---That's

effectively right, yes.

And really they're horses of a different colour, aren't they, those two sort of families situations?---They are, so we do not have an identified, you know, child maltreater or a person who is failing to care for their children.

Yes?---It's a case of they're not able to manage the demands that that child is placing on them.

Are the officers of the Child Safety Services the best people to be looking after the disabled child or should that be a function performed and undertaken by another area of the state, in your opinion?---In my opinion, another area of the state.

Is that an opinion peculiar to you or would it be shared by other people who occupy similar offices at the level you occupy in the Department of Child Safety?---I believe other people who would be similar to me would have similar views to me. I guess it is really dependent upon the level of concern that we have for the parent at the time when they are relinquishing the child. There may be a period where they need to have some space and the risk factors that that could involve - you know, it depends on the person who's assessing that risk at the time.

Yes?---So I'm very much of the view of being pro-active in bringing all the parties together to talk about how this child with the disability can be maintained as close as possible to the family or if the child needs to be removed for a short period of time, we work very seriously to get that child home with appropriate supports.

Because that sort of child would presumably be the sort of child who should not be placed in a residential facility with children that might be completely able but might have, for example, other behavioural problems?---Yes.

And so the disabled child would be the sort of child that you would perhaps want to have placed in a foster-care situation with another family. Is that the case?---If the child's disabilities are such that they could be accommodated in foster care, yes, and there are some foster carers who have taken children with disabilities, but some children with disabilities have, you know, multiple and complex problems which requires - - -

Hospitalisation?---Well, at times may require hospitalisation, but requires very skilled and people who have a lot of time on their hands to manage the care needs of that child.

So when you talk about a person who's very skilled, are you thinking of they might require skills that are more commonly found in a nurse rather than a foster carer?---Or

skills that can be taught to a foster carer.

Yes, but which a foster carer, unless they have had a disabled child of their own, wouldn't really have any experience of?---That's right.

So perhaps getting back to this question, why is it that these children are considered to be - and perhaps this comes down to something to do with someone higher up than you in the chain of command, but why is it that these children are considered to be ones that Child Safety Services needs to look after rather than Disability Services?---I'm not exactly sure that I can answer that from, you know, the perspective of how that came into being, but certainly there is no capacity for Disability Services currently to remove a child or take a child into their care.

Even if the parent relinquishes?---That's right, so we would be the only statutory authority who could do that. Even if a parent took their child to a respite service, at the end of the respite that's allocated to that parent, if they fail to come and collect them from respect, we would be notified that the child has effectively been abandoned.

I have no further questions.

COMMISSIONER: Thank you, Mr Copley. Yes, Mr Selfridge?

MR SELFRIDGE: Thank you, Mr Commissioner.

Ms Anderson, just whilst you're on that subject of relinquishment, paragraph 13 on page 3, are there any other children who come under that banner for any other reason in terms of the banner of relinquishment or abandonment, whichever way you want to phrase it? I use the term "abandonment" loosely in relation to those children with disabilities obviously?---Mm'hm.

Do any other children come under that broad umbrella? ---Yes, there would be other children whose parents determine that they can no longer care for them and from my experience in many cases that's children who reach their teenage years who start to become a little bit wilful and who fail to follow their parents' instructions in terms of, you know, what that household requires of that young person. The person may disengage from school; may start to get involved in some sort of youth crime. I have experienced where parents have come to the department and said, "I cannot care for this child any longer."

So in practical terms the parents are contacting the department and saying, "That's it. I've had enough. I'm at the end of my tether. You need to collect this child because I'm no longer going to be responsible for him or

her"?---That's exactly what they say.

Okay. What are we talking about in terms of numbers, and you can only speak to your experience here because you have been in the position since 2005, haven't you?---Yes.

Seven years or so. Are there substantial numbers of parents who do that or not?---I couldn't give you exact numbers but there would be at least two or three a year.

And is that the same throughout the cape?---I can't speak exactly - - -

To your knowledge?---To my knowledge, potentially not because I - I probably make that statement because most young people, if they were relinquished by their parents into the care of the department, would possibly be removed to Cairns if there were no care options available for them in the community so I would therefore then know about those children because they would be in the Cairns area.

Okay. So you would have some knowledge then. So in terms of those children who may be relinquished by their parents for the reasons you've just stated from other areas in the cape, is that a common experience; as common as those in the Cairns immediate area?---I don't believe so.

Do you have any understanding as to why not?---I think the urban area of Cairns is - you know, to most teenagers bright lights, go out with your mates may be a cause of some of those problems that families face when they get to that point which may not be the same in indigenous communities. There may be extended family members who step in and care for those children.

Step into the shoes without the state becoming involved at all?---Potentially, yes.

That's a positive, isn't it?---That would be a positive.

Okay. If children do come into the care of the state - and I'm talking about the Cairns community in general - sorry, specifically - and are subject to out-of-home care, is it your experience that they go back, gravitate back towards the community or not?---It's a very complex issue when children are removed from community and come to Cairns. Ideally we would want them to be place back in community as quickly as it possible through the identification of appropriate kinship care options or extended family options.

It's been my experience that those options are not always available, either because of overcrowded houses - you may have a family who are willing to have the children but the housing is not suitable, there may be incidences where the family can't take the number of children on; so there might be four children removed from the one family and you would maybe be able to place one child back into community, that has happened; family members will put their hand up to take one of the children or two of the children.

I'm thinking more of - and probably a rhetorical question, but I'm thinking more of children remain in out-of-home care in the Cairns community and they're from within Cairns and they're from communities, the longer they remain in care less likely it is that they will gravitate back towards the community. Is that my understanding - - -? ---Yes, as they get older and have been part of the Cairns community for an extended period of time, yes, they probably don't gravitate back.

So lose that cultural identity?---Exactly, which is the big risk of children coming to Cairns and remaining in Cairns for longer periods. As much as we attempt to identify cultural connections for them and engage with the recognised entity and try and explore cultural options for the children in Cairns, we would never be able to achieve what could be achieved if they were in their own community.

And with families, extended families or otherwise. Okay, thank you. No further questions. Sorry, excuse me for one second please. Do you still have a copy of the act before you?---Yes.

Can I ask you just to turn to page 69, section 51C. It's self-explanatory what it says. Do you have a copy of that before you, Mr Commissioner?

COMMISSIONER: I do.

MR SELFRIDGE: It's self-explanatory what it says on the face of that section. It's just in relation to some questions that Mr Copley put to you just previously. Without going through a verbatim, the essence of it is this, that the chief executive must ensure a case plan is developed for each child. It then goes on to explain about children in need of protection and needs ongoing help under the act. Under the notes see there at note 1, second bullet point, can you see what it says there?---Yes.

Can you just read it out to the commission?---"Ongoing help under this Act may be, for example, giving support services to the child and his or her family; arranging for the child to be placed in care under a care agreement; or seeking a child protection order for the child."

It was specifically the second bullet point I make

reference to about arranging for the child to be placed in care under a care agreement. In your interpretation does that fall under the auspices of an intervention with parental agreement as such? I suppose what I'm saying to you is at face value that section suggests that the chief executive must ensure a case plan is developed for each child, including the child under a care agreement?---Yes.

COMMISSIONER: Except that - I looked at that too. The problem with this piece of legislation is that brings in concepts out of nowhere.

MR SELFRIDGE: I totally agree.

COMMISSIONER: It throws in the word "help", "is in need of help" immediately after saying - referring - and it makes needing ongoing help as a conjunct to being in need of protection, which is already defined to mean "has no parent able and willing" and is in need of harm - is at harm. But then if you go back to the very early sections the chief executive can - well, under 5BD the state becomes responsible for the protection of a child when the child has no parent able and willing, whether the child has been harmed or at risk of harm or not.

MR SELFRIDGE: There's a whole series of contradiction in terms. It is ill-conceived in a whole series of respects and not defined properly, I agree with you.

COMMISSIONER: I just think it's a risky proposition for anyone to define what the act actually means, to interpret it, because - - -

MR SELFRIDGE: I know it's something to be wrestling with since the start of the commission, as such.

COMMISSIONER: I'm just trying to find a logical line of reasoning in it, that's all - a common theme.

MR SELFRIDGE: I don't know how much I can help you in that regard because we invariably go to the parts of the legislation which fit with the point we are trying to make.

COMMISSIONER: The ideas are commendable but there are a lot of gaps in the legislation. Like "care agreement" seems to have a technical term but if you mean intervention, which is in self-defined to mean help - - -

MR SELFRIDGE: Yes.

COMMISSIONER: - - - which isn't defined, and help might be done in any number of ways, if a care agreement meant intervention with parental agreement, it would say that, because it's already introduced the term "parental agreement" - intervention with parental agreement. Why would use a different term, care agreement, to mean the

same thing?

MR SELFRIDGE: My understanding of it is they are one and the same thing; that's my understanding of it. Interpretively that would be interpreted to be one of the same thing, but I understand what you're saying, Mr Commissioner, why isn't it defined as such? Why isn't it is blamed in schedule 3? It isn't.

COMMISSIONER: If you look at the definition of care agreement it refers you back to - - -

MR SELFRIDGE: Section 6 - - -

COMMISSIONER: - - - the section, which isn't very enlightening.

MR SELFRIDGE: No, it's very cyclical, isn't it?

COMMISSIONER: Yes. The problem with it being the same as an intervention with a parental agreement or parenting agreement - agreement of the parents - is to get to agreement with the parents, give already intervened, so you're in the tertiary level. My definition of tertiary is after intervention, and intervention is when they - - -

MR SELFRIDGE: Statutory body - - -

COMMISSIONER: The chief executive has made the call that the child - that she needs to intervene either to investigate and assess or to protect; either one of those. And that's your tertiary point of intervention because one of the ways you might achieve that - one of the ways you might intervene is to remove. But you wouldn't remove if you could do it in a less drastic way?---Yes.

You might leave the child with the parents even while you're investigating under some sort of agreement, which you'd need to because you're working on the basis of the assumption that this child is almost certainly in need of protection from her own parents?---We would call that a safety plan.

You call that a safety plan, that's right. Then that's got a special part in the legislation as well?---Yes.

And that's for the interim period where - or you might have gone to court and got an interim custody order, so there's a number of ways you could do it. If you spoke about all of them in a very general way you might call it a care plan because it is a plan for caring for the child that's not a particular - one of a particular - I think that's probably that general category and then you've got subcategories of that. But anyway.

MR SELFRIDGE: That concept of trying to understand how it

fits is not one that's particularly new, as such, you understand that in terms of section 69ZT of the Family Law Act, that transference of that interface between the Family Court and the Federal Magistrates Court and the Childrens Court.

COMMISSIONER: Is that the one that gives priority to the child protection orders?

MR SELFRIDGE: Yes, that's right. There's two different interpretations depending on which judicial officer you fall before as to where the parameters are drawn in relation to when has the chief executive of the statutory body intervened and what does that mean in terms of the interpretation of section 69ZT as well?

COMMISSIONER: Yes.

MR SELFRIDGE: So it's something that's been - for those from a different perspective - something that's been wrestled with for quite some time.

COMMISSIONER: Well, it's time we tied it down, isn't it?

MR SELFRIDGE: Isn't it, yes. Thank you. I've no further questions for the witness.

COMMISSIONER: Thank you. Ms Byles?

MS BYLES: Thank you, Mr Commissioner.

Good afternoon, Ms Anderson. My name is Samantha Byles. I'm a solicitor with the Aboriginal and Torres Strait Islander Legal Service and I'm obviously representing that organisation today. Ms Anderson, I only have one question for you. You have the legislation in front of you and I would ask that you turn to section 83 subsection (7). Could you please read that subsection?---What page am I looking for, sorry?

It's page 114 of my version, which is the version of the legislation in force as at 29 August 2011?---I've got the July 12 one.

It should be on the same - - -?---"Before placing a child," is that the one?

So it's section 83?---Section 83(7), yes.

Yes, so the head section, "Additional provisions for placing Aboriginal and Torres Strait Islander children in care." Do you have that one before you?---Yes.

So if you could please read subsection (7)?---"Before placing the child in the care of a family member - - -"

You can read that to yourself?---Yes.

So as manager how do you ensure that your child safety officers comply with that provision, particularly in circumstances where children are placed in placements outside of community or outside of kin placements? ---There's probably a number of ways. The recognised entity would be involved in the development of the case plan for the child.

Yes, sorry, please continue?---The placement agreement that is undertaken with the foster carer would be - - -

What kind of provisions would you put in that placement agreement to ensure compliance?---What would happen in that situation is that some foster carers would be very happy and willing to facilitate contact between the child and the parents and there are times when foster carers may not be prepared to do that, where the parent is, for example, not exhibiting indicators that they're very happy with the arrangement that the child is in care.

I suppose - and I don't mean to interrupt, but I suppose I'd like you to focus on perhaps the other provisions of that subsection, because obviously in those circumstances the department would be required to facilitate that contact?---Okay.

So I'm particularly interested in the other subsections as well?---So section (b), of course, would be part of the case plan and in consultation with the recognised entity. The case plan obviously involves a cultural plan for the child. In terms of maintaining connection with the culture, that's written into the case plan as well and the child safety officer would have discussions with whoever is the care provider for the child in that situation.

But that would also be encapsulated in the placement agreement?---Yes.

So what kind of things would be in the placement agreement?---Well, I'll give you an example, that the child will be given opportunities to engage in cultural activities within their own community in consultation with Aboriginal or Torres Strait Islander community. Many people, of course, refer to, you know, the various NAIDOC celebrations that may occur. Sometimes that's about school. Sometimes the foster carers may support cultural connection through the school and through the indigenous support people at the school. We have foster carers who actually transport the children to community and stay with community for a few days while the child has engagement with their family.

Do you provide assistance to foster carers to help them with ideas to make sure that these provisions are complied with?---We attempt to, and again, we have a child safety support officer who is an identified officer who is Aboriginal and Torres Strait Islander. We would engage that person in assisting us to identify ways in which they can communicate. We would talk to - of course, as I said, the recognised entity would be involved in helping to make some of those determinations.

I might just ask a question with respect to that. In your experience how helpful has that advice been from the recognised entity to assist in relation to the provision of this standard?---I think the recognised entity as an organisation has struggled with, you know, staffing issues over a number of years and the number of Aboriginal and Torres Strait Islander children that are in care of the department probably places some burden on them to be able to be engaged fully in all of the case planning and case plan reviews, as we call them. So for an indigenous child whose case plan is coming up for renewal we would try and consult with the recognised entity caseworker for that child to have some input into what is occurring, or we may consult with the child's own community or family members,

and some family members contact us and say they want to come to Cairns and visit the child, can we assist them to do that, or they want the child to visit the community.

So given that you mentioned that you access the recognised entity service to assist you in a number of ways to ensure compliance with this provision, is it not somewhat concerning that the recognised entity service has those problems that you've articulated?---Well, you know, I think it's concerning for any organisation to not be able to maintain its staffing numbers or to have staff turnover which means that, you know, there are new people needing to be trained into the roles. I guess the nature of the work that they do maybe causes those problems to occur for them as it does with other, you know, child protection areas.

Thank you. So given all of those matters, are you confident that the current level of service being provided is such that the best interests of the children are being met? Particularly with respect to Aboriginal and Torres Strait Islander children are you confident that the department is meeting the obligations under subsection (7) and in particular subsection (d)?---No, I'm not confident of that, because I believe that in order to preserve and enhance a child's sense of identity would ideally have those children placed with Aboriginal or Torres Strait Islander care providers, in the first instance, and have access to the child's community and family, and unfortunately we do not have sufficient Aboriginal or Torres Strait Islander carers within our foster carer pool to be able to maintain that.

Do you think it would be of assistance if there were appropriately qualified indigenous service providers who were locally based to assist the department with respect to ensuring that these standards were adhered to?---Who were locally based within the child's community?

Potentially, yes?---Yes, obviously that would be of great assistance.

Excuse me for one moment. Do you think perhaps as a proposal and perhaps, you know, as an option for future service delivery it may be appropriate to look at outsourcing some of your current statutory role to local professional indigenous organisations again to assist the chief executive to comply with these obligations?

---Ideally, yes, if there was capacity for an Aboriginal and Torres Strait Islander organisation to come forward with a way that they could meet those needs and be funded to do so, I guess, but I believe it's an extension of what we already have with the recognised entity and the caseworkers that work within that organisation to provide that sort of assistance.

But your evidence is that the recognised-entity model is not working properly?---Well, it is probably not meeting all the needs of the children that we have in care.

Right. Excuse me for one moment. So just to finish up, would you say that it would be of more assistance to have indigenous service providers assisting with casework delivery and casework service delivery?---I guess, are we talking here statutory casework or - - -

Yes?---I guess they could be in partnership, I think, with the statutory caseworkers because the department still has an obligation to monitor the needs of the child so we probably couldn't defer that fully to an organisation, but working in partnership with indigenous service providers to ensure that the best needs of the children are met would be ideal situation.

And in particular to ensure that the chief executive's obligations under the legislation were complied with? ---Yes.

Thank you. Please excuse me. Thank you. I have no further questions for this witness.

COMMISSIONER: Thank you. Mr Capper?

MR CAPPER: We have no questions, thank you.

COMMISSIONER: Mr Copley?

MR COPLEY: May the witness be excused?

COMMISSIONER: Yes, certainly.

Thank you very much for coming, Ms Anderson?---Thank you.

I appreciate your time and the evidence that you have given.

WITNESS WITHDREW

COMMISSIONER: Just to correct something, Mr Selfridge, when you said before that - you mentioned the care agreement. That's an agreement that you enter into for the purposes of - with the family and maybe even the child for the purposes of having the protective needs of the child investigated or for protecting a child who needs protection

on an interim or temporary basis. I mean, it's defined and it's for placing the child with someone other than the parents so it's with the parents' agreement. That's the basis of the intervention. It's agreed placement with someone else?

MR SELFRIDGE: You're drawing a distinction between a care agreement and an intervention with parental agreement. That's my understanding of that.

COMMISSIONER: That's how they are intervening. They're intervening by taking the child out of home and putting the child with someone else with the parents' agreement.

MR SELFRIDGE: Yes, that's how I understand it; yes.

COMMISSIONER: So that's the agreement.

MR SELFRIDGE: Yes.

COMMISSIONER: But the chief executive could leave the child at home with the parents' agreement but that's not intervention with the parents' agreement.

MR SELFRIDGE: I think it sits both ways, on my understanding of how the system currently operates. I can be corrected, Mr Commissioner, but - - -

COMMISSIONER: It might be because intervention is any action to help the child.

MR SELFRIDGE: Yes, but that's how you interpret at least section 51C - - -

COMMISSIONER: So the status quo could be an intervention.

MR SELFRIDGE: Yes, as long as there's some form of intervention in terms of some - - -

COMMISSIONER: But you only enter into one of those agreements with a certain category of parents, that is, those who are likely to be brought up to standard with support - - -

MR SELFRIDGE: Yes.

COMMISSIONER: - - - and that's after you have done your investigation and that's the probably outcome of the investigation, that the parents will be - they're willing and able to work towards becoming willing and able and they probably will make it.

MR SELFRIDGE: Yes, that's my understanding of it; yes.

COMMISSIONER: For you to be a parent who agrees to intervention you have to fall into that category.

MR SELFRIDGE: Yes.

COMMISSIONER: Right. If you don't, there's no intervention with parental agreement.

MR SELFRIDGE: Yes, that's my understanding of it.

COMMISSIONER: There would be no care agreement either because the care agreement is placing outside of home with the agreement of a parent who falls into that category of being likely to be with support willing and able. Is that right?

MR SELFRIDGE: Yes, and the operative word there is "agreement", isn't it. There's an agreement between both parties that the parents will engage in some form of process, whether it be the child being placed elsewhere for a temporary period or whether it be a willingness to engage in services.

COMMISSIONER: Yes, that's right. If you get a bit of support, you will be right.

MR SELFRIDGE: Yes.

COMMISSIONER: Or after the investigation you will probably be found to be protective enough.

MR SELFRIDGE: Yes; possibly, yes.

COMMISSIONER: I think they are the two categories of parents who can agree to intervention.

MR SELFRIDGE: Yes, but part of that care agreement as such, just to draw another distinction as such, can be, as you have already suggested, placing the child elsewhere for a temporary period; call it respite; call it as you will.

COMMISSIONER: Yes, but a care agreement has to be out of home.

MR SELFRIDGE: Yes.

COMMISSIONER: It's temporary out of home.

MR SELFRIDGE: Temporarily out of home, that's right.

COMMISSIONER: Yes.

MR SELFRIDGE: But those agreements as such - by their very definite nature have to be agreements wherein both the department and the parents are willing to work together.

COMMISSIONER: Yes, but looking from the department's point of view, they can only make that agreement with a

certain category of parents.

MR SELFRIDGE: Category, yes, and that category you have already alluded to would have to again be a category of people wherein with certain interventions they're going to come up to the requisite standard where the child will not be a child in need of care and protection.

COMMISSIONER: Yes, that's right.

MR SELFRIDGE: Yes.

COMMISSIONER: All right. I'm glad we cleared that up. We will adjourn until the 24th in Townsville.

THE COMMISSION ADJOURNED AT 4.50 PM
UNTIL MONDAY, 24 SEPTEMBER 2012

12/9/12