
TRANSCRIPT OF PROCEEDINGS

**COMMISSION OF INQUIRY INTO THE TASMANIAN GOVERNMENT'S
RESPONSES TO CHILD SEXUAL ABUSE IN INSTITUTIONAL SETTINGS**

**At Hearing Rooms 6A and 7A
Tasmanian Civil and Administrative Tribunal,
38 Barrack Street, Hobart**

BEFORE:

**The Honourable M. Neave AO (President and Commissioner)
Professor L. Bromfield (Commissioner)
The Honourable R. Benjamin AM (Commissioner)**

On 16 June 2022 at 9.34am

(Day 13)

1 PRESIDENT NEAVE: Thank you, Ms Rhodes.
2
3 MS RHODES: Good morning, Commissioners. In the first
4 session we are talking to the Assistant Deputy Public
5 Guardian of the Office of Public Guardian Queensland,
6 Ms Moynihan, who is appearing via link today. We also have
7 Ms Penny Wright who's present, she's the Guardian of
8 Children and Young People and the Training Visitor in South
9 Australia.
10
11 Perhaps if Ms Wright could take a seat and remove her
12 mask and be administered the affirmation.
13
14 <PENELOPE LESLEY WRIGHT, affirmed and examined: [9.35am]
15
16 <CATHERINE ANNE MOYNIHAN, affirmed and examined:
17
18 <EXAMINATION BY MS RHODES:
19
20 MS RHODES: Q. Ms Wright, you prepared a statement for
21 the Commission dated 6 June 2022. Do you have that
22 statement before you?
23
24 MS WRIGHT: I do, thank you.
25
26 MS RHODES: Have you had an opportunity to read through
27 statement.
28
29 MS WRIGHT: Yes, I have.
30
31 MS RHODES: Are the contents of that statement true and
32 correct?
33
34 MS WRIGHT: They are.
35
36 MS RHODES: Ms Moynihan, you have prepared a statement for
37 the Commission which is dated 10 June 2022. Do you have
38 that statement before you?
39
40 MS MOYNIHAN: I do.
41
42 MS RHODES: Have you had an opportunity to read that
43 statement?
44
45 MS MOYNIHAN: I have.
46
47 MS RHODES: Are the contents of that statement true and

1 correct?

2

3 MS MOYNIHAN: They are.

4

5 MS RHODES: Just by way of introduction, both Ms Moynihan
6 and Ms Wright are giving evidence today and have provided
7 their statements because they both operate different roles
8 in their respective states which may possibly be a
9 recommendation or a consideration for the Commission as to
10 what could possibly work in Tasmania.

11

12 Our terms of reference are related to child sexual
13 abuse in institutional settings, and in this week we are
14 looking at out-of-home care, but both Guardian roles and
15 Training Visitor Centre do look at Youth Detention, so
16 there will be some questions about Youth Detention as well
17 which the Commission is looking at.

18

19 Ms Wright, I'll just summarise your roles, if that's
20 okay, because you do wear many hats in South Australia, but
21 one of your roles is being Guardian for Children and Young
22 People and that is about being - sort of an oversight body
23 to the Child Protection System in South Australia and
24 providing advocacy both individually and systemically for
25 children who are on orders, guardianship or custody, to The
26 Chief Executive of the Department of Child Protection?

27

28 MS WRIGHT: Child Protection.

29

30 MS RHODES: You do individual advocacy for these children
31 in that space, but you can also look at systemic issues and
32 give advice to Ministers about those issues and how to do
33 reform; is that correct?

34

35 MS WRIGHT: That's right. The role is to promote the best
36 interests and rights of children and young people who are
37 in care, to advocate both individually and systemically for
38 systems reform, to advise the Minister and to monitor their
39 circumstances and the monitoring is also an important
40 aspect of the role.

41

42 MS RHODES: You also have the Training Centre Visitor role
43 which goes into the Youth Detention Centre in South
44 Australia to also do monitoring and advocacy for the young
45 people in that centre; is that correct?

46

47 MS WRIGHT: That's right, yes, also promoting their best

1 interests and rights advocating for them both individually
2 and systemically. There's not actually a specific
3 monitoring function but essentially that's one of the roles
4 that we play, and enquiring into matters that are of
5 concern to the young people in the detention centre.
6

7 COMMISSIONER BENJAMIN: I think also I visited the
8 detention centre a couple of weeks ago and I think also the
9 young people in the centre have unrestricted contact to
10 you.

11
12 MS WRIGHT: They absolutely do.
13

14 COMMISSIONER BENJAMIN: Via numerous telephones within the
15 centre.
16

17 MS WRIGHT: They do, they're unmonitored calls, they're
18 not part of their call allocation, and they can also
19 request to see my staff and I if they wish to and we can
20 ensure that they meet with us in an unmonitored private
21 capacity.
22

23 MS RHODES: But that role is not a complaints role, so a
24 child who has a complaint, you can't do anything with that
25 complaint except perhaps advocate for them to make a
26 complaint to the appropriate body?
27

28 MS WRIGHT: That's right. We don't specifically take
29 complaints and investigate them in the way that an
30 Ombudsman does. We have a very good working relationship
31 with the Ombudsman's Office in South Australia. So,
32 basically children and young people can raise anything with
33 us that they wish, and sometimes it'll be positive feedback
34 about staff and we'll look at passing that back so that we
35 encourage good practice, but we will determine whether or
36 not something they raise with us is something that we can
37 just take up, whether it becomes a formal advocacy position
38 or whether indeed the young person - we consider that it
39 should be a complaint or the young person wants it to be a
40 complaint, and then there's a complaint process.
41

42 If we are concerned we can take a best interests point
43 of view if we consider that it's a significant matter, even
44 if the young person isn't seeing it as a complaint, and
45 pursue that in our own way so that we will then make sure
46 that that complaint is taken up with the appropriate -
47 whether it goes through the process within the training

1 centre or whether it goes to the Ombudsman. We're always
2 very respectful of the young person's wishes and we won't
3 do anything that will actually put them in any sense of
4 harm if they're concerned about recrimination, so we're
5 very careful about confidentiality, but we are also
6 mandated notifiers, so obviously if it was something that
7 was about harm to the child or young person we have no - we
8 always explain to them we have no choice about notifying
9 about those kinds of issues.

10
11 MS RHODES: Even though you don't have that direct
12 complaints system, how does that role as the Training
13 Centre Visitor protect children from sexual abuse or
14 potential risks of sexual abuse in detention centres,
15 particularly being a closed institution?
16

17 MS WRIGHT: Well, first of all I think the most important
18 thing is that we have regular visiting there and regular
19 sighting of all the children and young people in there and
20 they have the opportunity to speak with us confidentially.
21 And we sometimes will not just hear things from the young
22 people there but potentially from another young person
23 who's concerned who may have witnessed something involving
24 another young person who might raise it with us, so
25 obviously it's based on a great level of accessibility to
26 the young people and also trust that's built up over a
27 significant period of time, and then by allowing them to
28 have their voice you're going to optimise the opportunity
29 for disclosures if there's things - or even just little
30 concerns, and then we can take that as we need to. So, I
31 think it's really important that we can actually look at
32 what's going on, and we've dealt with some sort of big
33 issues in the sense of privacy issues around CCTV when
34 young people were on the toilet or using a shower, and we
35 were able to negotiate or resolve that with the management
36 of the training centre that curtains were provided.
37

38 There wasn't any suggestion necessarily that there was
39 anything untoward going on there, but it was significant in
40 terms of rights to privacy. And then sometimes we've also
41 been concerned about, as I say in my witness statement,
42 issues around potentially feelings of discomfort, glances,
43 behaviour, comments made by staff, and there have been a
44 couple of cases where we've become aware of an allegation
45 of a staff member inappropriately putting a hand somewhere
46 that they shouldn't put, you know, on a young person that
47 we then will raise however it's appropriate, and also we'll

1 always make in those situations a notification to the Child
2 Abuse Report Line.

3

4 PRESIDENT NEAVE: As I understand it, you also sometimes
5 hear things from staff?

6

7 MS WRIGHT: Yes, we do as well.

8

9 PRESIDENT NEAVE: They can express their concerns too.

10

11 MS WRIGHT: And that's an important aspects of the role as
12 well. There's certainly some resistance from some staff -
13 not overt, but we certainly know that that's the case. But
14 also certainly some staff really welcome the role that we
15 have there and there's been times when I've been approached
16 confidentially by staff in various aspects, or my staff
17 have been approached and we're always very, very mindful
18 about confidentiality, but it's really important that we
19 have the ability to take information from wherever we can
20 get it to get a really strong sense of what's going on in
21 the centre.

22

23 MS RHODES: Would you agree that having those regular
24 visits, getting those smaller complaints early, means that
25 they don't develop into bigger problems that could lead to
26 risks of sexual abuse particularly in institutions?

27

28 MS WRIGHT: Yes, absolutely that's the case. In any
29 oversight role it's so important to maintain boundaries of
30 independence and respectful difference so that there's no
31 risk of regulatory capture, but by the same token it's
32 really important to have respectful, courteous
33 relationships with everyone, and that includes management,
34 and of course management are also concerned not to have
35 anything going on that they're not aware of, so there's an
36 openness to me being able to raise even minor issues where
37 they can then be alert to be vigilant and be looking out
38 for things in terms of particular staff behaviour or
39 whatever in that way.

40

41 COMMISSIONER BENJAMIN: Ms Rhodes, I notice that
42 Ms Moynihan is nodding her head furiously during this, you
43 might ask her to make a brief comment in relation to those
44 matters.

45

46 MS RHODES: Thank you, Commissioner Benjamin, you jumped
47 in front of me. Yes, Ms Moynihan, we can see you, and I

1 understand that you do have a role with the Community
2 Visitor Program that you have there in Queensland, and one
3 of the roles of that Community Visitor Program is to visit
4 children in Youth Detention; is that correct?

5
6 MS MOYNIHAN: It is correct, yes.

7
8 MS RHODES: Sorry, you go ahead, you were nodding.

9
10 MS MOYNIHAN: I would just echo the observations made by
11 Ms Wright about the role within the detention centre
12 setting and, as she eloquently outlined, the complexities
13 of it and the challenges of it. I would say we are in a
14 very similar position in the exercise of the function here.
15 I support and echo all her observations about the
16 importance of independence but also of being respectful and
17 working in a way that respects and understands the role of
18 the detention centre management; seeing those strong
19 professional relationships strengthens your capacity as an
20 independent monitoring and advocacy agency to come in
21 because they understand that, when you raise an issue which
22 is of concern and is serious because you understand how
23 they work, and I think I just would echo and support the
24 complexities she outlined in the way she performs the role
25 within her jurisdiction. We have similar experience here.

26
27 MS RHODES: Developing those roles, I understand from your
28 statement, could also be linked to the fact that you have a
29 good focus on the voice of the child and that the voice of
30 the child - this concept of voice of the child is well
31 understood by everyone in that detention space; the
32 management, everyone involved; is that correct?

33
34 MS MOYNIHAN: I think that's always the ongoing challenge
35 for us in the Child Protection System, is ensuring that we
36 elevate - and I'd include the Youth Detention Centre
37 setting in that observation as well, because as we well
38 know, Youth Detention Centre settings are full of issues
39 related to Child Protection, including young people who
40 have experienced abuse and trauma.

41
42 So I think from my point of view our legislation and
43 particularly our principles of our Act set out very clearly
44 that the child is entitled to be heard even if others don't
45 agree with the views that they express, and so, whilst we
46 might in a detention centre setting or in any other setting
47 we visit think that we have robust mechanisms to ensure

1 that they're being heard, it's important that we allow them
2 to test that, the robustness of those mechanisms and
3 express their views, which they do, and in the detention
4 centre setting they express their views on a range of
5 settings, from quality of the food, to their experience of
6 interaction with staff, and the detention centre as it
7 sounds in the South Australian jurisdiction works directly
8 with us to address those concerns when we raise those to
9 their attention as a result of visiting we do to the
10 centre.

11
12 MS RHODES: Your Community Visitor Program also visits
13 children who are subject to Child Protection statutory
14 orders, and my understanding is that the purpose of that
15 role is to check on the children, speak to them to see if
16 they've got any concerns, and if there's any issues that
17 they want to raise, and as an independent person not
18 attached to the Child Protection System as such, they're
19 able to raise these issues quite independently and
20 strongly; would that be correct?

21
22 MS WRIGHT: It is, and again though, whether that be in
23 the detention centre setting or whether it be in youth
24 residential care which we visit, or foster and kinship
25 care, the same principles that were outlined by Ms Wright
26 in her evidence are still relevant in that we must engage
27 directly with the relevant stakeholders to build respectful
28 relationships and an understanding of what our role is to
29 ensure that people know about us, that they can access us
30 and that they know what we can assist them with, so that's
31 a constant education process for us with the sector and
32 also with the children and young people who are entitled to
33 access our advocacy.

34
35 MS RHODES: With your Community Visitor Program, what do
36 you see as the key features of that program that would help
37 keep children safe from sexual abuse and risks of sexual
38 abuse in the out-of-home care setting?

39
40 MS MOYNIHAN: The independence and that they're not -
41 they're outside the setting itself and also the
42 decision-maker under Child Safety, so the independence I
43 think is one aspect; that we can walk alongside the child
44 or young person. So, the Child Safety Officer does a
45 complex and extremely important role of working with the
46 child in the context of their family, whereas our role is a
47 little bit different, we walk alongside the young person or

1 child in terms of their rights and interests and their
2 ability to participate in decision-making, which of course
3 Child Safety are also responsible for and do, but we are
4 focused solely on that, whereas Child Safety has a very
5 complex role of working with the family on reunification,
6 working with the carer on ensuring that the proper supports
7 are in place, and so, we work alongside those stakeholders
8 to make sure that the child or young person's views and
9 wishes are elevated and understood by the decision-makers
10 in decisions such as placement or family contact. And, in
11 terms of their setting within the site or the home, that
12 their needs are being met appropriately within the site or
13 the home.

14
15 MS RHODES: Thank you.

16
17 COMMISSIONER BENJAMIN: How often would you visit - sorry,
18 is there a minimum number of visits you would do for a
19 child in out-of-home care on an annual or monthly basis or
20 something along those lines?

21
22 MS MOYNIHAN: We have different frequencies dependent on -
23 under our Act we must visit regularly sites; we may direct
24 a visit to homes. So, we obviously have finite staffing
25 and funding resources and we have to stretch those across
26 our jurisdiction under the legislation, so we prioritise
27 using our legislation and also the practical realities of
28 the staff available to us and our funding.

29
30 So, frequency is part of what we look at, but also I
31 think it's important that the role is also effective, so I
32 think it's about explaining what is the purpose and nature
33 of the role, and frequency, yes, is a part but it's not the
34 only aspect of building a trusting relationship; I think
35 it's also about how effectively we explain the role of the
36 Community Visitor or Child Advocate so that they understand
37 its role in the context of the system, which is an ongoing
38 challenge for children and young people in care because
39 they intersect with government's positions --

40
41 COMMISSIONER BENJAMIN: Your office - sorry, I didn't mean
42 to interrupt, go ahead.

43
44 MS MOYNIHAN: Sorry.

45
46 COMMISSIONER BENJAMIN: I was going to say, given your
47 office, you may be quite a consistent impact on a child

1 over a number of years. What resources do you give the
2 child so they know who you are? Because I suspect many
3 children would have a lot of people coming into and out of
4 their lives at that time; do you give them a card with a
5 photograph on it or --

6
7 MS MOYNIHAN: We do.

8
9 COMMISSIONER BENJAMIN: I'm showing my age by saying that,
10 but to know who you are and have a face and a telephone
11 number and an email address or a Twitter account or
12 whatever? Do you use those sorts of things?

13
14 MS MOYNIHAN: We utilise the traditional modes of
15 communication in terms of our website, our stakeholder
16 relationships. There is a lot of word-of-mouth in the
17 sector too for children and young people, like, if they see
18 or hear someone being visited by a Community Visitor they
19 may talk to another child or young person. Carers are
20 aware of us, so we have a profile with foster carers and
21 kinship carers, so it's about building a profile with the
22 sector and stakeholders and children and young people, it's
23 an ongoing investment and we would like to do more work in
24 that regard, because the ability to request a visit is
25 under our Act and it's important that they know it exists
26 and that they can access it.

27
28 MS RHODES: Ms Wright, you had a similar role to the
29 Community Visitor role, but you're no longer in that
30 position. Could you explain to the Commissioners why that
31 is the case, why you weren't - you're not doing that role
32 anymore?

33
34 MS MOYNIHAN: No, I'm happy to do that, could I ask for
35 some water, please? A bit dry. Look, just briefly, after
36 the Nyland Royal Commission there was a recommendation of a
37 community visiting scheme, and we'd been running a trial
38 for two years, the Guardian had been running a trial for
39 two years for a community visiting scheme and then, post
40 the Nyland Royal Commission, there was actually a
41 recommendation that there be a Child and Young Person's
42 Visitor to essentially implement a scheme.

43
44 I was appointed to that role as Guardian, it was
45 ex officio in 2018 just before there was a change of
46 government. The trial continued. When the trial came to
47 an end my assumption - and so essentially I then took on

1 the trial as the Visitor role but it was - the children
2 were a subset of the Guardian's mandate. When the trial
3 came to an end there was no further funding at all to
4 continue visiting, but the role continued, and so, after
5 quite a significant amount of discussions and requests for
6 additional funding there was no further funding that came
7 through, so essentially there was just the Guardian's
8 funding again and so it wasn't possible to be able to
9 implement that, to continue that visiting scheme. And one
10 of the reasons I think that made it difficult to negotiate
11 that was that in the legislation that established the role
12 of the Child and Young Person's Visitor there was no
13 dedicated clause for funding, unlike the Training Centre
14 Visitor role and unlike the Guardian's role which said
15 essentially that reasonable - resourcing is to be as
16 reasonably required to fulfil the functions, there was no
17 clause, so there was nothing for me to hang my hat on in
18 terms of being able to continue the work again; it was
19 clearly not possible to do the visiting scheme without any
20 additional resources at all, staff visiting, the time, and
21 also just the budget for fleet car hire in going to country
22 areas and accommodation and things like that. So, sadly, I
23 then resigned from that role.

24
25 COMMISSIONER BROMFIELD: Ms Wright, did you take any steps
26 to inform the public that you were unable to perform that
27 role?

28
29 MS WRIGHT: I did, actually, I chose to do that. It's
30 obviously a highly political thing but I just felt that
31 it's really important that the public is aware of what's
32 being done in the public's name, and that's one of the
33 privileges of these statutory offices, that essentially my
34 view is that the way we look after the most vulnerable
35 children and young people in our society is what we do as a
36 community, and the community needs to know what's happening
37 there, the circumstances as much as is possible for those
38 children and young people, while balancing that with
39 privacy and confidentiality which is always a bit of a
40 challenge.

41
42 And so, essentially I was concerned that the public
43 thought there was this role, there was certainly a
44 legislated role, there was a person in the role and they
45 might have taken comfort to think that there was a person
46 going out and visiting these children and young people in
47 residential care and it was very well-established and known

1 through the Nyland Royal Commission and previous enquiries
2 that these are some of the most vulnerable children and
3 young people in South Australia, and so it was important to
4 me that the public knew that essentially I wasn't doing the
5 job, it was a bit of a fraud really in my view.
6

7 And so, I was very careful, there was a lot of time
8 spent trying to ensure that the Minister understood that
9 that would be my ultimate decision. I actually sought
10 Crown Law advice about whether there was any other legal
11 recourse I could have had to say, well look, we're all
12 laying ourselves open to risk here having a role that I
13 can't fulfil, but that wasn't really particularly helpful.
14 Legislation isn't so good at really operationalising in
15 terms of funding, so in the end I had no choice but to
16 resign, and I did make it quite public that that was the
17 reason.
18

19 PRESIDENT NEAVE: Can I ask in relation to the roles that
20 you now exercise where you have got some sort of
21 legislative guarantee of funding, how has that worked out
22 in practice?
23

24 MS WRIGHT: Well, I think by and large it's been - look,
25 the work that the office does shows that we've been able to
26 be very effective I think. There's always a requirement
27 for more funding. One of the concerns that I've had is
28 that, because how long is a piece of string, what does
29 "reasonably required" mean? And one of the things that has
30 concerned me is that when I started the role in 2017, since
31 that time there's been an 83 per cent increase in demand
32 for advocacy; there's been a significant increase in the
33 number of children and young people within my mandate in
34 Child Protection; that's grown since 2017 and as it happens
35 nationally, but there has been no proportionate increase in
36 the staff in the Guardian's team, it's still the same, has
37 been the same number of staff essentially.
38

39 And also what I think governments have a tendency to
40 do is to give extra new roles, especially if you're doing a
41 good job, more and more functions but not necessarily any
42 additional resourcing. And one of the issues that I would
43 raise here is the work in relation to allegations of child
44 sexual abuse and the recommendations that came out of the
45 Mullighan Inquiry in South Australia and the Guardian
46 gained new functions to oversee essentially allegations of
47 a child having been sexually abused in care, while they

1 were in care, but there was no additional funding for that
2 role and so we've actually been hamstrung in how effective
3 we've been able to be in that role, so that has been a bit
4 of a disadvantage. So, we only have limited oversight at
5 the moment of matters where there may be an allegation that
6 a child in care has been sexually abused.

7
8 PRESIDENT NEAVE: So, just to summarise what you've said,
9 having a legislative provision of the kind you've described
10 about reasonable funding is a bargaining chip.

11
12 MS WRIGHT: Yes.

13
14 PRESIDENT NEAVE: But not a guarantee, is that a fair way
15 of putting it?

16
17 MS WRIGHT: It's a minimum, obviously there's a minimum
18 there, and it's clear that there has to be something and
19 even the Parliament can see that, but in terms of how much
20 that should be it is always tricky and you have to
21 constantly try and make a business case, which is not
22 always successful.

23
24 PRESIDENT NEAVE: Thank you.

25
26 MS RHODES: I was going to go next to what you raised
27 about limitations of oversight in child sexual abuse. So,
28 your role, you do get notified of care concerns. If
29 they're serious care concerns, you would become involved as
30 the Guardian of the two - when they're serious you'd be
31 involved in the planning about that but the investigation
32 is done by Department of Child Protection with police
33 involved as well; is that correct?

34
35 MS WRIGHT: Yes, that is correct. So, Justice Mullighan
36 made a recommendation that the Guardian be informed of any
37 allegation of a child having been abused when they were in
38 care and that the Guardian was to coordinate a regular
39 meeting with Child Protection, SAPOL, South Australian
40 Police, and all other interested parties to make sure that
41 the investigation was kept on track, to sort of monitor it
42 and track it essentially, and also to become aware of any
43 children and young people where it might be necessary for
44 the Guardian to advocate that their best interests were
45 being met. And in fact the legislation was amended at the
46 time, the Act that provides the functions for the Guardian,
47 to include that the Guardian must pay particular attention

1 to a child who's been sexually abused or there's an
2 allegation of sexual abuse, so that was followed through.

3
4 But what has essentially happened in terms of
5 operationalising that is that at the moment there's an
6 arrangement under the Recommendation 20 where the Guardian
7 receives notifications of any care concern that's been
8 raised in relation to a child who's experienced sexual
9 abuse or there's an allegation, but the trouble with that
10 situation is that care concerns are only raised where
11 there's an element of a carer having been involved in it.
12 So, it may be where there's been abuse by a carer or family
13 member or volunteer, or it may be a situation where there
14 has been abuse of a child while they're in some kind of a
15 care arrangement, perhaps in residential care or in foster
16 care or kinship care, but again, there has to be some
17 suggestion that there's been some kind of fault on the part
18 of the carers.

19
20 So, if there's an allegation that there's been perhaps
21 some sort of neglect where they haven't been paying enough
22 attention and that's why the abuse has occurred, then we'll
23 find out about those, but any other situation where a child
24 is abused in the community, at a hotel, they meet someone
25 online, at a school, or where there's peer-to-peer sexual
26 abuse within a care setting, either a foster family or
27 where in fact a residential care, and there's no suggestion
28 that there was any fault on the part of the carers, we
29 won't necessarily find out about that because that won't
30 generate a care concern. So, there's an area that we know
31 we don't know about.

32
33 MS RHODES: And so, that would be what the Commissioners
34 heard as being harmful sexual behaviours that would occur
35 between peer and peer in a residential placement?

36
37 MS WRIGHT: Yes.

38
39 MS RHODES: You wouldn't necessarily --

40
41 MS WRIGHT: Not necessarily.

42
43 MS RHODES: -- notify it, but there is the process where
44 you get notified of care concerns, even the lower care
45 concerns so not the serious ones, where your advocates
46 might be able to see a pattern or see that something's
47 happening at a particular placement?

1
2 MS WRIGHT: Yes, where there's an element of sexual abuse,
3 we don't get every care concern, but we do where there's an
4 element of sexual abuse, yes.

5
6 MS RHODES: Even though you don't have that wider
7 oversight, that still hasn't prevented you from taking
8 action in terms of these sorts of harmful sexual behaviour
9 incidents. You say in your statement that there was an
10 Ombudsman investigation in relation to harmful sexual
11 behaviour in a placement in South Australia and you had a
12 role in that. Could you explain to the Commission how
13 you've used your role to protect children as best you can
14 with your limitations in terms of harmful sexual
15 behaviours?

16
17 MS WRIGHT: Certainly. So, just to be clear, the
18 limitations come about from the arrangements we have in
19 place for notification at the moment, not because of any
20 prohibition; in fact, I'm entitled to find out all
21 information. And, to be honest, it's been a bit tricky
22 because in a way - because without having the staffing
23 available to look into every allegation there's a risk that
24 would be held by my office in the sense that we would have
25 information that we couldn't actually look at or take into
26 account.

27
28 So, that situation has changed slightly in the sense
29 that I've been able to kind of be creative and cobble
30 together some bits and pieces of left over money when
31 people are on part-time, and so we've actually been able to
32 create a position which is going to be a Senior
33 Advocate R20, because I have one particular staff member
34 who's done a lot of work in this area and has really
35 advanced the monitoring and scrutiny that we've been able
36 to do over the last few years, even using the limited
37 information that we're receiving, and so I'm hoping that
38 we'll be able to expand now and make a requirement that we
39 are told about all allegations. So, it's not a
40 prohibition, it's just a limiting factor at this stage.

41
42 So what we have often become aware of, and often it'll
43 be ad hoc. We may get - through our advocacy work we may
44 receive a phone call from a young person, through some
45 monitoring visiting that we might go out on an ad hoc basis
46 and find out that there's concerns; we might find out from
47 a staff member that there's concerns about, for instance,

1 harmful sexual behaviours occurring within a placement.

2
3 So, we become aware of information and at one point -
4 and this I think also reinforces the importance of hearing
5 a child's voice - there was one occasion when one of my
6 advocates met with some young people from a residential
7 care facility who came into our office to meet with her and
8 she went and had a milkshake with them, and I think there's
9 some kind of pre-existing relationship with our office with
10 those young people, and during the course of that milkshake
11 one of them disclosed about what had been happening
12 peer-to-peer within the placement, and it turned out that
13 they'd actually been raising it with the placement staff
14 and they'd been dismissed, just they hadn't really been
15 heard, they hadn't been taken seriously and it was quite
16 significant ongoing issues within that placement involving
17 quite a few of the young people.

18
19 So, that was one example of where we then supported
20 those young people but also made a referral to the
21 Ombudsman who then looked into that in detail. And some of
22 the concerns that came out of that were the inadequacy of
23 the placement matching that had occurred, so where there
24 had been identified risks of harmful sexual behaviours from
25 some of the young people being placed with other young
26 people who were vulnerable, perhaps had a disability or
27 they had their own history, and clearly on all the
28 indications that was not a sensible and safe placement for
29 those young people to be put together.

30
31 Sometimes in some cases when placement changes occur
32 the staff at the new placement aren't advised about the
33 risks so that they can't even be vigilant because they're
34 not aware of that, so there were quite a few systemic
35 failings there and so there was an investigation by the
36 Ombudsman, and as a result there have been some significant
37 kind of recommendations about practices in the Department
38 for Child Protection to improve that situation.

39
40 MS RHODES: And you've attached a summary of that
41 investigation to your statement at Attachment 6. Thank
42 you.

43
44 Ms Moynihan, thank you for being patient. What's been
45 described by Ms Wright is something that you don't have in
46 Queensland, but with your Community Visitor Program there
47 is the possibility to advocate for the young person in

1 terms of placement if they've got issues with placement.
2 Can you explain what that role is to ensure safety for
3 children in their placement?
4

5 MS MOYNIHAN: The issues that they raise are very similar
6 to the ones that Ms Wright just gave evidence to. So, we
7 are mandatory reporters in the exercise of our child
8 visiting function and our child advocacy function more
9 generally. So, in that process we obviously explain to
10 children and young people that we will respect their
11 privacy and confidentiality, but if they disclose something
12 that reveals they are unsafe we are compelled to let
13 someone know about that and there's a process for that.
14

15 We don't have, as you say, the same function but we
16 have information sharing arrangements with Child Safety and
17 that's one of the ways that we become aware of children in
18 visible locations, whether that be a site or a home. We
19 regularly have a centralised data exchange where we get
20 that information which assists us in planning our visits,
21 and our visits in advocacy sites and homes we see the same
22 issues around appropriateness of placement matching, we see
23 the same issues in terms of children and young people
24 within the same setting and their experience of living
25 together. We will advocate for a placement change if
26 that's something that they've articulated and we'll do that
27 by raising it to the attention and providing the
28 information we have about the concerns to Child Safety and
29 decision-makers around placement. We may do that across a
30 site or a home for a number of children and we're conscious
31 that there are occasions where children and young people
32 have different positions within a site or home and may be
33 in conflict, so we have to be respectful because all of
34 those children and young people are within our jurisdiction
35 and all of their views and wishes need to be elevated in a
36 way that's respectful.
37

38 So, the same issues present in our advocacy and
39 placement, including disclosures of inappropriate sexual
40 harm, needs not being met, and so, that's our role, is to
41 ensure that the decision-maker around placement in Child
42 Safety is aware of it and if there's other concerns related
43 to behaviours that may be criminal, that the appropriate
44 authorities are aware of it.
45

46 MS RHODES: Another feature of your Act is the ability to
47 review a placement decision at QCAT; is that correct?

1
2 MS MOYNIHAN: That is. The provision is 133 of our Act.
3 There are caveats on that review right, in that, we must -
4 I can't remember off the top of my head, but that we must
5 be satisfied with the [Zoom drops out] ... because we have
6 focused on --

7
8 MS RHODES: Sorry, Ms Moynihan, to interrupt, we did lose
9 you. You were talking about the provision, if you wouldn't
10 mind just starting from that part.

11
12 MS MOYNIHAN: The section you're referring to under our
13 Act is 133 and it's the ability to take certain decision -
14 of our own - a review of our own initiative effectively.
15 But there are caveats on its exercise, that we must be
16 dissatisfied with a reviewable decision and unable to
17 resolve the matter with Child Safety to our satisfaction.

18
19 So we focus on first attempt at resolution in that we
20 go straight to the decision-maker to raise our concerns and
21 see if that will change the decision-maker's approach on a
22 matter in terms of their case planning or their
23 decision-making, and in many instances it does based on our
24 respectful relationships. We also receive a lot of
25 referrals for assistance for children and young people from
26 Child Safety which is them fulfilling their own obligations
27 under their Act to ensure that young people know about
28 their rights and have access to advocates to support them
29 in exercising them.

30
31 So that has been used sparingly in our jurisdiction,
32 but a piece of work we have done recently is worked in
33 partnership with Child Safety on improving our complaints
34 processes and our referral to them of formal complaints on
35 behalf of children and young people, and that was in
36 response to two Ombudsman's reports in relation to Child
37 Safety complaints. Because the robustness of our
38 complaints mechanism is one of the principles of a Child
39 Safe System, and ensuring that they are aware of the
40 complaint process, and ensuring that they can access it and
41 that the complaint process itself is accountable to explain
42 to the young person what they did with the complaint and
43 the resolution of it; that's something we've worked on with
44 Child Safety.

45
46 MS RHODES: Your office of the Guardian is a Child Safe
47 Organisation.

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MS MOYNIHAN: (Nods.)

MS RHODES: Was that a decision of government to take on that responsibility?

MS MOYNIHAN: That was our decision, we received a - and I should say, the Queensland Government is making that decision and at the moment working on it. We were lucky enough to have some project funding related to how we implemented our response to the Redress Scheme, the National Redress Scheme as a result of the National Royal Commission into Institutional Responses to Child Sexual Abuse. The way we decided at the time to utilise that funding was to prioritise our agency response to the Child Safe principles.

For us in our jurisdiction we have a responsibility for children and young people in visitable locations and who are relevant children under our Act. We also have responsibilities for adults with impaired decision-making which is broader than some of the other jurisdictions. So, as a result we've implemented the principles broadly to incorporate our response to all our clients: child, young person and adult, and those commitments are across the leadership and governance, culture of the agency, ensuring that our recruitment processes are robust, and we have commenced that last year and that implementation will be ongoing and, as I would see it, never ending in that we must revisit it all the time to create a culture that honours those principles and that's what we'll be working on in our service delivery and in our recruitment and in our management staff.

MS RHODES: Thank you. I'm conscious of the time and there's a lot to get through, so I'd just like to ask you, Ms Wright, in terms of both your roles as the Training Centre Visitor and the Guardian, you have quite a role in scrutinising government. Can you explain how you see that scrutiny as a way of protecting children from risk of abuse, particularly sexual abuse in institutions?

MS WRIGHT: I think some of the most important aspects of that are the ability for children and young people to access my staff and our services to know that we're there, so it comes down to first of all, really important, that they are aware of the existence of the office. And because

1 the Guardian's office has been there since 2005 there's
2 fairly high visibility and brand loyalty among children and
3 young people in care which has been good. And we've used a
4 lot of different resources, lots and lots of illustrative
5 resources, soft toys, those sorts of things, so that
6 children and young people know about the office. And
7 there's a safety symbol, a funny little yellow character
8 that's got very high brand recognition. Every child and
9 young person who enters care is given one of these soft
10 toys. So, OOG, Office of the Guardian, is very well loved.
11 So I think that they know that we're here, those of us who
12 have the capacity to be able to contact us, not all of
13 course, but certainly quite broad, then they can have
14 access to us and they can be heard by us, so I think that's
15 really important.

16
17 I think I outlined in my witness statement the
18 independence is absolutely important so that the only
19 loyalty, the only interest that the officeholders and that
20 the staff in the office are - is for children and young
21 people, no-one else, don't have to be beholden to anyone
22 else's interests or pressures.

23
24 I think the ability to promote is a really important
25 function because that covers many different aspects of the
26 work, and it means that then the work of the office and the
27 circumstances of children and young people can be known to
28 the public, so you can have the public on your side in
29 terms of further work that's required and accountability of
30 government.

31
32 I think it boils down to the fact that we're talking
33 about very, very vulnerable citizens within a community,
34 they can't vote, they're under 18, they can't vote, and
35 they don't necessarily have their own natural advocates
36 available as in parents in their lives as well, so they're
37 very vulnerable. And when we have to interact with big
38 systems, like Child Protection or Youth Justice and Human
39 Services, as well meaning as anyone working within those
40 systems are, those often are systems-centred and not
41 child-centred even though they profess to be child-centred,
42 we always hear that mantra, and in fact they can't be
43 because the system has to manage itself so it can't afford
44 to be child-centred in a sense.

45
46 So the way I visualise the role of my office is that
47 the system of Child Protection, children in care, is made

1 up of many, many, many thousands of little individuals and
2 each one of those needs to be central to their own lives
3 and to the work around them, and someone working within the
4 system can't do that. Whereas my office can actually stand
5 and walk - I think Catherine might have used the phrase, or
6 Ms Moynihan, might have used the phrase "walk alongside the
7 child and young person". We can do that because that's the
8 only, in a sense, interest that we have in the office as
9 opposed to having to manage systemic pressures.

10
11 So I think that's really important in terms of
12 focusing on the needs and interests of every individual
13 child and being able to hear what their concerns are and
14 keep them safe and require the system to be accountable
15 where the children and young person is not safe, is at risk
16 of harm.

17
18 MS RHODES: You've said that you've been to the media to
19 have issues promoted to the community, you also have the
20 function to table reports of your own investigation.

21
22 MS WRIGHT: Yes.

23
24 MS RHODES: Has that been a useful function for the
25 purposes of keeping children safe?

26
27 MS WRIGHT: That's been a really, really important and
28 useful function in the sense that there's no mediation of
29 the information that is being put out by my office. It has
30 - there's a direct conduit to the public because, apart
31 from the requirement to do an annual report, my office
32 can - we can certainly put things up on our own website,
33 there's no restriction on being able to go public with
34 information that we want to promote, whether it's
35 monitoring the circumstances of children and young people
36 in education and so on, but if I want to guarantee that a
37 report will be tabled in the Parliament, then as long as
38 it's provided to the Minister, the Minister is required
39 within a certain amount of sitting days to then table that
40 report in Parliament, which means that it is brought to the
41 representatives of the people in a democracy, the
42 Parliament, and it means that it's then able to be seen by
43 the media and the media can pick that up and take an
44 interest in that as well; and that's why promoting the
45 interests of children and young people, which is
46 everybody's business in a community, can occur without any
47 suggestion that that information will be hidden or shelved

1 or ignored or dismissed.

2
3 It may be that it's not particularly interesting and
4 no-one is - but at least it's there and it's available, and
5 I've found that the media are very, very interested in the
6 circumstances of these children and young people, and the
7 public is very interested in these circumstances once they
8 are aware of them and understand the challenges and what
9 needs to happen to keep these children and young people
10 safer.

11
12 MS RHODES: Ms Moynihan, you were nodding along with
13 Ms Wright when she was talking about the children's voice,
14 and you've said previously about walking alongside them.
15 One of your other roles is advocacy but it's court-based
16 advocacy which I understand is that legally trained
17 advocates will assist children in Child Protection
18 proceedings, QCAT proceedings and things like that. How
19 well known is your role in that space in terms of allowing
20 the child to have a voice and how does your role help that
21 child have a voice in that space?

22
23 MS MOYNIHAN: We're not the only advocate available to the
24 children in those jurisdictions, but we are one and we are
25 an important one that is not limited by legal aid funding
26 before a court or tribunal. So, we do do work in the
27 Children's Court in supporting participation of children
28 and young people in Child Protection proceedings. We also
29 do work in QCAT supporting them to review decisions of
30 placement and contact.

31
32 The other important work that we're trying to build a
33 profile and practice in is the review of suspensions and
34 exclusions in education for children and young people in
35 care, which is a complex area of administrative law
36 decision-making, and we have a need for children and young
37 people to have access to that and we work again in
38 partnership with some of our stakeholders like Education
39 and Child Safety around those reviewable decisions.

40
41 So that advocacy role, I think, is important and
42 taking - it's important in raising the profile that they
43 have a right to be heard and are entitled to have their
44 views and wishes brought before the Children's Court under
45 the Child Protection Act and also before QCAT in relation
46 to that review process.

1 I think, and Ms Wright sort of touched on this in her
2 evidence, from my point of view your access to information
3 about what your rights are is the key to you being able to
4 access them, and it is also the absolute gateway to you
5 being supported to participate in decision-making. The
6 right to participation is not the right to decide, it's the
7 right to participate and be heard in the process of the
8 decision being made.

9
10 And I think the administrative law aspect of Child
11 Protection is really important because it's having the
12 components of a procedurally fair decision-making process
13 being that the child's aware you're making a decision; that
14 they have a say in some of the factors that come together
15 to make that decision; that it's explained to them what the
16 decision is and why it's been made; and that they'll also
17 have explained to them that they have the ability to review
18 it, and it could be that they complain to the
19 decision-maker or that they formally review it. The role
20 of the Child Advocate is to explain those options; they're
21 not the only advocate who does it in the sector but they
22 are one of them and an important one. And we also have
23 examples where Child Safety Officers very capably do the
24 same thing, but I think the challenge of a monitoring
25 agency and a watchdog or advocacy focus is that really it's
26 all of it, as Ms Wright said, it's everyone's shared
27 responsibility to educate on the rights that children and
28 young people have and the right of information and
29 participation; it's all professionals within the sector's
30 responsibility and we play an important role and, I agree
31 with the idea of the role of promotion, is that our role is
32 to ensure that people understand that rights lens and we
33 can bring that highlight and focus to the decision-making.

34
35 MS WRIGHT: Can I add to that?

36
37 MS RHODES: Yes.

38
39 MS WRIGHT: I would like to really absolutely reinforce
40 what Ms Moynihan has said there and that's one of the areas
41 where I think my office doesn't have the advantage I'd like
42 it to have.

43
44 In the last few years the legislation was amended to
45 allow young people to have - for more reviewable decisions
46 at our SACAT and for young people to participate in those
47 decisions, so it was bringing to life their right to

1 participate in decision-making and have a voice in the
2 decision-making, which is in the Charter of Rights which is
3 in part of our legislation, it's a Charter of Rights that
4 my office creates in consultation with children and young
5 people, but it has no legal - it's not legally binding, but
6 we also have the United Nations Convention on the Rights of
7 the Child and other rights as well that are important and
8 that are reflected in the Charter of Rights.

9
10 So one of the concerns that I've always had is it's
11 not legally binding, so how do you - we use the influence
12 and the pressure of that Charter of Rights but it's not
13 legally binding.

14
15 But one of the issues that came up was the ability of
16 young people to be represented at SACAT hearings. If we're
17 going to make their right to participate in those decisions
18 meaningful, they actually needed to have some support to go
19 there. In some cases now there's an arrangement with legal
20 aid to do that, but one of the things that we've been
21 really conscious of is that often they need an advocate to
22 sit with them and explain the process and really make it
23 possible for them to have the power to actually be able to
24 be involved and to understand the decision at the end of it
25 so that they don't end up coming out totally disempowered,
26 not understanding the process, feeling intimidated and
27 feeling humiliated and never wanting to ever exercise their
28 power in that sort of arrangement in the future even as
29 adults.

30
31 So one of the roles that my advocates will have is
32 occasionally an intermediary process where we will support
33 the young person to take a matter to SACAT and then sit
34 with them and support them through that process, but due to
35 resourcing issues that's really been tricky and I would
36 have liked to have been able to say to SACAT, please refer
37 any children and young people to us but we just haven't got
38 that capacity, so at the moment our limitation is it will
39 only be a child or young person where we have an existing
40 relationship where we will be able to do that.

41
42 But I think the ability to have someone within a
43 monitoring and oversight body who actually has that ability
44 to look at the legal rights of children and young people,
45 as I have seen in the Queensland office, is something that
46 I think is really a very important aspect and that I would
47 have liked to have - I'd like to have more of that in my

1 office.

2

3 PRESIDENT NEAVE: A step before that, though, is that
4 there is a right to have, for example, a placement decision
5 reviewed. Do you see that - it sounds as if you have that
6 in South Australia, do you see that as a central
7 requirement?

8

9 MS WRIGHT: There are certainly - look, I actually haven't
10 gone back and checked what the reviewable decisions are,
11 whether or not that is actually one of them. There's some
12 that are and some that aren't, so I'm not sure about that.
13 But certainly there is a right of a child and young person
14 to participate in decisions around and there have been some
15 young people who actually have taken steps and been really
16 strong and brave about going to the tribunal, with the risk
17 that they actually end up severely burned by the process
18 and damaged.

19

20 PRESIDENT NEAVE: Of course.

21

22 MS WRIGHT: And that's where you need to have the
23 intermediary involved, but certainly those sorts of
24 reviewable decisions are very important in terms of
25 empowering children and young people to be able to take
26 steps.

27

28 MS RHODES: Ms Moynihan, I saw you nodding along. My
29 understanding is that Queensland also has a Charter of
30 Rights for young people, and is that in the same context as
31 South Australia, that it's not legally binding but can be
32 used by the advocate to advocate for rights?

33

34 MS MOYNIHAN: We actually, across the Child Protection
35 Act, have very comprehensive information sharing and access
36 to participation rights for children and young people
37 across a range of decisions. Recently Child Safety has
38 championed themselves amendments to the Act to strengthen
39 the ability for participation for children and young
40 people.

41

42 Our legislation, the Public Guardian Act and also the
43 Child Protection Act, has gone through - the Child
44 Protection Act particularly has gone through a number of
45 reform processes that I think strengthen our mechanisms
46 legally to make good decisions that involve the
47 participation of children and young people and families.

1 Our challenge in the sector is ensuring that we have the
2 mechanism in place to make that happen.

3
4 So I think legislation is part of the suite of tools
5 that we need to respond to the issues that we have in the
6 Child Protection sector. It's an important part but it's
7 one of the elements.

8
9 MS RHODES: Thank you. I'm just conscious of the time, so
10 just last comments, Ms Wright. In your statement you set
11 out at paragraph 182 the key features of a good system, of
12 a good guardianship oversight system. We have talked about
13 independence and being well-resourced and the child's
14 voice. Is there any other key highlight that you'd like
15 the Commission to know that would make a good safe system
16 to protect children from child sexual abuse in a
17 guardianship-type role?

18
19 MS WRIGHT: I actually do think ultimately it's about
20 pre-emptive action as much as possible, which requires the
21 scrutiny, the resourcing, the ability to see and hear young
22 people and for them to have access to independent, trusted
23 people. And I think there's also the accountability aspect
24 of it as well, which is involving mechanisms like
25 relationships like the Ombudsman.

26
27 And I think one of the areas that has been a
28 frustration for me and is going to have to be unfinished
29 business for me to some extent when I finish soon is
30 actually the enforceability of legal rights where there has
31 been a failure of a department to fulfil its administrative
32 functions or - so omissions in a sense - or decisions that
33 have been made that have actually caused harm, and my
34 concern is that in those cases the people who have been
35 subject to the harm, the children or young people, won't
36 necessarily even be aware, by nature of the fact that they
37 are children and young people, that there has been a harm.

38
39 And I think, as well as having the pre-emptive, it's
40 really important that there's an accountability ultimately
41 that will then potentially focus the mind of everybody in
42 the community as to what happens when systems fail or bad
43 decisions and poor decisions are made that harm people.
44 So, an example would be, I suppose, where for instance
45 there's a placement decision that has been against all the
46 evidence, it's been against potentially the advocacy of
47 people within the system as well, maybe case managers,

1 psychologists. There's been a decision made, young people
2 are put together, they're vulnerable and foreseeable harm
3 has occurred from that, and ultimately down the track those
4 young people won't necessarily know that they've been
5 harmed, and potentially there is some kind of compensable
6 legal action, but at what point does that occur? How is
7 there accountability at that time?

8
9 And I guess the reason - it happens not infrequently,
10 from minor to major, but I'll leave you with a picture
11 about why I think this is so important. When I first came
12 into this role in 2017 there was a young person that I
13 became aware of who had been involved in the Youth Justice
14 System, he was one of the dual-involved, he was in care and
15 he was also in the detention centre at the time when I
16 started, and his behaviours were so troubling and
17 problematic that there was a real concern that he would
18 never be able to be safe in the community, other people
19 would be always at risk of him, and he was under 18, and
20 there was contemplation at the time of legislation to have
21 him essentially detained indefinitely.

22
23 Now, there's been a lot of controversy about that
24 happening with adults in the system, where they've served
25 their sentence, they haven't committed a new offence but
26 there's concern that they will. But this was a young
27 person who was under 18 and his background was such that
28 what had occurred to him while he was in the care of the
29 state had contributed to his behaviours, but he was
30 ultimately going to be paying the price potentially for the
31 rest of his life for those failings. How do we get
32 accountability in a system for those sorts of failings.
33 And that's one of the things that I think we have to work
34 on better in these systems: how do those failings come to
35 light and what potential support or compensation is there
36 for the people who've experienced them, but in a sense more
37 importantly, how does that then become a lesson and an
38 accountability measurement that means that those failings
39 aren't as likely to happen in the future to protect all the
40 other children and young people who may be subject to them.

41
42 MS RHODES: Thank you for sharing that story.
43 Ms Moynihan, do you have any last thoughts before we
44 conclude our session?

45
46 MS MOYNIHAN: No, in the interests of time.
47

1 MS RHODES: Thank you, that's the end of my questions.
2 Commissioners, questions?

3
4 COMMISSIONER BROMFIELD: I had one. Ms Wright, right at
5 the beginning of your evidence you talked about avoiding
6 regulatory capture as an oversight body. I just wondered
7 if you could explain what you meant by that?

8
9 MS WRIGHT: By that I mean the sort of recognised
10 phenomenon, that when there's regulators going in regularly
11 to a particular workplace or a particular institution, and
12 because there is a need to have communication and be
13 courteous and relationships and also facilitate information
14 coming through, there's a risk that you can end up
15 forgetting whose interests you're serving, and it's human
16 nature that people like to be liked, don't like to cause
17 trouble, like it when they're not receiving frosty stares
18 and hunched shoulders and backs turned, and so there's just
19 always that risk that you end up ceding too much
20 independence and not causing offence or causing a bit of
21 pushback by asking too many questions or asking the wrong
22 things.

23
24 And the thing I've reflected on in terms of the
25 functions of the - the particular functions I think that
26 are really useful in the roles that I have which is the
27 individual advocacy, is that that does require
28 relationship, to be able to get results quickly without
29 necessarily going to the law or going to - you know,
30 carrying a big stick, it's through give and take and
31 through finding common solutions, which means a
32 relationship, but in a sense that also means that there's
33 always a risk that end up getting too close to the people
34 that you're monitoring and working with, and that's going
35 to be a particular issue, I think, when if the Training
36 Centre Visitor role also ends up the with the National
37 Preventive Mechanism role for OPCAT which is certainly
38 required to be much more arm's-length and how we manage
39 individual advocacy on one hand and preventive inspection
40 and visiting on the other. So, that's what I meant by
41 that.

42
43 COMMISSIONER BROMFIELD: And is that something that you
44 feel you as an individual need to maintain a sense of
45 constant vigilance about?

46
47 MS WRIGHT: Yes, I think so, I think everybody in the

1 system needs to really maintain that, particularly if you
2 do get some wins, and you can feel pretty good about those
3 and you know that, because you've been able to take someone
4 with you and persuade them or because they have congruent
5 values, but you have to keep reminding yourself that you
6 have different jobs and different roles and different
7 pressures and different interests, and I think having that
8 very, very clear focus on the voice of children and young
9 people and the importance of the children and young people
10 as the only - in a sense the only factor that we need to
11 take into account really helps with that.

12
13 The other concern is in a small jurisdiction like
14 South Australia, as would be the case with Tasmania,
15 sometimes the most useful staff members are those who have
16 actually worked within other systems, and so, you may have
17 someone who's worked within Youth Justice previously and of
18 course they're going to have pre-existing relationships,
19 and when you employ them then to be on the other side of
20 the bench as it were or the fence, I think it's really
21 important when you're actually recruiting to see if they've
22 thought about that challenge and that possibility and how
23 they might manage it and then really support them and keep
24 an eye on how that works.

25
26 Similarly, just in a small community, if you offend
27 people, then you're going to have to meet them again in the
28 community, and I think that may be one of the issues that's
29 occurred previously perhaps, you know, in the Tasmanian
30 community which has given rise to this particular
31 Commission of Inquiry, and I think it's also potentially
32 happened in South Australia as well.

33
34 PRESIDENT NEAVE: Do you do any formal training or
35 discussion in your office about that issue?

36
37 MS WRIGHT: No, we don't, we don't.

38
39 PRESIDENT NEAVE: I think bodies like ASIC may do some
40 work on that because of course it arises in those contexts
41 as well.

42
43 MS WRIGHT: And that's a really useful and thoughtful
44 idea. It's certainly something that we always look at in
45 terms of recruitment and it's a question that we will
46 always ask if we identify that someone has come from -
47 because you need to enculturate people, it really takes

1 some time for them to change their viewpoint when they come
2 into our office and realise that, it's all about the
3 children and young people now, it's no longer understanding
4 necessarily the pressures that other people are under.

5
6 PRESIDENT NEAVE: Thank you.

7
8 MS RHODES: Thank you. We just need a short break for
9 technical change around.

10
11 PRESIDENT NEAVE: Thank you, and thank you so much,
12 Ms Wright, Ms Moynihan, that was an extremely interesting
13 discussion, thank you.

14
15 **SHORT ADJOURNMENT**

16
17 MS ELLYARD: Thank, you Commissioners, our next witness is
18 Ms Azra Beach who appears via video link and I'll ask the
19 clerk to take her through the formal process.

20
21 PRESIDENT NEAVE: Perhaps I might - or do you want to do
22 that before I make the - I think I probably should make the
23 order first.

24
25 MS ELLYARD: Yes.

26
27 PRESIDENT NEAVE: Thank you. The next witness has agreed
28 to be identified, but to protect the identity of other
29 relevant people the Commission has decided to make two
30 restricted publication orders. We make these orders
31 because we're satisfied that the public interest in the
32 reporting on the identities of certain people who may be
33 discussed during this hearing is outweighed by relevant
34 privacy considerations.

35
36 I will now briefly explain how these orders will work.
37 The orders contemplate the use of pseudonyms of names in
38 relation to a number of people. Any information in
39 relation to the identity of those people must be kept
40 confidential. This means that anyone who watches or reads
41 the information given by the next witness must not share
42 any information which may identify the people who will be
43 referred to as, and these are the pseudonyms: "Alf Price,
44 Amos Price, Odette Price, Abe, Claude, Edison, Evelyn,
45 Hattie, Hazel, Jasper, Marion, Miles, Otto and Sylvia.

46
47 I'll now make the order which will now be published.

1 I encourage any journalist wishing to report on this
2 hearing to discuss the scope of the order with the
3 Commission's media liaison officer. A copy of the
4 order will be placed outside the hearing room and is
5 available to anyone who needs a copy.
6

7 Thanks, Ms Ellyard.
8

9 MS ELLYARD: Thank you, President. Good morning,
10 Ms Beach, can you see and hear us?
11

12 THE WITNESS: Yes.
13

14 MS ELLYARD: I'm going to ask you to wait there a moment
15 while the clerk takes my place to take you through the
16 formal start of your evidence.
17

18 <AZRA LEE BEACH, sworn and examined: [10.47am]
19

20 <EXAMINATION BY MS ELLYARD:
21

22 MS ELLYARD: Q. Thank you, Ms Beach. You've told us
23 your full name and I'm not going to ask you for your
24 address but you've let the Commission know where you live,
25 haven't you?
26

27 A. Yes.
28

29 Q. You're giving evidence today about your experiences as
30 a child in the foster care system and your reflections on
31 those experiences; is that right?
32

33 A. Correct.
34

35 Q. I wanted to start by asking you about how it was that
36 you came into care and what your early experiences living
37 in your foster family, the Price family were?
38

39 A. I'm not sure about how I came into care. Obviously,
40 my [REDACTED] was guilty of some neglect.
41

42 Q. You were quite young when you came into care; is that
43 right?
44

45 A. Yes, that's correct.
46

47 Q. And so, what was it like when you lived with the Price
48 family?
49

50 A. My earliest memories are not good ones.
51

52 Q. In particular, can I ask you separately about Odette,
53

1 your foster mother, what were your experiences of being
2 cared for by her?
3 A. She didn't care. She was very abusive.
4
5 Q. And when you talk about her not caring, you mean both
6 that she emotionally didn't care and that physically she
7 behaved badly?
8 A. Yeah, physically and emotionally, there was nothing.
9 I, at times, remember feeling like she hated me.
10
11 Q. And what about Alf, your foster father, how did he
12 behave towards you?
13 A. Very loving, very passive. Didn't really do much.
14
15 Q. You've described in your statement some of the
16 physical ways Odette would be abusive to you, is that
17 something you feel comfortable to speak a bit about now?
18 A. Yeah, sure.
19
20 Q. Can you tell us about some of those experiences?
21 A. She broke my arm just before my 5th birthday, and then
22 slapped me across the face after my arm was broken because
23 I wouldn't stop crying. She'd routinely hit us with my
24 father's work belt.
25
26 Q. You describe in your statements the things that she
27 used to say to you.
28 A. Oh, that she wished that, you know, I'd go out and
29 play in the middle of the road. You know, there was other
30 things that she'd say, like she'd prefer a thousand boys
31 over us two girls any day, we seemed to be nothing but
32 trouble.
33
34 Q. During the time that you were living through these
35 experiences with Odette, did you have any contact with
36 anyone from Child Safety?
37 A. Not that I recall. I remember one lady coming down,
38 but aside from that I don't recall having really anyone
39 involved from the department; I wasn't even aware that the
40 Price family was not my family until much later on.
41
42 Q. One of the things that you go on to say in your
43 statement is that, as well as the physical and emotional
44 abuse that you experienced from Odette, you also
45 experienced sexual abuse and you refer to two different
46 people who we're calling Amos and Jasper.
47 A. Yeah.

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Q. And to be clear, Amos was a person associated with the family and Jasper was a friend of the family. Can you tell us first about Amos and those experiences?

A. I don't - he never scared me. He was someone that I loved and trusted and I felt safe with him. He was my safety.

Q. Jasper is the person who was sexually abusing you?

A. Yes.

Q. It might be hard for people listening to understand why you were feeling safe and cared for by someone who was abusing you in that way. Can you help us understand why, given your experiences, he felt safe?

A. Because my mum wasn't. She didn't really show any affection or any love, so the - sorry: when this was happening --

PRESIDENT NEAVE: Please take your time.

THE WITNESS: It wasn't coming from a place of fear or intimidation. I genuinely felt love. They were telling me what a good girl I was, they were rubbing my hair.

MS ELLYARD: Q. You say in your statement that sometimes you would actually scream and argue about being allowed to go away in a car with Amos because you preferred that to being at home with Odette?

A. Yeah, he was safer to be with, he was kinder, he never spoke to me abusively, he - I felt like he loved me.

Q. You've also described in your statement being separately sexually abused by the person that we're calling Jasper.

A. Yeah.

Q. Was that a similar situation of Jasper --

A. Very similar, very, very similar.

Q. And so, how was it that you came to realise that what you were experiencing as love and support was actually something different?

A. It wasn't until I had my daughter, but even then it's not something that I really wanted to speak about, I mean, because everyone - you know, my [REDACTED], my biological sister, when I speak with her or when I have spoken with

1 her, she describes, like, two different people that we're
2 talking about. She describes complete monsters; that was
3 not my experience.
4

5 Q. So even now as you tell us about these experiences
6 your memory of those men, it sounds like it's a very
7 complicated memory?

8 A. It is, it's really complicated, because part of me
9 feels so grateful that - you know, I know it was wrong
10 love, but it was the only affection and the only love that
11 I was really shown throughout my younger years.
12

13 Q. You go on to describe in your statement that later on
14 in your younger years after you and your foster family had
15 moved house there was a social worker called Miles. There
16 was a meeting at some point at your school where some
17 issues had been raised which meant that you and Odette had
18 to go to a meeting. Can you tell us about that?

19 A. Oh, yes, I remember that one quite well that day. You
20 know, we were sitting there at school, I was pulled out of
21 class, she was sitting beside me as these questions were
22 being asked. I do have vague recollections of being sort
23 of, I suppose, worded-up before we got there, and as these
24 questions were being asked she's squeezing my hand - like,
25 she had sharp nails and she used to dig them into my palm
26 when I was sort of acting out or whatever, and so she did
27 that and, you know, I sung their praises I think, I believe
28 that I made my [REDACTED] out to be a liar, all because I just
29 wanted them to love me.
30

31 Q. And, did it work, did Odette's behaviour towards you
32 change because you'd lied about your true experiences?

33 A. Not really, no. I don't remember being in that
34 placement for much longer after that, it's all sort of
35 really quite - quite jumbled together. It feels like -
36 sorry.
37

38 Q. Sorry, can you tell us about how that placement came
39 to an end and how that was managed?

40 A. It was managed very poorly. I was told by my foster
41 family, my mum and dad, that I would only be going away for
42 two weeks; that they just needed a break, and I was just
43 going to have a holiday for 14 days with a - wherever I was
44 going. The 14 days came up and I rang them because, like,
45 I'd memorised my phone number, and she was really quite
46 rude and hung up [Zoom drops out] ...
47

1 Q. I'm sorry, Ms Beach, we've just lost you for a minute.
2 Can you hear me?
3 A. Yeah, sorry, I was like, what's going on there? It's
4 frozen.
5
6 Q. The last we heard from you was that you rang up and
7 she was really quite cold to you?
8 A. Yep, and she told me to basically not call her again,
9 she didn't wanna know me anymore and disconnected the call.
10
11 Q. And that was how you found out that you weren't going
12 to live in that foster family anymore?
13 A. Pretty much. No-one had actually sort of blatantly
14 said that I was never going back.
15
16 Q. And you said that you were told that the reason for
17 going away for 14 days was because Odette needed a break.
18 Were you acting out by this stage because of the way you'd
19 been treated?
20 A. Yeah, I was running away, and Amos was having some
21 serious medical issues. Yeah, I mean, I suppose there's
22 only so long they can say that "she's a bit of a drama
23 queen" before people start asking more questions, so I
24 guess I feel like at that time it was easier for them to
25 just throw me away.
26
27 Q. And so, what happened to you after that? You were
28 still a child then, did you go to live in a different
29 foster family?
30 A. No, I don't know. I was in - bounced around. There
31 was, like, a group home, and that wasn't very pleasant when
32 you go from, like, a mum, dad, brother sort of - you know,
33 even though some of the things that I was exposed to were
34 really quite horrific in that house, it was still - I was
35 still kind of wrapped in cotton wool, I suppose. Like, I
36 didn't know about tampons, I didn't know about condoms or
37 anything like that, and they've just shoved me into this
38 group home and I get this pack, and there's all this stuff
39 in there and I'm like, what am I supposed to do with this?
40 So, yeah, I sort of felt a bit - yeah, like, it wasn't a
41 nice time.
42
43 Q. And then did you find your way or get placed with
44 another foster family after that?
45 A. I got matched apparently with another foster family,
46 yes.
47

1 Q. And was that a more positive experience?

2 A. Yeah, um, there's a reason why they [REDACTED]
3 [REDACTED] me. But they weren't even -
4 they weren't even prepared themselves. I actually asked my
5 foster mum, you know, the other day what she was told; "Oh,
6 that you're just a hyperactive child", but there was so
7 much more to me than just being hyperactive and, you know -
8 yeah.

9
10 Q. And so, you've already said, Ms Beach, that it wasn't
11 until you became a mother yourself that it really started
12 to hit you that the sexual abuse that you'd experienced was
13 sexual abuse, and you've described in your statement having
14 some contact with the Ombudsman's Office about whether or
15 not there could be any action taken for what you
16 experienced. Can you tell us about your experience of
17 dealing with the Ombudsman?

18 A. I kind of just went through the motions with that, I
19 think. It wasn't - I wanted something, a completely
20 different outcome and a lawyer had referred me to the
21 Ombudsman because I was unable to do anything to the
22 perpetrators of the abuse. So, I don't know, I carried
23 this letter from [REDACTED], and I've still got that
24 letter, like it was some sort of badge to sort of say, you
25 know, we stuffed up, but it still - yeah. At the time I
26 didn't realise just how much damage had been done.

27
28 Q. And when you say you had a letter from [REDACTED],
29 that's a letter from the person who was the Children's
30 Commissioner at the time?

31 A. Yeah, I believe so, yeah; I don't know, I had to
32 Google him.

33
34 Q. And as I understand it you also - you had said at the
35 time when you were going through the process that the thing
36 that you wanted was that you wanted for what had happened
37 to you to never to happen to anybody else again?

38 A. Yeah, and that letter was assuring me of that.

39
40 Q. And you also wanted an apology; what was the
41 significance for you of wanting an apology?

42 A. I suppose, it's not my fault; I mean, I just want an
43 apology because I feel like what was done to me was wrong.
44 I deserved a heart-felt apology along with every other
45 child that was subjected to the same abuse.

46
47 Q. At the time that you were dealing with the Ombudsman

1 and getting that initial letter from the Children's
2 Commissioner, I think you've said that even at that point
3 you hadn't really understood yourself what the impact of
4 the abuse had been.

5 A. No, it sort of - you know, I'd had one sort of cruddy
6 DV relationship and I felt like I was everything that
7 everyone expected me not to be because there's that stigma,
8 you know, being - there's a stigma attached to being a ward
9 of the state, you're a bit of a troublemaker, you've got a
10 criminal record, blah, blah, blah, blah, blah. Here I was
11 engaged, bought a house, ready to walk down the aisle, you
12 know, working, and I was only in my 20s.

13

14 Q. So it sounds like at that point you felt like you'd
15 managed to overcome the experiences and that perhaps they
16 hadn't really affected you?

17 A. That's what I thought, I suppose.

18

19 Q. But that's not how you look back now?

20 A. No.

21

22 Q. When you look back now from where you are, what did
23 that abuse, particularly the sexual abuse, how did that
24 change the life that you could have had?

25 A. It skewed my love maps for sure. Like, I haven't
26 actually even really started addressing my sexual abuse in
27 therapy, we're sort of just I suppose in survival mode at
28 the moment still. But I certainly wasn't promiscuous, I
29 was actually quite scared of entering into a sexual
30 relationship with anyone, for a long time. And then, when
31 I did, I used to think that it would mean something, but it
32 doesn't; it doesn't mean that they loved me or they cared
33 about me, so ...

34

35 Q. You're a parent yourself now, and I don't want to ask
36 you the details of the lives of your children, but have you
37 got any reflections on how those early experiences that you
38 had with the Prices and the abuse that you suffered has
39 been lived out in the way you've been able to be a parent?

40 A. My poor girls got the absolute worst of me as a mum,
41 and accidentally because I hadn't still worked out my
42 trauma. I then - you know, even though I'd had a good
43 example, I still found myself reacting to things the same
44 way Mrs Price would. I felt myself being unusually hard on
45 my girls, and I suppose I was a verbally abusive parent.
46 So, it hasn't been a fun ride for them.

47

1 Q. You've mentioned that you're receiving therapy now?

2 A. Yeah.

3

4 Q. When you were a young person and living as a ward of
5 the state did you receive any therapy at any stage?

6 A. My second foster family really fought tooth and nail
7 to get me in to see a therapist; they actually believed I
8 had, like, ADHD, or ADD I think it was back then, so they
9 were pushing for me to go to therapy and be put on
10 medication and stuff, and I'm really not sure of the - I do
11 remember seeing a therapist in my teenage years, but it
12 wasn't for very long.

13

14 Q. Looking back now, it feels like your experience was
15 that the Child Protection System and the social work system
16 was absent from your life. What would have made a
17 difference, do you think? What could they have done for
18 you while you were in their care?

19 A. A hell of a lot more than they did; anything would
20 have been better than what they did, which was nothing.
21 They left me in the care of a family based on their
22 position within the community: I genuinely feel like that,
23 and so, I sort of felt that they felt that our case wasn't
24 a priority. You know, we were safe, they didn't need to
25 check in on us: I mean, look at where we were.

26

27 Q. You've made some observations in your statement,
28 Ms Beach, of some cases that you're aware of because of the
29 community that you live in now and the chances that you
30 have to see children living in the community around you,
31 some concerns you have that perhaps, although you wanted a
32 promise a while ago that this would never happen to another
33 child, that perhaps there are still children who live in
34 care and are having a poor experience --

35 A. Oh, my God, they are.

36

37 Q. And one of the children you mention is, we're calling
38 her Sylvia, can you tell us your concerns about Sylvia?

39 A. Poor Sylvia; I have huge concerns for her. You know,
40 they've taken this young baby who was only [REDACTED] old,
41 and now [REDACTED]

42

43 [REDACTED], she's only a baby herself; she's having relationships
44 with older men. Tas Police down in her area seem to be
45 aware of what's going on, but I fear that she's going to -
46 her outcome isn't going to be very positive at all - well,
47 it's looking pretty grim.

1
2 Q. The last part of the journey that you describe for
3 yourself in your statement is your experience approaching
4 the National Redress Scheme and also weighing up perhaps
5 whether or not you should seek compensation through the
6 Redress Scheme or through direct contact with the state
7 government, and in particular you've offered us some
8 reflections on how the Redress Scheme looked at and
9 assessed your experiences and how you found that not
10 helpful.

11 A. I found it completely dissatisfactory.

12
13 Q. Can you tell us about that?

14 A. I felt like I had to dig through every bit of trauma I
15 had to even get the offer that I was given, and by that
16 stage I had no fight left in me - like, literally I've been
17 haemorrhaging for three years trying to have something done
18 about what happened to me. It was a bit of a slap in the
19 face to find out that they're actually only paying for the
20 physical acts themselves. I think that's actually really
21 disgusting. I think even the wait times to be able to even
22 take or make a common law case against our government, you
23 know, five years is absolutely crazy; I don't have five
24 years worth of fighting in me anymore. So, I sold out and
25 I took the money and I ran.

26
27 Q. But as part of your decision to take the money from
28 the National Redress Scheme, you describe in your statement
29 some direct conversations you had with politicians in
30 Tasmania and some promises that you got from them. Can you
31 tell us about that?

32 A. Oh, I was promised that - I still, to this day, have
33 not received an apology at all. I was assured by a very
34 prominent politician that he would chase that up. The day
35 before I met with the Commissioner to talk about my
36 experience I actually had a little bit to say to him and
37 then blocked him, because I'm still waiting. You can't be
38 dragging your feet with stuff like this, like, I should
39 not - no-one should have to chase up their own apology at
40 all, and I think what makes this even worse is that the
41 people that I have spoken with already knew that this was
42 happening long before this Commission even came about; I
43 raised it so many times, but I suppose because of who I am
44 and, you know, sometimes how I talk and how I communicate,
45 it was complete - I felt, again, completely dismissed. I
46 feel like the Redress Scheme is a - is just a hush - dirty
47 hush money, is what it is.

1
2 Q. The last thing I wanted to ask you, Ms Beach, although
3 of course I want you to say anything that you want, is that
4 at the very end of the statement that you helped us with
5 you've written a closing statement with some reflections,
6 partly on your experience as a ward of the state and the
7 message that you would like the Commission to receive. Can
8 you tell us about that?

9 A. Oh --

10
11 Q. You talked about the stigma that attached to you as a
12 ward and how you feel that might have influenced people
13 responding to you when you tried to get the help that you
14 absolutely needed?

15 A. I do think that there is a stigma attached to being a
16 ward of the state or an ex-ward of the state. I think
17 that, particularly throughout my teenage years - no, not my
18 teenage years, my early childhood years, sorry, it was easy
19 for our concern - we, I believe that we had tried to raise
20 concerns and they were completely dismissed as us having
21 overactive imaginations, you know, "These poor girls were
22 subjected to so much abuse from their biological mother",
23 do you know what I mean, like, it was completely and
24 utterly dismissed. They did not investigate, they didn't -
25 they didn't do anything, they just sat back and watched us.
26 They basically set us up to fail as adults.

27
28 Q. And so, one of the things that you've said at the end
29 of your statement, Ms Beach, is that - you've referred us
30 to a quote that was meaningful for you:

31
32 *Everyone has a right to have a present and*
33 *a future that isn't completely dominated by*
34 *the past.*

35
36 A. Yeah.

37
38 Q. Sitting here right now, what could the state do for
39 you to help your present and future not continue to be so
40 dominated by the awful past that you've told us about?
41 A. Well, for a start, it'd be nice to see that the letter
42 I got from [REDACTED] was actually worth the paper
43 that it was written on, because from what I'm seeing and
44 where I live right now, I wasn't exposed to this up until
45 three years ago. I can't see them - all I see is the
46 department failing children over and over and over again,
47 and then, you know, then you've got the police force that

1 look at these kids like, you know, they're nothing but
2 trouble, you know, so then the police have got their backs
3 up against these children. And really, it's not - at the
4 core of it most of the time it's not their fault; they were
5 not born like this, they were made into this, whether it's
6 that the department has left these children too long in
7 families where they shouldn't be, or you know other cases
8 where they've taken children into care and completely and
9 utterly neglected them. It is not appropriate to have a
10 teenage girl or a teenage boy living independently in a
11 house: they need a family, a good family to be around and I
12 think that's what I needed, was a family.

13

14 MS ELLYARD: Thank you, Ms Beach.

15

16 Commissioners, those are the questions that I have for
17 Ms Beach other than to thank her very much both for her
18 oral evidence and for the details that she's provided
19 directly to the Commission, including in her witness
20 statement.

21

22 PRESIDENT NEAVE: Ms Beach, we're so sorry to hear about
23 the dreadful things that happened to you, and we really
24 applaud your courage in coming forward and talking to us,
25 and we hope very much that we will be able to recommend
26 changes that will protect children much better in the
27 future.

28

A. Thank you.

29

30 PRESIDENT NEAVE: I'll ask both of my colleagues if
31 there's anything they want to add to that?

32

33 COMMISSIONER BENJAMIN: No, I just join with the President
34 in her comments.

35

36 COMMISSIONER BROMFIELD: Me too and, Ms Beach, I just
37 wanted to say that I see you as more, not less, because of
38 everything that you've survived.

39

40 PRESIDENT NEAVE: Absolutely. Thank you so much.

41

42 MS ELLYARD: Thank you, Commissioners. Thank you very
43 much, Ms Beach.

44

45 **SHORT ADJOURNMENT**

46

47 PRESIDENT NEAVE: Ms Rhodes.

1
2 MS RHODES: Thank you, Commissioners. We have Ms Andrea
3 Witt from CatholicCare and Mr Paul Cairns from Life Without
4 Barriers, and Ms Nicola Crates from Possability to give
5 evidence from an NDO carer service provider perspective.
6 If they could be administered the oath or affirmation as
7 required.
8
9 <NICOLA JANE CRATES, affirmed and examined: [11.38am]
10
11 <PAUL MICHAEL CAIRNS, sworn an examined:
12
13 <ANDREA BRIGITTA WITT, sworn and examined:
14
15 MS RHODES: Ms Witt, I'll start with you, you provided a
16 statement for the benefit of the Commission dated 10 June
17 2020. Do you have that statement before you there?
18
19 MS WITT: Yes, I do.
20
21 MS RHODES: Have you had an opportunity to read through it
22 before today?
23
24 MS WITT: Yes.
25
26 MS RHODES: Are the contents of the statement true and
27 correct?
28
29 MS WITT: Yes, they are.
30
31 MS RHODES: Mr Cairns, you made a statement for the
32 Commission dated 9 June 2020. Do you have that statement
33 before you?
34
35 MR CAIRNS: I do.
36
37 MS RHODES: Are the contents of that statement true and
38 correct?
39
40 MR CAIRNS: They are.
41
42 MS RHODES: Ms Crates, you also made a statement dated
43 10 June 2020. Do you have your statement there before you?
44
45 MS CRATES: I do.
46
47 MS RHODES: And have you had an opportunity to read it?

1
2 MS CRATES: Yes.
3
4 MS RHODES: And are the contents true and correct?
5
6 MS CRATES: They are.
7
8 MS RHODES: You're all from different non-government
9 organisations or NGOs who provide out-of-home care services
10 to children on statutory orders. We've heard of a
11 continuum of care and different places where children are
12 on that care level. My understanding, Ms Witt, is with
13 CatholicCare and their provision of out-of-home care
14 services is mainly with the Therapeutic Residential Care;
15 is that correct?
16
17 MS WITT: Yes, Salaried Care.
18
19 MS RHODES: And so does that include Special Care
20 Packages?
21
22 MS WITT: Yes, we have Special Care Packages as well.
23
24 MS RHODES: And the children that you're dealing with are
25 children who have had multiple placement breakdowns, high
26 level of trauma, behavioural issues, so very complex, high
27 needs children in those placements?
28
29 MS WITT: That's often correct, yes.
30
31 MS RHODES: Mr Cairns, you also provide - Life Without
32 Barriers, who you work for, provide a lot of different
33 services for the out-of-home care space, but one of the
34 major ones is family-based care with foster carers?
35
36 MR CAIRNS: That's right, yes.
37
38 MS RHODES: And you also provide Special Care Packages as
39 well.
40
41 MR CAIRNS: That's correct.
42
43 MS RHODES: Ms Crates, you work with Possability which has
44 a disability focus.
45
46 MS CRATES: Correct.
47

1 MS RHODES: Your service has previously provided Special
2 Care Packages for, again, children with high needs and a
3 lot of children with disability as well.

4
5 MS CRATES: Correct.

6
7 MS RHODES: But at the minute you're not currently
8 providing out-of-home care services to the department --

9
10 MS CRATES: No. Not at this time, no.

11
12 MS RHODES: Just to jump straight into it because we've
13 heard a lot of evidence from other people this week, and
14 one of the key things that's come out is about training,
15 and I understand that you all get funding from the
16 government to provide services, but part of that funding
17 you have to allocate for training.

18
19 So, Ms Witt, with that funding, is that able to cover
20 all of the training that you need for your therapeutic
21 services and recruitment and all of the other funding
22 that's needed for your high risk kids in residential
23 therapy?

24
25 MS WITT: Organisationally we contribute quite heavily to
26 our training and our recruitment processes. From our
27 commencement we've implemented a range of changes to
28 improve the way we do that specifically because it's
29 probably one of the most or some of the most critical areas
30 in ensuring we're providing quality services. So, we do
31 contribute to that quite heavily.

32
33 Some of the challenges that we find is around
34 maintaining salaries for people to be able to attend
35 training, so we need to be quite creative about how we
36 implement that across our services.

37
38 MS RHODES: So, you have to pull from other areas within
39 your larger organisation to be able to fund appropriately
40 the services you want to provide to these children and the
41 training that you want to provide to your carers and staff?

42
43 MS WITT: That's correct.

44
45 MS RHODES: And that's the same for Life Without Barriers
46 and Possability?

47

1 MR CAIRNS: Yeah, absolutely, we share the same
2 experience.

3
4 MS CRATES: Yes.

5
6 MS RHODES: And with that additional training you fund, I
7 assume you also do it yourself, you get programs together,
8 and from your statements I understand that includes
9 training to do with child sexual abuse and harmful sexual
10 behaviours as well as a very big focus on therapeutic
11 training for your staff and carers. We heard from a
12 witness about whether there's a possibility of having a
13 schedule of training because you all provide different
14 training at different times.

15
16 Mr Cairns, what would be your reflections on that?
17 Would that be something that would be possible?

18
19 MR CAIRNS: Yeah, I think it's happening currently in an
20 ad hoc way between other providers and with the department
21 as well and trying our best to share training calendars and
22 opportunities that might become available, but it's
23 definitely not something that is well coordinated, it could
24 be improved and have a more coordinated and effective way
25 to kind of pull it all together.

26
27 MS RHODES: Is that coordination role something that the
28 government could perhaps take up?

29
30 MR CAIRNS: Yeah, it could perhaps, because I think to
31 your point initially in regards to the funding of training,
32 I'm thinking of that in terms of the initial training of
33 residential care workers, for example, but - so, the
34 funding's not there in terms of what the department are
35 providing us for that, nor is it there for the ongoing
36 training and development and future development of staff.
37 So, I think, yeah, the role itself would be well placed to
38 be coordinated by the department as the central point.

39
40 MS RHODES: And all three services have accreditation,
41 Child Safe accreditation through Australian Childhood
42 Foundation; is that correct?

43
44 (All nod).

45
46 Ms Crates, in terms of that accreditation, what does
47 that mean for your organisation and ensuring safety for

1 children against risk of sexual abuse?
2

3 MS CRATES: I think what it does is make sure that we have
4 carefully reflected on what the risks are and taken every
5 opportunity that we can to mitigate those risks, but I
6 think also it's important for us to be reviewed externally
7 because you don't always see the gaps. People work with
8 the best intentions but I think by having a third party
9 come in they've also set standards and expectations in
10 terms of what our work should look like, so it's great
11 because it makes us reflect before they come in to make
12 sure that we're ready for them to come and then, after they
13 come in we get that feedback and then that gives us
14 opportunities for further improvement.
15

16 And I think the other thing is that all of the
17 incident reports that would be related to sexual abuse,
18 that we would need to submit them to the Australian
19 Childhood Foundation in a de-identified way to make sure
20 that we are responding to those appropriately as well. So
21 it feels like there's some kind of external accountability
22 which I think is really important.
23

24 MS RHODES: Just following on from that, Ms Witt, this
25 accreditation that your organisation particularly has taken
26 on, it's not a requirement from the Department of
27 Communities to do that accreditation?
28

29 MS WITT: No, it's not specifically a requirement, our
30 service agreements do have something in them wanting us to
31 be a Child Safe Organisation but doesn't specify
32 specifically that it needs to be through safeguarding
33 children processes.
34

35 MS RHODES: Are you aware if the service providers who
36 work with the department, so not NGOs but government
37 providers, are required to have this accreditation?
38

39 MS WITT: I'm not aware whether they are or whether
40 they're not required. I don't believe they are, but I
41 can't confirm or deny that that's the case.
42

43 MS RHODES: Mr Cairns or Ms Crates, do you know the answer
44 to that question?
45

46 MR CAIRNS: No, I'm unsure of whether or not that applies.
47 I know in an LWB context our requirement is that we meet

1 Child Safe Standards to the satisfaction of the department.

2

3 MS RHODES: So, Child Safe Standards to the satisfaction
4 of the department, what does that mean?

5

6 MR CAIRNS: So, I think speaking to Nicola's point is that
7 it's a requirement that we have the organisation systems in
8 place, but I think the gap at the moment - in terms of
9 safeguarding - but I think the gap at the moment, to expand
10 on Nicola's point, is that the ongoing review and
11 accreditation against those standards isn't in place.

12

13 MS RHODES: So, is there any sort of monitoring by the
14 department or a standard that you have to be assessed by
15 the department to be a provider?

16

17 MR CAIRNS: No. So, in my time working with Life Without
18 Barriers I've approached the department - at Life Without
19 Barriers we run our own internal auditing process against a
20 set of standards, the National Out-of-Home Care Standards
21 and against the HSQF framework which is a Queensland human
22 services framework, but we don't have an equivalent in
23 Tasmania, so we're using that as the set of standards to
24 measure ourselves by and put in a system of continuous
25 improvement against those standards.

26

27 MS RHODES: Just to clarify, there's no monitoring or
28 assessment that you need to meet for the department's
29 purposes, but being accredited you have to meet ACF
30 standards, and then I understand that all three
31 organisations have your own internal auditing and
32 assessments that you undertake to ensure that your
33 organisation is a Child Safe Organisation?

34

35 MR CAIRNS: Just to expand on that a little bit. My
36 understanding is that the department take a - what's been
37 described to me as a risk-based approach to that review of
38 standards and, although I haven't been through that process
39 in my time with Life Without Barriers, that's been
40 explained to me as the way they would exercise that within
41 the contract.

42

43 MS RHODES: What does that mean?

44

45 MR CAIRNS: I'm assuming that that means that if something
46 goes very badly, that then they will set up a review
47 process to come in and review against the standards.

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MS RHODES: Okay, so it's only if an incident occurs that the review will happen, it's not an ongoing regular review to make sure that a service is delivering appropriate standards?

MR CAIRNS: Yeah, that's right.

MS CRATES: I think there was an example with a provider, Safe Pathways, and at that time there was quite a detailed review by government about the implementation of services by that provider, and so at that time some of the children moved away from that provider to other providers.

MS RHODES: Ms Crates, do you see a benefit in having a standard set by the department for all?

MS CRATES: Absolutely, because I think it's about prevention not - at the moment it's responding to when things go wrong, what we should be doing is preventing things from going wrong.

MS RHODES: Ms Witt, we've heard evidence about residential placements being very high risk for children in terms of risk of sexual abuse. Can you explain your experience to the Commission in terms of what happens when you might get a report of an allegation of harmful sexual behaviour or child sexual abuse?

MS WITT: Yep. Certainly homes where we have a number of children that come with a range of different historical trauma experiences, there is risk that those experiences will result in behaviours that place other young people at risk. So, from the first referral point it's really important that we have a very clear understanding of every young person that comes into our care, and it's very important that we're able to identify what the risk levels are, and at those points, at the referral point, it is possible that we may not accept a referral into that service because it's deemed to be too great a risk to the other young people in care.

If we were to have an occasion within our service where a young person identifies a risk or if a worker was to identify a risk, the process that we have is very much about reporting anything and everything; whether that's a suspicion or whether that's something that we deem to be -

1 have evidence for or not, and we then, through that report
2 to Child Safety, commence a process of review.

3
4 If that allegation or if that concern is something
5 that's outside of the service, then we'll support the young
6 person through that process and work with Child Safety
7 where we can. If it's a concern that might be within the
8 service or if there was an allegation of any description
9 against any member of our team, then that person would be
10 immediately stood down through that investigation process.

11
12 At that time it's really important that, as a service,
13 that we're not doing anything in isolation with Child
14 Safety because we need to make sure that there's nothing
15 that we do that potentially could impact on the integrity
16 of any investigations that might occur. So, we'd work very
17 closely with Child Safety around that.

18
19 If there was an allegation around sexual abuse, either
20 internal or external, then police would often take the lead
21 in those investigation processes.

22
23 MS RHODES: So, the department has their care and concern
24 process which all of you have detailed in your statements
25 so I won't ask you to go through the detail, but you also
26 have your own internal processes as well. So, you don't
27 just leave it to Child Safety --

28
29 MS WITT: No.

30
31 MS RHODES: -- to investigate or action, you have your own
32 processes; is that correct?

33
34 MS WITT: Yes. So, our processes investigate any concern
35 whatsoever. We believe that, by the time an allegation of
36 sexual abuse has occurred or neglect or those very serious
37 allegations come forward, that it's the smaller - it's the
38 smaller allegations, sometimes absolutely minute, that are
39 really important to be able to investigate and follow
40 through because, if you can through process of
41 investigation and review identify and work through those
42 small risks, then it substantially reduces the risk of
43 greater abuse from occurring.

44
45 So, we have a very clear process of investigation that
46 we have documented that we have supported internally, but
47 with people external to the - not within the actual support

1 space. All of our processes are clearly communicated
2 through to the Child Safety person responsible for any
3 young person, and we provide everything and anything, any
4 incident that occurs relating to any behaviour to Child
5 Safety.

6
7 PRESIDENT NEAVE: Can I just ask a follow-up question to
8 understand something? So, you do take on children that you
9 know may already be at risk of doing harmful sexual
10 behaviours, don't you? You may say, no, we're not able to
11 deal with that child at this time, but you will have some
12 children - you will be told by the department about that
13 risk, if they want you to take responsibility for that
14 particular child, caring for that particular child. Have I
15 understood that correctly?

16
17 MS WITT: Not quite.

18
19 PRESIDENT NEAVE: Okay, thank you.

20
21 MS WITT: So, if there is a young person and we are aware
22 through the referral process that there is a risk to other
23 young people, then that referral would not be accepted into
24 a group home. So, it would rather, instead we would be
25 looking at a Special Care Package or an individualised
26 placement.

27
28 PRESIDENT NEAVE: Right.

29
30 MS WITT: So we would never place in one of our homes
31 where there is more than that one person --

32
33 PRESIDENT NEAVE: I understand, yes.

34
35 MS WITT: There are occasions where we have absolutely had
36 referrals for young people who are demonstrating harmful
37 sexualised behaviour and those young people have come into
38 our service with a - basically a one-on-one placement. And
39 we have worked very closely with Child Safety around
40 supporting that young person and looking at linking them to
41 specialist supports around those risks.

42
43 PRESIDENT NEAVE: And you're confident that, if that
44 behaviour has occurred previously, the department will tell
45 you about it and you will be aware that that is an issue?

46
47 MS WITT: No, I'm not confident. I'm confident that -

1 because I'm not always confident that Child Safety
2 necessarily know.

3
4 PRESIDENT NEAVE: That was really where I was going.

5
6 MS WITT: I see.

7
8 PRESIDENT NEAVE: If they do know, they would tell you,
9 but they may not know; is that what you're saying?

10
11 I'll tell you why I'm pursuing this. One of the
12 things that we've heard sometimes is that children who are
13 placed with a family; families are sometimes not told
14 things that may be relevant to looking after that child,
15 and that's a complex issue, I understand. So, I'm just
16 wondering what happens at the earlier stage when it's not
17 the department that's placing the child, it's you who are
18 providing the services for the child in one way or another.

19
20 MS WITT: It's a very complex question, because I think
21 that young people who may have a history of problematic
22 sexualised behaviour do not always demonstrate that
23 behaviour the whole way through their care experience.

24
25 PRESIDENT NEAVE: Yes.

26
27 MS WITT: So, when we consider that young people, often
28 who have had varied placements, often who have had a number
29 of different people looking after them, both in Child
30 Safety and outside of Child Safety, sometimes within that
31 process some information gets lost. And so, to say that we
32 are not informed, yep, that's accurate and that's why I'm
33 not confident.

34
35 But I can't say that that's an intentional - no, and I
36 think that's probably - one of the other issues is, if
37 there is a - or if there is some warning signs where there
38 might be some problematic sexualised behaviour often the
39 placement will be adjusted so that that risk is reduced.
40 But what that sometimes does is create an environment where
41 there is not going to be a risk because it's not going to
42 happen because they don't have other young people around
43 them, and then that can form a confidence that this is an
44 issue for that young person when really it hasn't been
45 tested and it hasn't been adjusted and there hasn't really
46 been anything to be able to help heal that young person.
47

1 So, at that point I think it would be easy, and I'm
2 not saying this happens, but I understand it would be easy
3 to think that there isn't a problem, when sometimes there
4 is. Is that --

5
6 PRESIDENT NEAVE: Yes, thank you.

7
8 COMMISSIONER BENJAMIN: If I can take that one step
9 further. You said that you will provide all information to
10 the department.

11
12 MS WITT: Yes.

13
14 COMMISSIONER BENJAMIN: And I think the words you may have
15 used was - and I can't find them here, but it was very
16 expressive. Whatever happens, no matter how minor, how
17 tangential your path is on; is it possible that some
18 information could be retained or not passed on to you out
19 of some notions of privacy or confidentiality?

20
21 MS WITT: From Child Safety or from our own teams?

22
23 COMMISSIONER BENJAMIN: From Child Safety.

24
25 MS WITT: Well, anything's a possibility, so yes.

26
27 COMMISSIONER BENJAMIN: Have you experienced that? That's
28 probably a better way to put it.

29
30 MS WITT: Yes. Yes, I have. I can think of a particular
31 example where there was a concern around providing a
32 psychological report.

33
34 COMMISSIONER BENJAMIN: And that would have been fairly
35 essential in terms of your assessment as to the best way to
36 provide a safe place for that child?

37
38 MS WITT: Absolutely.

39
40 COMMISSIONER BENJAMIN: Did that privacy or concern come
41 from the child or from the department, do you know?

42
43 MS WITT: That came from the Child Safety worker who was
44 very new at the time, but that was rectified through the
45 systems where they had a team leader who was quite
46 experienced providing oversight.
47

1 COMMISSIONER BENJAMIN: Mr Cairns, have you struck
2 anything along those lines?

3
4 MR CAIRNS: With regards to withholding information due to
5 confidentiality, in the context of our out-of-home care
6 work, I can't think of a situation where that has occurred.

7
8 To speak further to the actual issue around
9 information being passed on, and particularly around
10 information regarding young people who have problem
11 sexualised behaviours or a history of, I think it needs to
12 be viewed in the context of the lack of a - and, you know,
13 I could speak about that later as well - but the lack of a
14 quality framework and system in place that would identify
15 issues and promote continuous improvement around issues.
16 Because I think the information management side of things
17 becomes something that really needs to be picked up in that
18 process of improvement. And, with the lack of that system,
19 it isn't surprising to me that those information gaps
20 occur.

21
22 COMMISSIONER BENJAMIN: And?

23
24 MS CRATES: Do you want me to comment as well?

25
26 COMMISSIONER BENJAMIN: Yes, please.

27
28 MS CRATES: I think in terms of information gaps, a lot of
29 that comes more from the fractures within the system. So,
30 as Andrea was talking about the multiple placements, but
31 then also the multiple handover points within that Child
32 Safety System. So, there's a handover from intake to case
33 management, but then there's also a lot of turnover of the
34 people working, so often I don't think it's a deliberate
35 withholding of information but information gets lost, and
36 not just kind of that highly confidential type of
37 information or information about sexual harm, but just
38 basic things about children like, what do they like to do,
39 what are their interests, so that when you're trying to set
40 up a placement for someone, you know, you don't know what
41 their favourite colour is, you don't know what activities
42 they would like to have when they come into that placement.

43
44 So, I don't think any of that's deliberate, but I
45 think it's a reflection on a system that really struggles
46 to maintain workers within that system, and so there's a
47 lot of handover, and information just gets lost, because

1 they're not necessarily the things that you record in case
2 notes but they're the things that you know from having a
3 relationship with people that you can't hand over.

4
5 COMMISSIONER BENJAMIN: Do you get the file?

6
7 MS CRATES: No, we get --

8
9 COMMISSIONER BENJAMIN: I've seen them from time to time,
10 sometimes they're that thick and there's repetition and all
11 sorts of issues.

12
13 MS CRATES: No. There has been occasions, particularly
14 where we were developing a therapeutic behaviour support
15 plan for a child with really complex needs where we made an
16 arrangement to actually go and review the whole file. But
17 generally, you know, a good summary of the key information
18 is what people need. You know, you don't need to know
19 every nuance of someone's history, you need to know what
20 are the results of that and what is it that we need to be
21 working towards.

22
23 MS WITT: Can I add to that, please?

24
25 COMMISSIONER BENJAMIN: Yes.

26
27 MS WITT: One of the things that I'm often concerned about
28 for kids in care is that their whole life is open to
29 everyone about everything; and, for me, I find that in
30 itself a potential place of abuse for young people, and I
31 think that sometimes when you're providing a response to
32 young people it's actually - if there are indicators of
33 risk, absolutely, like we were talking about problematic
34 sexualised behaviour, but at the same time it's really
35 important just to see the kid in front of you and not
36 necessarily be tainted by the horrendous experiences that
37 they've had to live with. So, I think that's something
38 that's really difficult to balance.

39
40 COMMISSIONER BENJAMIN: It is, I think that was one of the
41 reasons I asked you the question about whether the privacy
42 was asserted by the child or by the caseworker. Because if
43 the child has a strong therapeutic relationship with
44 someone where they feel they can tell stories, you don't
45 want to undo that relationship.

46
47 MS WITT: But at the same time you need to maintain

1 safety.

2

3 COMMISSIONER BENJAMIN: But you still need to go what's
4 going on so you can make good decisions for the child.

5

6 MS WITT: Yep.

7

8 COMMISSIONER BENJAMIN: Thank you.

9

10 MS RHODES: Mr Cairns, just going back to the care concern
11 process, again, don't need details it's quite set out, but
12 you do make comment in your statement at paragraph 73 that
13 in your experience the protocol of responding to serious
14 abuse and neglect concerns doesn't necessarily follow the
15 process. Could you sort of explain to the Commission what
16 you meant in that paragraph?

17

18 MR CAIRNS: Yeah. So, I think there's some particular
19 timelines required for response under that procedure. So,
20 for instance, if a serious matter, like, severe abuse or
21 neglect or something of that nature is reported, it's a
22 Child Safety responsibility to then coordinate a - what's
23 known as kind of a coordination meeting in response to
24 that, and that involves pulling the service provider in the
25 instance that we're involved in that, and a senior practice
26 person within the Child Safety team to come together,
27 review what the matter is and plan the response accordingly
28 in a joint coordinated way.

29

30 I've had experiences where it has happened in
31 line with that procedure, but I've also had experiences
32 where it hasn't and that timeline's extended beyond what's
33 outlined in the policy.

34

35 MS RHODES: So that there's not as rapid a response on
36 some occasions?

37

38 MR CAIRNS: Yeah, it's not consistent. It's not that well
39 coordinated, and I think the other part about the response
40 to those matters is that it does lack specialisation, and
41 also coordination between, not just the department, but
42 police and Health to be able to coordinate the best
43 response to those matters.

44

45 MS RHODES: Does the response, is it at all affected by
46 who the caseworker is, so who the Child Safety Officer is?
47 Would that make a difference to how quickly the response is

1 or what type of response you get?

2

3 MR CAIRNS: Yeah, I think that would be - yeah, I think
4 that would be my experience, is that often Child Safety
5 workers who have experience and who have been there in
6 their role and understand the procedure, and have access to
7 their team leader and the senior practitioner are able to
8 pull those meetings together and that response to meet the
9 timeline.

10

11 But - and probably to speak broadly in that context of
12 workforce challenges, you know, we know that that's not a
13 specific issue to the Tasmanian Child Safety Service in
14 terms of inexperienced workers or new workers in the role
15 of Child Safety Officers, and then Child Safety Officers
16 who haven't been there all that long being promoted into
17 supervisory roles, and within the context of that and these
18 issues emerging, I believe that plays a part in the
19 response and the inability to make that procedural
20 requirement.

21

22 MS RHODES: I might be putting you on-the-spot here, but
23 is there anything that you could reflect on or think about
24 of a way to addressing that issue?

25

26 MR CAIRNS: I think there's good examples in other states
27 and territories. In New South Wales, for example, I know
28 that their system has a particular unit and agency
29 responsible for such matters in which the specialisation
30 and coordination capabilities are there and representatives
31 from police, Health and Communities are within the one team
32 in response to those significant matters.

33

34 MS RHODES: Ms Crates, I understand that Possability has a
35 particular therapeutic care model that they adopt, and I
36 understand that CatholicCare and Life Without Barriers also
37 have a therapeutic model. I should preface this with, you
38 ceased your involvement in this sector, when was that?

39

40 MS CRATES: Sorry, it's in my statement when the last
41 child left, but it was quite recent - last year wouldn't it
42 have been? Yeah, last year, yep.

43

44 MS RHODES: So, prior to you leaving the sector were you
45 aware if the department had any therapeutic model that they
46 were using?

47

1 MS CRATES: No.

2

3 MS RHODES: So, as a provider you had to decide on what
4 model --

5

6 MS CRATES: What model was most appropriate, and I think
7 that comes down to the style of service that you're
8 delivering and then also the children that you're working
9 with, and then it's linked to your organisational mission
10 and standards and those things as well, so that drives some
11 of your choices.

12

13 MS RHODES: What's the benefit of the therapeutic model
14 for children who may be at risk of child sexual abuse or
15 may need treatment and therapy to overcome - well, do the
16 healing part of being a victim?

17

18 MS CRATES: So I think the therapeutic model of care, the
19 most important part is the development of relationships, so
20 it's that development of a sense of safety and that
21 development of relationships with people, so that idea that
22 there are people who are here that you can trust, that you
23 can talk to, and to create that sense of safety for the
24 child, and that's really the first place, particularly for
25 the children we were working with, they'd been through
26 multiple placement breakdowns. So, that first step was
27 actually to say, you're actually going to stay here, you're
28 going to be safe and you're going to stay here, and yes
29 there will be days where things won't go well, but the next
30 day will be a new day and we'll start again from there, and
31 that was a really important part of the model of care for
32 us in terms of that therapeutic model. Our experience was
33 very much in working with people with severe and
34 challenging behaviours, so we've applied some of our
35 learnings from the disability sector particularly in that
36 crisis management space about how we can safely manage
37 children.

38

39 MS RHODES: Mr Cairns, I think you say in your statement
40 that the department has recently adopted a therapeutic
41 model, I think this is at paragraph 66; the acronym TBRI.

42

43 MR CAIRNS: Yep, TBRI, Trust Based Relational
44 Intervention. Yeah, that's my understanding, is that the
45 out-of-home care team within the department are looking to
46 implement that as a model for their foster care team and
47 out-of-home care team and also making that available to

1 other foster care providers as well to be able to come
2 along to the training.

3
4 MS RHODES: And so, has that training started? How long
5 in the process is this?

6
7 MR CAIRNS: No, not to my knowledge, it hasn't started,
8 no, but the intention is that it'll be on the training
9 calendar.

10
11 MS RHODES: Ms Witt, we have also heard a lot of evidence
12 about children leaving placement, and this is a thing that
13 occurs quite frequently in the residential space, and I
14 understand you've had experience with children who do this.
15 What response does your service provide or what do you do
16 to protect these children if they're not returning to your
17 placement?

18
19 MS WITT: The first thing we'd do is try to understand
20 why, what's the driver for the young person not wanting to
21 be there, and there can be lots of reasons why that's the
22 case. It can be that they've got networks and contacts and
23 people that they want to be with that aren't us; it can be
24 placement fatigue; it can be that they're not happy with
25 something that's happening in the house; it can be because
26 of relationships with other young people or relationships
27 with staff. There can be a whole range of different
28 reasons, so the very first thing we try to do is understand
29 that.

30
31 Alongside, when a young person does leave we do what
32 we can to implement a bit of a safety plan, so we try to
33 make sure that they've got their mobile phone with them
34 with a charger, try to identify where they're going to,
35 take note of what they're wearing; be cognisant of what
36 they're leaving with, which will often give us an
37 indication of whether they're planning a short - like, are
38 they going for an hour or are they going for a week?

39
40 For us it's really important to have a - what often
41 brings young people back is the relational activities that
42 we do, so it's about having the relationship to be able to
43 contact the young person by mobile and have them answer;
44 talk to them about where they are and what they're doing
45 and who they're with and trying to understand that.

46
47 Where it's safe to do so our workers will basically

1 follow them and try to talk to them as they're walking
2 alongside them to coming back home. We'll do things like
3 put their favourite meals on, we'll talk about watching
4 movies with them or doing whatever it is that we feel might
5 have that young person connect back to us.
6

7 For us, we see when young people abscond or leave the
8 service is probably one of the highest risk times because
9 they are so very vulnerable to things that can happen
10 within the community. Often we'll contact police and we'll
11 ask police to either keep a lookout or, if we know where
12 they're going, we'll ask the police to do a welfare check.
13 Sometimes if they're going towards a place where we know
14 the address we can get them home with police doing regular
15 check-ins at that property because, for whatever reason,
16 people from that property don't necessarily appreciate the
17 police attention.
18

19 So, we will do whatever we humanly possibly can to be
20 able to get a young person back, which sometimes does
21 include going to the place and putting pressure on wherever
22 that is if we're able to know where they are.
23

24 MS RHODES: Is Child Safety part of that response too?
25

26 MS WITT: (Nods.)
27

28 MS RHODES: Have they been quite cooperative with that?
29

30 MS WITT: So, where we have - typically there's a pattern
31 of absconding for a young person: sometimes there will be
32 the one-off occasion, but often it'll be someone who tends
33 to do that quite regularly, so it is a topic that's
34 discussed during Care Team meetings quite frequently.
35

36 Any time a young person leaves placement without
37 permission, we note that as an incident and as such that is
38 reported directly to Child Safety and we'll talk to them.
39 If it's, you know, overnight we'll talk to them the next
40 day or if it's something that we're particularly concerned
41 about due to age or a range of other factors, we might call
42 on-call and have a conversation there as well.
43

44 So, it's my experience that, from my teams, that often
45 Child Safety workers are also quite concerned when this is
46 happening. We also sometimes have it that the Child Safety
47 worker will have an individual independent conversation

1 with the young person to identify if there's something
2 happening in the service that we don't know about, because
3 they're not gonna tell us, but they might tell their Child
4 Safety person.

5
6 MS RHODES: Do you find that the police are responsive or
7 is there sort of differing degrees of response?

8
9 MS WITT: There is differing degrees of response. We've
10 had some really good outcomes working with early
11 intervention where that's been very, very positive, but
12 sometimes when - because if we've got incidences within the
13 house where there are behaviours, violent behaviours, all
14 those sorts of things from people, or where we're
15 constantly ringing every night to say, "Someone's left
16 again, can you keep a lookout", sometimes there can be some
17 frustration.

18
19 MS RHODES: And that frustration may lead to the police
20 not responding quickly or not responding at all when the
21 risk might be quite high?

22
23 MS WITT: Sometimes, yes.

24
25 MS RHODES: And so, when you say police are good with
26 early intervention, what do you mean by that? Because we
27 heard evidence about disruptive policing and getting, sort
28 of, the pressure on the offender as early as possible; is
29 that what you're talking about or is that something
30 different?

31
32 MS WITT: I think that might - I'm not sure, I think that
33 could be something different. I haven't heard that
34 evidence so I can't respond to that, but what I can say is
35 that, where police have a really good understanding of
36 trauma and the impact of trauma on young people and how
37 young people will behave, we get great responses.

38
39 So, where we have police officers who can see the
40 young person as an individual and not - who comes with a
41 history with a lot of different experiences rather than a
42 naughty child that isn't doing what they're told and, why
43 aren't you doing better and managing them properly, yeah;
44 they're kind of the polar opposites and we can get anything
45 in between.

46
47 MS RHODES: Ms Crates, you're nodding there and I know

1 that in your statement you make some comments about this
2 too and your experience at Possability of a young person
3 returning back to placement because of the work that you do
4 as outreach.

5
6 MS CRATES: Yes.

7
8 MS RHODES: But some of that outreach isn't funded through
9 the department, that's something that --

10
11 MS CRATES: Sorry, in terms of outreach, some children
12 will get funding for outreach but others wouldn't. So, if
13 we were doing outreach it was typically funded by the
14 department. Sometimes we would start doing it while we
15 negotiated, but yeah it required - not everyone - it wasn't
16 always decided that that was the best option.

17
18 MS RHODES: You also say in your statement, with these
19 children who are showing high risk behaviours, that one of
20 the possible improvements would be having a safe secure
21 place. Could you explain what you mean by that?

22
23 MS CRATES: So what we had sort of thought about and had
24 at times talked about with the department was the idea of
25 having housing where we could keep a child secure for a
26 period of time, and the idea was that their support team
27 would go with them to that housing option, particularly
28 when they were leaving to be with adults, leaving to
29 associate with people who were taking drugs and then coming
30 back, you know, highly affected, making very dangerous
31 decisions but not actually offending. So, that
32 opportunity. And then, even if a child is offending, the
33 process of going through the court system is so far removed
34 from the event that actually happened, there's really not a
35 causal relationship for them and what you tend to find is
36 actually going back through the court system becomes
37 another trigger for more problem behaviours because they
38 start to get anxious about the fact that they're going to
39 court and they don't know what's going to happen with that
40 so then their behaviour gets worse and worse, and on the
41 lead-up to court they end up doing something that might
42 lead them to going out in the community and get another
43 charge.

44
45 So the idea was that, if we could just hold and keep
46 children safe and secure for a period of time, that would
47 be time-limited, and then we'd go back to the normal place,

1 yeah. And then if things started to raise up again we
2 could go back to that place. So, it was really more about
3 how do we set limits in a safe way for those young people,
4 because we don't really have any way of doing that. And
5 when you're in the community living in a street anywhere in
6 suburbia, you know, we don't have a legislative - the other
7 thing is we don't have a legislative right to do that
8 either, so you'd need some legislation that would support
9 that as well.

10
11 MS RHODES: We heard evidence from the Victorian context
12 of actually having a secure welfare unit which would be
13 somewhere along the lines of what you're saying?

14
15 MS CRATES: Yeah.

16
17 MS RHODES: Or are you saying something a little bit less
18 restrictive?

19
20 MS CRATES: I'm thinking about something less restrictive
21 because I think once you get into a secure welfare unit
22 then you start to go down the pathway of all of the issues
23 that are there in a detention facility, they start to
24 become similar. For us it was more about how can we set
25 limits for people and maintain all of the relationships
26 that they have. Because sometimes there's a tension
27 between the therapeutic relationships that you're
28 developing internally and the pulls that are outside, which
29 are, you know, people who are saying, "I care about you, I
30 love you", you know, the misunderstanding that someone
31 wanting to have sex with you means that they actually care
32 about you and they want to look after you; the fact that
33 someone's giving you drugs that make you feel okay for a
34 period of time. Those things are very confusing for a
35 young person, very easy to get sucked into those things,
36 and they're inevitably craving that sense, I belong
37 somewhere, and so people give them that impression, this is
38 where they belong and that's naturally where they're going
39 to go to.

40
41 So our thought was, if we could hold them somewhere
42 just whilst the police could follow through on some of
43 those things and just set some limits there for them. We
44 did have an experience with one young person, we have an
45 intensive support unit which is disability support
46 accommodation, and that young person lived there for a
47 couple of years and it was kind of - it was a bit more

1 institutionalised feeling. I mean, we made it as homely as
2 possible but it was a disability house, and then was really
3 proud when they moved to a normal community setting. But
4 then as they sort of went through adolescence and their
5 healing process they started to kind of act out, they
6 started to kind of get sucked into some of those community
7 things and they actually asked us, could they go back to
8 that other place for a while and it actually gave them an
9 opportunity to reset their boundaries and tell people, "I
10 can't leave", you know, so it kind of takes some of that
11 responsibility away.

12
13 So I think we were thinking of secure in a very safe
14 caring way, not in an institutional way, yeah, that was
15 what we were thinking of.

16
17 MS RHODES: I'm just conscious of the time. All of you
18 have provided very helpful recommendations and suggestions
19 of where improvements could be made, but I would just go to
20 you, Ms Witt: you make a very interesting comment in your
21 statement - I'll just give the reference number - it's
22 answer to Question 20, because you didn't have
23 paragraph numbers, but it's an answer to Question 20,
24 I believe. You make the observation that there's been lots
25 of reforms through the Child Safety space. Could you sort
26 of explain that comment? The comment I'm referring to is
27 when you say:

28
29 *Changing the deck chairs without sufficient*
30 *resourcing will not improve outcomes.*

31
32 Could you explain what you mean by that?

33
34 MS WITT: So, often whenever there's a review or whenever
35 there's, with respect sorry, but inquiries, often there
36 comes a whole range of ideas about what should happen
37 within a service sector, and when that occurs there's a lot
38 of shuffling to make things right, and sometimes in doing
39 that there are unintended consequences; so things get moved
40 around, systems are changed and things are put in place
41 which are often positive. But sometimes all that's really
42 doing is moving things around and not actually implementing
43 any real change, and I think that every time we look at
44 doing a reform or we look at doing a review, or we're
45 looking at doing things better, often that's before we've
46 even finished the last reform; so before everything's been
47 implemented.

1
2 And I think that the area of children is quite
3 political, so often what happens is, children end up
4 suffering because in a political environment people are
5 running around trying to put out fires rather than actually
6 making it apolitical and standing together and being able
7 to work towards solutions that are actually long lasting.
8 I think that it's a very sad state of affairs when having
9 child safety as part of your portfolio is considered to be
10 a poisoned chalice. Like, what sort of environment is
11 that? Whereas if we had an apolitical environment, where
12 we were actually looking at the betterment of outcomes for
13 children that actually focused on the kids and how is that
14 actually going to deliver outcomes for young people, then
15 that's probably a much better state, because otherwise it
16 is just literally moving deck chairs.

17
18 COMMISSIONER BROMFIELD: Can I follow up on that to just
19 ask: what, if any, real changes do you think are required
20 to make children safer from sexual abuse in out-of-home
21 care?

22
23 MS WITT: I think that we need to have a very broad
24 process, a multidisciplinary process of educating community
25 sector government around children and children's needs. I
26 think we need to have a much clearer understanding of
27 trauma and the impact of trauma on young people, what a
28 therapeutic environment is, and how to keep young people
29 safe both physically and psychologically.

30
31 I think education programs like Power to Kids is
32 really important, but also educating police, educating
33 teachers, educating community, people knowing how to
34 protect their own children and being able to be aware of
35 what those risks to their children and their children's
36 friends are.

37
38 And I think if we place solely the focus on child
39 safety to a government body then we're losing any
40 opportunity of having a complete community culture of
41 support and focus on children and what they actually need.

42
43 PRESIDENT NEAVE: That's a very eloquent argument for the
44 involvement of NGOs in this area. I wonder whether NGOs
45 could play a role in making this a less political process
46 in bringing together different sides of politics, educating
47 them, and I'm talking about now the politicians really,

1 educating them and getting commitment to a bipartisan
2 approach perhaps in some areas, or is that just pie in the
3 sky?

4
5 MS WITT: I think it's possible, I think it's possible. I
6 think that in this area we don't have a peak, we don't have
7 a peak to be able to provide that united voice that we do
8 in some other areas, and I think that's a problem, because
9 that's an area that enables uniting of voices and kind of
10 pulling away from politics.

11
12 I think that implementation of different bodies with
13 responsibility outside of political positions of power are
14 important. Certainly all the things that we've talked
15 about, the carer's register, the standards, you know, all
16 of those things are very important, but more important I
17 think is the sharing of responsibility for children and
18 young people not just within NGOs but across every
19 government business unit: family violence, where is the
20 demonstration of the child and how is each service
21 reporting on how they're caring for children; all funding
22 streams should have an element of, how are you protecting
23 and looking at the rights of children.

24
25 PRESIDENT NEAVE: Do you think that the attempt to make
26 this more bipartisan has worked better, for example, in the
27 area of family violence now? I mean, there have been
28 reforms in Tasmania.

29
30 MS WITT: I think there are improvements but I think we've
31 still got a long way to go.

32
33 PRESIDENT NEAVE: Thank you.

34
35 COMMISSIONER BROMFIELD: I wanted Mr Cairns and Ms Crates
36 also to have an opportunity to let us know what, if any,
37 real changes they see as being required?

38
39 MR CAIRNS: Pragmatically I think there's some quick wins
40 in terms of improving the current service system just with
41 the implementation of the recommendations from the Royal
42 Commission around having a set of standards in place,
43 accreditation of providers in the space, including wherever
44 government are providing service. I think that is a well
45 understood recommendation and needs to be followed through
46 in a really timely way.

1 My understanding is, we're the only state in Australia
2 that operates Child Safety Services without accreditation,
3 or some form of external audit process of services and I
4 think that offers a real opportunity for us to improve the
5 service system.

6
7 I just kind of think of it in terms of, you wouldn't
8 go and purchase a vehicle from a manufacturer that doesn't
9 have any quality or safety standards in place in the
10 manufacture of that vehicle; the vehicle that you receive
11 is going to be, you know, unsafe and you're definitely not
12 going to get two that are the same. So, I think having
13 that, I guess, simple in many ways, in place in the service
14 system I think is a massive improvement.

15
16 I think, within doing that, accreditation poses some
17 challenges in the current service system with Child Safety
18 being still the largest provider of out-of-home care
19 services, so I think there have become some tough questions
20 to ask and to manage through in terms of the role and
21 function of Child Safety within Tasmania's Child Safety
22 Service system.

23
24 I think there's a case to look to what other states
25 and territories have done there in terms of services being
26 sent to NGO providers or whoever it might be, where
27 outcome-based contracting and those kind of tools can be
28 put in place to ensure quality of the service - the quality
29 of service improves continuously. And, you know, when I
30 think of those things, I think of real outcomes for
31 children that are obtained from that; so things like
32 regular visits and ensuring that that is an element of a
33 contract that is written in, and people are held to
34 account. Because, you know, we know that the importance of
35 relationship and the importance of connection and obtaining
36 that child voice is vital as a safeguard, and I think
37 having a system that holds accountability to those things
38 is really important. Alongside other things like care
39 plans that guide each of the domains of a child's life and
40 ensuring that there's goals set and improvement made
41 against those are another element of that outcome-based
42 contracting that could be really beneficial.

43
44 The only last thing I'd speak to that is that, for
45 NGOs in particular, a lot of that structure is in place;
46 you know, the ability to have the accreditation cycles and
47 meet those standards are already in place and already ready

1 to be, I guess, absorbed into any other ongoing service
2 request in that space.

3
4 COMMISSIONER BROMFIELD: Thank you. Ms Crates?

5
6 MS CRATES: So I guess from me, I'm probably coming at it
7 from a slightly different angle, and I think the first
8 thing is that we have to shift the thinking about children
9 in this space, and these are children our community's
10 failed, and to see those children who have been failed by
11 our community as a really good investment; that investing
12 money in those kids is great value for money because of the
13 difference it's going to make in their lives and in the
14 lives of the people they come into contact with in the
15 future.

16
17 I think that one of the key ways of doing that is
18 having some effective collaboration, so we need to have
19 really good collaboration between government services and
20 not-for-profits and NGOs and, as Andrea was mentioning, all
21 of the other parts of the community that should be
22 supporting children.

23
24 There was for me a time back when the special care
25 packages were established, and at that time they were lead
26 by a couple of really skilled practitioners from government
27 in the out-of-home care space, and there was a period of
28 time there where there was this lovely collaboration
29 starting to happen and some really nice outcomes starting
30 to happen for children. So, where we were a provider that
31 was doing really intensive one-on-one work, children don't
32 need that forever, they need to then progress into a more
33 family-based model, and so we ought to be having a dialogue
34 with other providers saying, this is the kind of person you
35 should be looking for in three to six months for this
36 child, so there's kind of that forward planning.

37
38 But there was also this sense of cooperation so that
39 when things went wrong in the sector, that the providers
40 got together and helped government find a solution, and I
41 think that's the only way to really get that change, is if
42 you've got that leadership from government with people who
43 are actually skilled in this kind of practice and the
44 non-government sector working together.

45
46 PRESIDENT NEAVE: From what you are saying, that spirit of
47 cooperation that existed then, I think you're saying that

1 it's declined?

2

3 MS CRATES: Yes, so what basically happened was that then
4 those positions were not seen as essential positions,
5 people left, they weren't replaced, and then it all kind of
6 fell apart. But there was kind of this period where
7 everyone felt really hopeful and it was really sad to see
8 that go, yeah.

9

10 MS RHODES: Thank you, I think that's our time for this
11 panel. Thank you very much for your time. Commissioners.

12

13 COMMISSIONER BENJAMIN: Thank you.

14

15 PRESIDENT NEAVE: Thank you very much indeed, that was
16 very helpful, and we'll break.

17

18 **LUNCHEON ADJOURNMENT**

19

20 PRESIDENT NEAVE: Ms Darcey.

21

22 MS DARCEY: Thank you. If Ms Mary Dickens could be
23 called, please, and she will take an oath.

24

25 <MARY LOUISE DICKINS, sworn: [1.34pm]

26

27 PRESIDENT NEAVE: If you want to, you may take your mask
28 off. Thank you.

29

30 <EXAMINATION BY MS DARCEY:

31

32 MS DARCEY: Q. Would you please tell the Commissioners
33 your full name?

34 A. Mary Louise Dickins.

35

36 Q. And your current occupation?

37 A. I'm currently executive officer of Fostering Hope and
38 a mum.

39

40 Q. Thank you. You've previously produced a witness
41 statement for the benefit of the Commission. Do you have a
42 copy of that document before you?

43 A. Yes.

44

45 Q. Thank you. Are you satisfied that the content of that
46 document is true and correct?

47 A. Yes.

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47

Q. Thank you. Ms Dickins, would you please for the benefit of the Commission just outline some of your background, employment background and your relevant qualifications?

A. Yep. So, my study background is Masters in Community Development and a Masters in International Law with a specific focus on refugee law, and then I began working in that space in Tasmania and ended up at Anglicare in their Research and Policy Unit.

Q. Thank you. Can you please give us an idea of how long you have been a foster carer for and what your motivation was for becoming a foster carer?

A. [REDACTED], and we began our fostering journey - so I'd always obviously wanted to work in overseas development working in the refugee law space, but when we had children that was kind of put on hold, and we saw fostering as a way of living out that caring for vulnerable people in our community here in Tasmania.

I have a Christian faith, and so the faith to care for the vulnerable and the lonely in the community was a motivating factor, and [REDACTED] that grew up in care in [REDACTED] and we saw the benefit of a stable placement in her life, and that changed the trajectory of her life but also [REDACTED] generation and hopefully now [REDACTED] generation as well.

Q. I'm just in complete awe of the fact that you have [REDACTED] to start with. Could you explain a little bit about when the children came into your care, how they came in, how the integration of your biological children with your foster children, how did that work?

A. Our story's been a really special one that's worked. So, our biological children were 3 [REDACTED] when we began fostering. We weren't particularly looking for a placement of a [REDACTED], but that's just what happened, and a newborn is, we've since looked back and realised is a really natural way to enter a family. So, our [REDACTED] just accepted that little [REDACTED] and have - and then [REDACTED] later [REDACTED], and they've just grown up with

1 those boys and they just - the boys really just see
2 themselves as brothers. And even the challenging
3 behaviours that we're seeing more as the boys grow up, our
4 biological sons just accept them and understand them and
5 know what's going on.
6

7 Our biological sons have very much been part of the
8 journey with the birth family as well, we've done birthdays
9 together. When our youngest foster son was born we were in
10 the hospital there and our biological sons were there part
11 of that journey as well.
12

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]. And we asked our
18 [REDACTED] they thought about that [REDACTED],
19 [REDACTED], and their response was, and it
20 was really clear, was, "If a kid needs a home, of course
21 they should live with us", so the idea that a child
22 couldn't be safe just wasn't even in their world view
23 because they'd always had that safety at home.
24

25 And his transition to our home was - you know, he
26 still had trauma behaviours, but it's been really simple
27 and easy. And in his situation, [REDACTED], I guess, the
28 one - the only unsafe one, if we use that language, but his
29 [REDACTED] so we have a great
30 relationship with his [REDACTED]
31 [REDACTED] who are all a part of his life.
32

33 Q. Would you be able to tell the Commission please a
34 little bit about the organisation that you've created,
35 called Fostering Hope?

36 A. Yep. So, Fostering Hope began just a couple of years
37 into our fostering journey. As I mentioned with our faith,
38 we realised fostering was living out our faith in every way
39 in our community and yet we'd never heard it talked about
40 at church or at a Christian event or on Christian radio, so
41 together with some other Christian fostering families in
42 Hobart we got together and had a bit of a look around
43 Australia and around the world at what else was around and
44 couldn't really find anything, so we began Fostering Hope.
45 The purpose of it is to raise awareness about the needs of
46 children growing up in out-of-home care, ultimately to
47 recruit more foster carers, but also then to provide those

1 supports around carers with respite, mentors for children
2 in care, and increasing awareness about the impacts of
3 trauma on children so that, as a whole we can all have a
4 better understanding of that.

5
6 Q. Is it fair to say that you saw a need for an
7 organisation like this and that you've worked very hard to
8 fill that gap?

9 A. Yes. So, there's, as you'd know, a massive shortage
10 of carers in Tasmania and in Australia, and yeah --

11
12 Q. Sorry.

13 A. We saw a potential place to find carers from the
14 Christian community.

15
16 Q. Thank you. It's apparent from your statement that you
17 have authored a number of submissions and articles and
18 papers, some of which are attached to your statement and
19 the Commissioners will have an opportunity to closely read
20 those.

21
22 I would like to pick up on one of those documents in
23 particular though, the Foster and Kinship Carer's Handbook.
24 Can you tell me, please, why did you write it?

25 A. So also beginning our fostering journey we realised
26 there was very little information about the context of what
27 the role of a foster carer was. It was very hard to find -
28 and there was also rumours between carers about who got -
29 how different policies were applied; little things from,
30 whether you're eligible to get a new car because your car
31 couldn't fit the number of children in, to what kind of
32 bunk beds you were allowed, different payments carers got.
33 And as carers when you're already doing something that is
34 challenging, the last thing you want is rumours like that
35 to be spreading around among people that you want to find
36 support from.

37
38 So I worked with Kim Backhouse from the Fostering
39 Kinship Carers Association and we got a grant to try and -
40 my motivation was to try and find all the little bits of
41 stuff out there and pull it together in one document that
42 carers could have as a handbook of the policy and
43 legislative environment that they were operating in.

44
45 Q. As part of that process and as part of acquiring all
46 of the information that you needed, did you approach the
47 Department of Communities for some material?

1 A. Yes. So, we had a contact with the Department of
2 Communities for the project, and yeah, just unfortunately
3 we didn't get the information we needed and the end result,
4 because we needed to publish it, they were going to have -
5 the appendices were going to be put online and be updated
6 as policies and procedures changed and that hasn't
7 happened.

8
9 Q. You may not be able to answer this question, but do
10 you - are you confident that those policies and procedures
11 exist or are you unsure?

12 A. I'm unsure, yep.

13
14 COMMISSIONER BROMFIELD: Q. Can I ask, what types of
15 information, what were the policies and procedures that you
16 were hoping to obtain?

17 A. So, I guess everything from things like bunk bed
18 requirements, swimming pool requirements. So, quite
19 practical little things.

20
21 Q. Household safety requirements?

22 A. Yeah. I know you've spoken to some of the foster care
23 agencies, but there's differences around whether children
24 are allowed to share a room, so just getting all of that
25 stuff clear in one spot for carers. And then more
26 information about the legislative environment, so what does
27 a s.52 meeting mean, what does a Family Group Conference
28 mean, what role does a carer have in all of those things.
29 When are we allowed to participate or not allowed to
30 participate. So, all of those bigger things as well.

31
32 Q. So, from the sounds of it, not information that could
33 be described as obscure?

34 A. No.

35
36 PRESIDENT NEAVE: Q. Did you say that your handbook is
37 not - it hasn't been used on the website, or it is?

38 A. It's on for the Fostering and Kinship Carers
39 Association of Tasmania's website.

40
41 PRESIDENT NEAVE: I see, thank you, I missed that.

42
43 COMMISSIONER BROMFIELD: That's the policy annexures have
44 not yet been uploaded.

45
46 PRESIDENT NEAVE: Okay, thank you.

47

1 MS DARCEY: To put some perspective on that, when did you
2 actually publish the book?

3 A. I think it was 2018.

4
5 Q. So, no response from the department at this point?

6 A. No.

7
8 Q. When you first took your son, your foster son into
9 care, your first child, or first foster child, what was
10 your experience in terms of the information that you were
11 provided about him by the department?

12 A. So, in our story we were given very little
13 information. Actually, I don't think we were given any
14 information other than "There's a child being born
15 tomorrow", and yeah, I don't remember any specific
16 information we were told about him, his birth family or
17 anything.

18
19 Q. So, did that cause any problems for you down the track
20 or would it have been helpful to have understood a little
21 bit more?

22 A. So now, being a more experienced carer, I think it
23 would be really helpful for carers to have a lot more
24 information upfront about the birth family situation and
25 any health needs of the child. We were talking earlier,
26 but I think the confidentiality of the birth family story
27 and the children's story can sometimes get mixed up in
28 what's actually helpful to provide the best care possible,
29 and so, as much information as we can have. And, I talk in
30 my document about the Care Team meeting process where that
31 can be a conversation together and everyone can get on the
32 same page; it just enables a carer to provide their best
33 care possible and hopefully to prevent things down the
34 track because you can proactively be putting things in
35 place.

36
37 Q. In terms of the Care Team meetings, so once you've got
38 through - sorry, let's take a step back. So, hand-in-hand
39 with having a little bit more information, do you think it
40 would be helpful if there was the ability to have your
41 child or any child going into foster care assessed in terms
42 of their mental health and physical health?

43 A. Yes, I think as a starting point if we can acknowledge
44 every child in care is going to have trauma and broken
45 attachments, then right from the beginning - I would
46 recommend that right from the beginning every child in care
47 has a full health assessment, a dental check, an eye check

1 and a referral to a GP so that's all on file right from the
2 beginning and then that's repeated at six months in care,
3 because at that time things will have come up that then you
4 can address, but definitely as a minimum every child in
5 care to have that process, yeah.
6

7 Q. In terms of, you've taken on foster children, you
8 already had your biological children, so you were already
9 actively engaged in parenting; did you undertake any
10 training prior to your first foster child coming into care?

11 A. Yes, so all carers will do this, like, shared life,
12 shared stories, or shared stories, shared lives, I always
13 get mixed up which way it is; that training which is a
14 two-day training, and then there's an in-home assessment
15 where a social worker will come and do a full assessment of
16 you, your family, the way you were parented and any
17 potential trauma triggers.
18

19 I think, from the perspective of my work with
20 Fostering Hope and as a carer, that that training very much
21 gives you a picture of what out-of-home care is and why
22 children are removed. It focuses quite heavily on the
23 birth family's story and I don't think it prepares you for
24 the trauma behaviour that's going to enter your home when
25 you become a carer.
26

27 So, I think it's a good start but then there needs to
28 be some quite - a lot more - I think you've talked about it
29 before but the registration of carers and that ongoing
30 training, because you sometimes don't know what you don't
31 know until a child's in your home, and some of that trauma
32 awareness training, information on FASD or block carer, all
33 those things, when it actually becomes real, then it makes
34 sense, the training.
35

36 Q. So, even though you were a competent parent and have
37 been parenting for quite some time, this is a different
38 situation?

39 A. Yes, fostering is totally different. I think nearly
40 all the carers we support through Fostering Hope say
41 they're better parents now than before. Things like
42 therapeutic parenting and trauma-informed parenting are
43 just integral to being a better parent for these children
44 and everyone in the home as well, yeah.
45

46 Q. So, love is not enough?

47 A. No.

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PRESIDENT NEAVE: Q. [REDACTED]

A. [REDACTED]

Q. I have heard that that is a time when trauma can become manifest, when children are going back to - you know, visiting, have a relationship with their maternal/paternal parents and their foster parents, and I wondered whether that's an area where you think support might be needed?

A. I think that contact or access with birth parents, while it's - I think if the Care Team meeting and the case and care planning happened that we knew what the case direction was and what the purpose of contact was, it can be done in a really supportive way.

Q. Right, okay.

A. If it's, we're just having to tick a box that they're seeing their parents, and the parents aren't supported either, because parents will often say things that aren't helpful. They're just trying to gain some control in that situation, I'm not - but if that can be done with a purpose that this is either the child's remaining in care and so it's just to maintain a relationship, or if it is the child's going home so we're building up the capacity of the birth patients, but it needs to have a purpose, not just a tick the box.

MS DARCEY: Q. Are there any other supports that you think that carers could really benefit from in terms of over the trajectory of having foster children?

A. So, the upfront support and the on ongoing training and I think a registration of carers would be really useful. Also - I've put some notes on this.

1 Q. That's okay, it's probably the open question that I've
2 asked you. Can I just ask you whether in your view carers
3 generally feel that they can seek support from the
4 department?

5 A. On the whole carers - the carers we support do not
6 feel they can go to the department for support. The
7 general feel is, they will - there's an uneven power
8 balance where the department has the power and they feel,
9 if they say they're not coping, they'll fear the child
10 being removed, or some carers use the term that they'll be
11 blacklisted, and/or some carers have reached out because
12 they need extra support and then next thing they know
13 there's a care concern made against them. So, I think,
14 again, if the Care Team meeting and case and care planning
15 happened and so you felt like you were on a team and there
16 were equal members on a team, then those things are
17 proactively put in place.

18
19 Probably one of the things is the role of respite care
20 as a support for carers, and again, if that could be
21 upfront as part of that initial training, that respite care
22 isn't seen as a bad thing but it's seen as integral for the
23 placement stability. In fostering - with our work at
24 Fostering Hope every time we try and recruit a new carer we
25 try and ask them to think about who their respite carer
26 could be, there could be someone in their community. So, a
27 child never feels they're going into respite, but they're
28 going to that person who's a special person in their life.

29
30 So some carers will feel the department thinks if
31 they're asking for respite they're not coping. Whereas if
32 that could be flipped to just, respite means this
33 placement's going to be stable and that's a really special
34 person in the child's life, it's another safe attachment
35 and we're all on the team together, that I think could make
36 a big difference as far as supports go.

37
38 COMMISSIONER BROMFIELD: Q. Do you feel like the Child
39 Safety workers have a good understanding of the
40 trauma-based behaviours and what they would be like to live
41 with as a parent?

42 A. I think it would vary between Child Safety Officers.
43 Yeah, that's a hard question to answer, sorry.

44
45 Q. Is that in your experience?

46 A. They understand it but they don't live it, yep.

47

1 COMMISSIONER BROMFIELD: Thank you. That's a good answer.

2
3 COMMISSIONER BENJAMIN: Q. Are you concerned in any way
4 that, by providing a statement and evidence to this
5 Commission, that you might be the subject of some
6 retribution which you talked about in earlier evidence?

7 A. I was initially, but I think - I'm confident in our
8 children in our home staying there, but I also think this
9 is really important and there's changes that need to be
10 made.

11
12 MS DARCEY: Q. Yes, thank you for that. In a situation
13 where children have specific vulnerabilities or, such as a
14 disability or some other kind of special needs, and I
15 understand that you've got personal experience of this with
16 one of your children, how have you found trying to access
17 Allied Health or [REDACTED]?

18 A. [REDACTED] has an NDIS plan and
19 it's been really tricky to work out - so this is just our
20 story and then I can speak to the journey of others - to
21 work out the boundaries when we're not the legal Guardian
22 of the child, so whose responsibility is it to get the NDIS
23 plan and put the supports in place, and that's just an
24 added layer of messiness when I think for most people the
25 NDIS has been tricky to access.

26
27 And because [REDACTED], and trauma and things
28 like [REDACTED], none of those tick
29 [REDACTED]
30 [REDACTED] doesn't need a
31 diagnosis, but I know that will be challenging from
32 next year where we'll need a label in order to access NDIS.
33 But for a lot of the carers we support, accessing NDIS has
34 been really, really hard because of that not knowing who's
35 responsible for it.

36
37 And we have an experience where one carer, the Child
38 Safety Officer, actually got an NDIS plan for the child,
39 the Child Safety Officer left, and that was never
40 communicated to the carer. So, she was banging her head
41 trying to get an NDIS plan and there was one sitting there
42 and no-one had told her. So, it's just that added layer of
43 bureaucracy when it's already a tricky system.

44
45 Q. We only have a couple of minutes left. You've gone
46 into some really significant detail in your statement about
47 some things that you would like to see changed, so we're

1 going to do a bit of a whistle-stop tour, and I apologise
2 for that. You have mentioned that you think that a carer's
3 register and an annual review of that would be a good idea.
4 Why do you think that?

5 A. I think it is a complicated role people are doing and
6 that there should be oversight and it will potentially
7 prevent children in care being hurt or slipping through the
8 cracks. It would be a place that you could centralise
9 those checks, like the annual health checks and making sure
10 those things happen.

11
12 And I think also it raises the profile of carers, that
13 it is a role that needs to be recognised and regulated. It
14 could be a place where changes to policy and procedure
15 could be funneled through, we've got the registration so we
16 can contact people more easily and support them. And even
17 something that, you know, the Secretary or Minister could
18 access to say, thank you.

19
20 Q. Yes, thanks. I do think you have already touched on
21 the issue of mandatory training; you do think that
22 training, initial training and then ongoing training should
23 be compulsory for all carers?

24 A. Yep.

25
26 Q. Thank you. And also, can you tell me a little bit
27 about what you would like to see in terms of mandatory
28 standards? Would they potentially mirror the National
29 Standards for out-of-home care?

30 A. I think that's a good start, yep. And I think both
31 those things should apply for kinship carers as well.

32
33 Q. Yes, you have mentioned that the kinship carers appear
34 to be a little bit outside the loop; can you expand on
35 that?

36 A. Yep. So, with Fostering Hope we support kinship
37 carers as well. So, the role of - so in the legislation it
38 says that the first - the preference of placement is in
39 kin, in family, and I think it's actually quite negligent
40 then that the government doesn't provide support for
41 kinship carers. So, a lot of kinship carers might not have
42 known the child before they enter care but they are a
43 relative somehow, and other kinship carers do know the
44 child, they might be a neighbour, a childcare worker,
45 teacher's aide, so they say yes to that child and they
46 don't receive any pre-training, they don't have any
47 understanding of trauma or broken attachments, and then

1 they don't get any ongoing support.

2
3 So I know the government here is trialling Bapcare,
4 taking on some kinship carers. Because, from my
5 understanding the number of out-of-home care workers with
6 kinship carers, they just don't see those kinship carers;
7 some of them haven't been seen for years.

8
9 Q. Thank you. You've also - and I think we have touched
10 on it in terms of an initial assessment, health and mental
11 health assessment, but would you envisage that that would
12 be a program that would continue over the duration of a
13 child's placement?

14 A. Yep. So, I think it would be based on the type of
15 orders that a child's on. So, if it's short - you know for
16 the first two years it might be every six months, but then
17 if a child like [REDACTED], he's
18 very much just a regular kid, and so, an annual health
19 check is more than enough for him. But definitely early on
20 in placement and the younger they are, yep.

21
22 Q. That was a whistle-stop tour. Is there anything that
23 you'd like to say to the Commission today?

24 A. I think with the purpose of this Commission to prevent
25 children being abused in care, I think if we start with the
26 starting point that all these children have trauma and
27 broken attachments and so their vulnerabilities are just
28 increased, and so, we actually need to do a much more
29 proactive job of putting supports in place for them and
30 their carers.

31
32 And, it's easy for the behaviours - the trauma
33 behaviours for them to get ostracised at school from
34 friendship groups and then that only further puts them in
35 places where they might not be safe. So, if we can just
36 start with that as a baseline I think we could do a lot of
37 good.

38
39 COMMISSIONER BROMFIELD: Q. Do you think that with your
40 children who came into your care at birth, have you had any
41 more difficulty with getting people to understand that
42 their behaviours are trauma-based behaviours given that
43 they came into your care at birth?

44 A. Probably not with me because I talk about it a lot,
45 and I've got a great little primary school which has been
46 amazing in getting on board with our boys, but not all
47 carers would be that proactive, and it's that combination

1 of the child's story and the confidentiality and not
2 wanting to tell everyone. So, having someone like me as a
3 Fostering Hope to be able to advocate for those children
4 and come to those meetings at the school can be easier
5 sometimes than the carer doing that.
6

7 But I think, I was just doing a training yesterday and
8 they talked about the assault on a child's brain and body
9 with the in utero environment and that doesn't just heal,
10 that needs a lifetime of support.
11

12 COMMISSIONER BROMFIELD: Thank you.
13

14 PRESIDENT NEAVE: Thank you so much, Ms Dickins. Thank
15 you.
16

17 MS DARCEY: Yes, Commissioners, I think we are
18 back-to-back at the moment. Our next witness, if he could
19 be called, please, it's Assistant Commander Jonathan
20 Higgins.
21

22 <JONATHAN CRAIG HIGGINS, sworn and examined: [2.04pm]
23

24 <EXAMINATION BY MS DARCEY:
25

26 MS DARCEY: Q. Assistant Commander, could you please
27 tell the Commission your full name?

28 A. Yes, my full name is Jonathan Craig Higgins, I'm an
29 Assistant Commissioner with the Tasmania Police.
30

31 Q. Thank you. You have provided a statutory declaration
32 to the Commission in response to a request for a statement
33 made by the Commission?

34 A. I have.
35

36 Q. Have you a copy of that document in front of you?

37 A. I do, yes.
38

39 Q. Thank you, and are you satisfied that the contents of
40 that document is true and correct?

41 A. Yes, I am.
42

43 Q. Thank you. Would you mind, please, just briefly
44 outlining your relevant service history and qualifications?

45 A. Yes, certainly. So, I'm one of two Assistant
46 Commissioners with Tasmania Police. I have strategic
47 oversight over the operations portfolio, which is the three

1 geographical districts of Tasmania or three regions cut up,
2 and the Crime and Intelligence Command.

3
4 As far as my service history goes, I have spent time
5 since 1999 across Tasmania, across each one of those
6 regional areas at various ranks. As far as my
7 investigation background, between 2002 and 2014 I served in
8 investigative areas in the northern district, so based in
9 Launceston, at ranks from constable through to inspector,
10 where I was in either the Launceston Criminal Investigation
11 Branch or Northern Drug Investigation Services, or a
12 combination of both, through to that 2014 period.

13
14 Q. Thank you. Thank you very much for preparing the
15 statutory declaration, and it's obviously a lengthy
16 document, detailed, and it addresses a series of questions.
17 Now, this will not be the only time that we hear from
18 Tasmania Police throughout the public hearings. This week,
19 as you're aware, we're dealing specifically with the topic
20 of out-of-home care, and so, we're not going to be
21 canvassing everything that's contained in your witness
22 statement.

23 A. I understand.

24
25 Q. But we will be looking at how some of these answers
26 within this document relate to out-of-home care, and also,
27 we're going to focus on some of the themes that have
28 emerged from the recent evidence that we've heard from this
29 week.

30
31 The first question that I wanted to ask you, and it
32 arises out of your statement - I'll just get myself
33 organised here. The question that you were asked, this is
34 on page 16 and it's Question 8, you were asked about the
35 initiatives and actions that Tasmania Police might be - are
36 or may be engaged in in the future to minimise or prevent
37 the occurrence of and including child sexual exploitation.

38
39 In the answer to that question you have detailed an
40 evidence-based education program, ThinkUKnow, and also some
41 work that Tasmania Police are undertaking with the Joint
42 Anti-Child Exploitation Team. So, am I correct, and please
43 do correct me if I'm wrong, those two activities are to do
44 with online child sexual exploitation on the whole?

45 A. On the whole, yes.

46
47 Q. You would, of course, be aware of the fact that child

1 exploitation also deals with what I would describe as
2 face-to-face encounters between a perpetrator and a child
3 whereby an exploitative relationship is developed?

4 A. Yes.

5
6 Q. And that sometimes that relationship might be
7 characterised by an exchange between the child and the
8 adult of sex or sexual acts in exchange for money, gifts,
9 drugs?

10 A. Sadly, yes.

11
12 Q. Would you accept as a general proposition that there
13 are people who target vulnerable children who are in the
14 out-of-home care system?

15 A. Yes, I would accept that and I think from witness
16 accounts that I've seen, particularly this week, I think
17 need to accept that.

18
19 Q. And so, it wouldn't come as a surprise to you to know
20 that we have heard evidence earlier this week that children
21 who are in out-of-home care are at an increased risk of
22 child sexual exploitation, and in particular within the
23 types of out-of-home care, that residential care - so, care
24 where there's a roster system of carers - are at an even
25 more increased risk. Does that sound like a reasonable
26 finding?

27 A. I think that sounds reasonable, yes.

28
29 Q. Is that cohesive with your experience or your either
30 personal observations or things that you've heard from
31 other officers who might have some insight into that?

32 A. Yes, it is. I probably should say though from
33 experience, it's obviously not confined to out-of-home
34 care, but if we concentrate on that because that's what
35 we're talking about now, I think that's a reasonable thing
36 to assert.

37
38 Q. Thank you.

39
40 PRESIDENT NEAVE: Q. I just want to ask you if you've
41 had in your policing career any experience of observing
42 that, of children who are in out-of-home care being perhaps
43 lured away or voluntarily going to live with someone else?

44 A. Yes, I have.

45
46 PRESIDENT NEAVE: Right, thank you.

47

1 MS DARCEY: Q. Would you also have seen that trajectory
2 between out-of-home care through to Juvenile Justice and
3 then through to Risdon Prison?

4 A. Yes. Yes, I have, certainly over - in well over
5 20 years now, yes, I have seen that, seen children who have
6 been in the out-of-home care system, whether it's foster
7 care or group homes or otherwise go through there, Youth
8 Detention more formally, and then I know of a number that
9 are now in Risdon Prison or have served time for various
10 crimes.

11
12 Q. Do you have any insight into why that happens or?

13 A. Look, I think it's reasonable for people to understand
14 that police build very professional relationships with
15 children, interactions; whether it's in homes when they're
16 searching the parents for various things, or whether it's
17 crimes themselves or interactions at school or otherwise,
18 and they build up in many cases a level of trust with the
19 children, and you can track their paths through, sadly,
20 which will start probably with very minor crime, moving
21 into more serious things, and this has certainly changed
22 over the last decade where, when I say minor crime might
23 have been breaking into a car; drugs were probably more
24 cannabis as opposed to pills and powders that we probably
25 see more now. Then, from that, it's sad to say but
26 graduating into bigger things as they become more brazen.

27
28 So, in a group home setting with other youths who may
29 not be able to go into foster care for a range of reasons,
30 in some cases it becomes a - or they're almost a training
31 ground for that to happen and a very difficult proposition
32 for carers, particularly in a roster-type system as you
33 suggested there, and it essentially means that they're
34 working a shift over a 24-hour period - if I take it as
35 that, that's what we mean. So, they're not really
36 performing the role of a parent, just providing an adult
37 presence on site. And there are various group homes around
38 the state with this, and the police do have regular
39 interactions with the youths that are in there because they
40 tend to be on the streets during the day and at group homes
41 it's at night.

42
43 And then, thinking back when I was reflecting on my
44 statement, there are examples readily available to me,
45 personal experience, where I've seen some of those youths
46 then become adults and go into the adult prison system as
47 well.

1
2 Q. Thank you for that. Just moving back to the issue of
3 child exploitation and the question that was asked, and you
4 have answered at page 16, that's Question No.8. I don't
5 see in that document any reference to any actions or
6 possible actions in relation to this idea of face-to-face
7 perpetrator/child exploitation; is that a fair assessment
8 and is there anything currently that's on the radar in that
9 space in terms of trying to prevent that kind of child
10 sexual exploitation?

11 A. Yes, I was reflecting on this. That is a fair
12 assessment, we don't have a formal program, so whilst we do
13 in the online space, both through the Commonwealth and the
14 state in an online capacity, face-to-face child
15 exploitation is really a partnership as opposed to a formal
16 program; more so I would have to say over the past
17 18 months with the Department of Education with their new
18 position that was created in safeguarding children and
19 those relationships there. That is really an education
20 system with police and the information sharing, not police
21 delivering any programs. I think that's the reason, so
22 whilst we have a partnership and it's a very good
23 partnership in trying to certainly prevent or disrupt, and
24 I think we understand the policing role in the
25 investigation side sadly post these, post-event, that it's
26 not actually a formal program the Tasmania Police would
27 actually deliver.

28
29 Q. Do you think that there is a general knowledge within
30 the police about the real risk associated with being in
31 out-of-home care, particularly residential care? And
32 another element that we've found out this week is really
33 important is when children start going missing from care
34 placements. We've heard evidence this week that that is a
35 real red flag in terms of the potential that that child is
36 being exploited in one way or the other. Would that be
37 knowledge that was, I guess, within Tasmania Police or
38 would you think that that's a very specialised --

39 A. No, I don't think it's specialised. I think that,
40 yes, we have our referral pathways between agencies and
41 they are probably better understood more so over the last
42 two years than ever, but using your example you're sort of
43 talking about there, our frontline staff are well grounded
44 from recruitment right the way through their professional
45 development in engagement, and it's not necessarily a
46 formal training that we'll say, do X if Y happens, but they
47 build those relationships up with the people in their - you

1 could call it the old-fashioned beat except they're not
2 walking as such, but in their work area. I probably
3 shouldn't - I won't single out suburbs, but if you're
4 working in a particular area in the state you will know
5 your children who are probably most vulnerable, to a
6 fair degree - not necessarily everyone, but you'll have a
7 better understanding about who they may be because they
8 tend to want to interact more with the police. I don't
9 mean necessarily committing crime, I just mean they want to
10 talk, and we do see that. And whether that's venting,
11 which is still communicating, that happens; at least, I
12 guess, that they're venting with someone. So, no, that
13 certainly happens.

14
15 I would argue that the face-to-face child exploitation
16 is probably - and it's terrible to think this - is
17 something that has happened for a very, very long time and
18 the online is a more - as technology's changed. So, in
19 thinking about programs and how we do that, we actually
20 have - and it is here but perhaps not spelt out in that
21 way, the Youth Crime Intervention Units which are really -
22 so, SARs are heading up one of those in each region, they
23 may be called different things in different states, but
24 essentially it's to deal with and engage with youth and
25 divert from courts. So, it may be recidivist offenders, it
26 might be referrals that come to try and get into programs,
27 but those teams will actually know, they'll probably give
28 you their top dozen kids that are most at risk and they're
29 trying to deal with. They may be incredibly frustrated in
30 not being able to actually divert them away from the path
31 of crime but they will know who they are.

32
33 As far as the face-to-face child exploitation goes,
34 youth are not really necessarily forthcoming in saying that
35 unless there's a flag there, so that will come through a
36 referral. Through the schools are an incredible source of
37 information because kids tend to want to tell their
38 teachers things or another student and that actual
39 information comes through, so that is probably your first
40 point of call there as opposed to a caseworker or something
41 that's probably not necessarily - in my experience they may
42 tell, but it's in a position in school where it's a
43 different setting that will actually occur.

44
45 That doesn't mean that uniformed police are going to
46 hear that straight away, but the referral through that with
47 our arrangements with the Department of Education which

1 have been strengthened means that that will come to us very
2 quickly to be able to look at how we can actually deal with
3 that.
4

5 The difficulty, I suppose, with the police. So,
6 traditional policing would be law enforcement,
7 prosecution-focused, probably output-focused. Where the
8 shift has - the shift in that in modern policing has really
9 been in preventing and disrupting, but that's not an easy
10 proposition in itself, that can't be done by police alone,
11 and this is done - and my statement's been prepared, we're
12 talking about this with colleagues who helped me prepare
13 it, and we used our counter-terrorism learnings - not that
14 we've had an event in Tasmania - but our learnings there in
15 how it very much was outside the norm for traditional
16 policing and disruption without something to hang your hat
17 on, that it happened, a statistic so to speak, was not
18 necessarily traditional policing, and there's probably been
19 a good catalyst to move forward in some of our things - not
20 just in Tasmania, this is elsewhere.
21

22 PRESIDENT NEAVE: Q. Do you know how far down the track
23 you are, you think you are, in the context of disruption?
24 Let's assume, for example, that there is a person who has
25 been having associations with a number of different young
26 girls across the state, probably lured them away from their
27 care situation, may have lived with them for a time or may
28 have met them and interacted with them; are you able now,
29 and do you do this, to try and identify those offenders?
30 A. I think we're in a far better place now. We are
31 certainly a learning organisation and we have not always
32 done it right, but I think we're in a far better place.
33 Are we at the end of that journey in getting it all right?
34 No, absolutely not, but I think that we're better able to
35 identify those triggers that may - those key things,
36 particularly the input from other agencies as well, so
37 we're not doing it alone. We are the only 24-hour agency,
38 I suppose, that comes the catch-all after 5pm at night
39 until 8am in the morning, but I do think we do it better.
40

41 And so an example used there with say an adult luring
42 away; if we were able to find that out we are able to
43 intervene. It may not mean that there's prosecutions, but
44 it may mean that we're able to intervene with either the
45 child, the adult or both to try and prevent that behaviour.
46 We can't put our hand on heart and say it'll work every
47 time and that's the sad reality of it, but the training

1 that we have - we've changed our training.

2
3 2015 we started this, we're looking at how we were
4 training our staff, from recruit right through to our
5 professional development, to look at indicators there to be
6 able to get information from potential victims, so in this
7 case if it was the youths being lured away, to get a
8 picture from before the point of time they're being lured
9 away and after to understand about how that can happen and
10 how we can best intervene to stop that behaviour. And it
11 may be by diverting to programs, it might be by putting in
12 counselling, which is not obviously us but by getting those
13 wheels in motion, or it may very well be that there is
14 something that with the - and I'll use "the offender" for
15 want of a better term - it may be that we are able to look
16 at how we can actually intervene better with that person to
17 protect the children in that case.

18
19 Q. Can I just give you a hypothetical which I've just
20 made up?

21 A. Yes.

22
23 Q. You hear from Child Safety that a child has gone
24 missing, there is a suspicion that she's gone off with this
25 40-year-old man whose name may be known; would you in that
26 situation have a look and see if that 40-year-old man was
27 in your database and whether he'd done similar things in
28 other parts of Tasmania? Is that the sort of thing you
29 might do?

30 A. Absolutely. Absolutely. We have some incredible
31 holdings on people, some intelligence whether it's - and
32 then of course the conviction database as well, so yes,
33 that would occur, and that may even go as far as
34 notifications for Working with Vulnerable People as well
35 depending on how the engagement is actually occurring, and
36 that is certainly a very good mechanism to prevent a person
37 from being able to interact with them in a --

38
39 Q. Lots of children?

40 A. Yes, whether it's in a sporting sense, whether it's in
41 a more formal sense at a workplace or contractors or
42 otherwise, yes, that would be something that we would do.
43 That would be a red flag straight away if the person was
44 interrogated - sorry, the system's interrogated and
45 something came up, absolutely.

46
47 COMMISSIONER BROMFIELD: Q. As you said, information is

1 everything in policing. You've talked about the
2 partnership with Education, but you also talked about the
3 challenges with residential care homes and 24-hour rostered
4 workers. Is there room for improvement in terms of the
5 partnership or the information that you're getting from the
6 out-of-home care sector around children at risk?

7 A. So, if the information's through Department of
8 Communities, we have strengthened the information sharing
9 there. The legislation's been in place for many years, but
10 we've strengthened the understanding between the agencies;
11 what that actually truly means and the spirit of that
12 legislation is to share information to protect the
13 children. So, yes, I am more comfortable now that that is
14 actually occurring.

15
16 As far as group homes, I don't want to downplay the
17 importance of them in trying to protect children as well,
18 or carers in that sense. They're performing a function
19 there where sort of all else has failed outside so they are
20 the adult trying to provide a roof over the heads of the
21 children. And in my own personal experience as an
22 investigator, so not over the last few years but take it
23 back in time a bit, that the group home people were very,
24 very forward leaning in indicating if people weren't home,
25 especially if they understand their patterns of behaviour.
26 If you have a person who's normally rostered a nightshift
27 and they understand that perhaps a 15-year-old might come
28 in at the same time every night and they have a fair idea
29 of what they've been doing. But if they're outside that
30 time and they don't come for three or four hours later,
31 that raises a red flag for them. My experience, I can talk
32 about Launceston, was that that would actually occur. But
33 in some of these settings police are there checking kids'
34 bail on a regular basis, which is a good way of keeping,
35 sort of, supporting the system as well in those
36 interactions. And waking up a child and having a chat to
37 them, there might be some unsavoury things said for a
38 moment but it tends to be a bit of a laugh at the end and
39 they can head off back to bed and we're all happy that
40 everyone's home and safe and safe and well.

41
42 So I think certainly things have improved over
43 recent years, but there will always be cases I think that
44 we can improve things.

45
46 Q. In the example that Commissioner Neave just gave you,
47 because there was the benefit of a bit of intelligence in

1 your system that there was a prior crime, often we're not
2 that lucky, are we, in this space?

3 A. Not always.
4

5 Q. And it can be really hard, even though all the signs
6 are there that a child's being sexually exploited, it can
7 be really hard to actually prove a crime if a child's not
8 ready to give a statement.
9

10 In evidence we heard earlier this week from Dr Miller,
11 she talked about how police were using restraining orders
12 or laws against harbouring to try and get those kids out of
13 those unsafe households. Do you have those kinds of
14 provisions that would be available, where you've got smoke
15 but no clear charge that could be laid around child sexual
16 exploitation?

17 A. So, there are those offences under the Child, Youth
18 and Families Act, but in looking at it they are rarely
19 used, and it applies to children that are actually in
20 formal care in that sense. But I think the statistics I
21 saw, there were literally four people over - since 2000, so
22 it's a very long time where that provision has actually
23 been used. So, that provision is available; I'm not sure
24 to the extent of what it takes to prosecute that type of
25 behaviour, but my understanding is, it does need to be in
26 actually the care of the state to actually be able to enact
27 that.
28

29 PRESIDENT NEAVE: Q. An analogy to that might be - I
30 mean, the old story with family violence in the past, where
31 you couldn't do things to prevent, and now in the last
32 20 years we've had - they're called different things in
33 different states, I think they're called restraining orders
34 down here?

35 A. Family violence orders.
36

37 Q. Oh, family violence orders now. So, that would be an
38 analogy, wouldn't it, something like that?

39 A. Yes, it would. And the movement with the way - how we
40 dealt with it in Tasmania with family violence was seen as
41 a significant turning point in time, after some horrific
42 behaviour and murders at the time that actually moved us
43 forward in that space and how we deal with family - and we
44 call it family violence, it was called domestic violence in
45 Tasmania, but family violence and it is different in every
46 other states.
47

1 Q. If I recall the police can initiate those orders here?

2 A. Certainly can.

3

4 Q. You don't have to require the person who's affected to
5 do it, the police can --

6 A. That's absolutely right, we can do that, and it's very
7 powerful, very effective in protecting more so women and
8 children in this case. There are obviously men that are
9 subject to this as well, but more so women and children.

10

11 COMMISSIONER BENJAMIN: Q. Particularly the police
12 family violence orders?

13 A. So, we do those. That's right, the police themselves
14 are undertaking a risk assessment which is not just in the
15 head, an actual formal risk assessment to be able to do
16 that order without having to go to court, that can be put
17 on. So, unlike a restraint order --

18

19 PRESIDENT NEAVE: Q. You can make the order yourself,
20 can't you?

21 A. Make the order. SARs and police will do that.

22

23 Q. Is it right, they last for 12 months?

24 A. Yes.

25

26 PRESIDENT NEAVE: That's right, thank you.

27

28 COMMISSIONER BENJAMIN: Q. Assistant Commissioner, I
29 think it's about a seven-month training from recruit to --

30 A. 31 weeks, yes.

31

32 Q. 31 weeks, yes. The Tasmania Police are very good at
33 educating and systematising what they do, aren't they; or
34 they appear to be?

35 A. I'd say we are, yes.

36

37 Q. I suppose there's only one answer to that question.
38 But again, going back to Robyn Miller, she talked about
39 partnerships with non-government agencies, group homes and
40 what have you where they planned how they would react if a
41 young person went missing from placement, they planned how
42 they could respond; that's certainly something, if properly
43 resourced and properly trained, something that Tasmania
44 Police could quite effectively do. Would that be a fair
45 assessment?

46 A. I think it certainly could be considered.

47

1 COMMISSIONER BROMFIELD: Q. And recognising that
2 policing is changing really rapidly, and as you said you're
3 a learning organisation, do you feel that there are
4 opportunities for improvements in the space of preventing
5 child sexual exploitation?

6 A. I absolutely think there is, I think we can always do
7 it better. Just some of the examples you've heard from
8 witnesses even in the last few days, and some of them may
9 not be very recent, but they are lived examples and we
10 could do it better as a state, not just Tasmania Police.

11
12 COMMISSIONER BROMFIELD: That's a good point. Thank you.

13
14 MS DARCEY: Q. I'm not sure if I should ask any more
15 questions. No. Look, just one last thing. So, from
16 paragraph 155 or thereabouts onwards in your statement
17 you've given a lot of information about police powers to
18 respond to missing children. If I could just put a
19 scenario to you, it's just a completely hypothetical
20 example.

21
22 If the police were contacted by, say, a residential
23 care facility and the police attended at the facility,
24 there was a conversation between one of the carers and the
25 police and the carer said, "We are missing Emily, she's
26 been gone for three days, that's getting there, that's
27 about the time when we would start to get worried about
28 her, you know, a couple of days is okay but day three is
29 concerning. We've had a situation where she turned up last
30 week, she was obviously intoxicated, she made a disclosure
31 that she had taken a large amount of drugs over a two-day
32 period with an adult male who she had had sex with in
33 exchange for the drugs that she'd taken". What would the
34 police be able to do or what would you expect that they
35 would do in that particular scenario?

36 A. So, certainly our expectations would be that the red
37 flags would be there, particularly with the comments with
38 the alcohol, drugs I think you said, and the sexual
39 behaviour with an adult. So, she can't consent to that
40 regardless, our laws certainly don't allow that and that's
41 a very good thing. So, that person would be treated -
42 under our missing persons, absent persons protocols - so,
43 from a person like that who may be - three days sounds like
44 it's a little bit over but a couple of days might be
45 normal, they might come and forth to be an absent person.
46 A search of our intelligence systems or knowledge of the
47 people that are actually going there, because they may very

1 well know, would give a greater picture of the risk in
2 there, and maybe change that from, not necessarily to a
3 full missing person where the requirements are that, more
4 that there is nothing known, no interactions, the person
5 has gone, but it would be to find that person to - because
6 the example you've given is essentially the carer who's
7 relayed that has become a recent complaint, and the
8 information that's provided allows for an investigation
9 certainly to progress as well. So, not just the flags to
10 go and find this person to prevent the harm but to really
11 initiate some very practical police action to do it.

12
13 With a group home setting like that and a person who
14 may be in and out, I would be very confident they'd be very
15 well-known to police and there would probably - this is
16 not, I couldn't say hand on my heart - you'd be able to
17 perhaps have very good avenues of enquiry to be able to
18 locate them to bring them back. Bringing them back is the
19 challenge though.

20
21 Q. I was going to ask you about that.

22 A. Yes. So, there may be willingness to come back, it
23 might just be that that's behaviour - the absence is normal
24 behaviour; the unacceptable part is the drugs, alcohol and
25 being exploited by older men, and that's behaviour that
26 absolutely Tasmania Police could, and I think any police
27 agency, would be able to jump into.

28
29 The difficulty is there, if she didn't want to go
30 back, unless there's a warrant that's taken out, not
31 necessarily by ourselves but by Child and Family Services
32 to bring that person back, that can be a very different
33 proposition. But just in the interactions with a person
34 you can normally find a middle ground to either get them
35 home or get them to a safer place.

36
37 Q. But in terms of the statutory power or any kind of
38 power, that doesn't sit with the Tasmania Police in that
39 situation; you would have to be acting under a warrant
40 applied for by the department?

41 A. Certainly, which we can apply for as well through a
42 magistrate, but it's not done as a normal course, not by
43 police.

44
45 Q. What grounds would you have to have?

46 A. They would need to be under the actual care of the
47 state to do that, so not just a person away from home.

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Q. So, if a child wasn't under an order?

A. Very difficult, very, very challenging.

Q. You have powers of persuasion and that's it?

A. Yes. I'm sure they can be very persuasive though, but yes, you're absolutely right, that makes it much more difficult.

COMMISSIONER BROMFIELD: Q. And even if a child is under an order - so in this scenario, this is out-of-home care week for us, so the child is under an order --

A. Yes.

Q. If you get there and the child is not - recants everything that they said to the carer and said, it's not true, this person - I've never had sex with this person and they've never given me drugs, they're helping me out, it sounds like you would be quite hamstrung?

A. No, I don't think. So, with the person - so in this case the 15-year-old girl telling the carer that that's what she's doing when she's out: no, it certainly gives us the ability to go further with the male as well to be able to interrogate. No, there is much more that we can do with that. It's awful to think that it has to go to that point where having the conversation with the drug taking, the alcohol, being exploited to get to that type of action but, no, there are - there is certainly avenues that would be followed to bring them back.

The difficulty would be, even with a warrant taken out to bring someone home, if they're brought home kicking and screaming, that's not a good result either, and that is the challenge. So, with the powers of persuasion it's far better to have that conversation, whether it starts off bad and progressively gets good as you work the way through, that's a better outcome for that child to be getting into a safe place as opposed to staying with a - I think you said 40-year-old man? Yeah.

PRESIDENT NEAVE: Q. This is possibly an unfair question and if you don't want to answer it, please don't. I was speculating as to whether increasing the age of criminal responsibility would make your task in these situations easier or more difficult? As I said, don't answer the question if you don't feel it's appropriate, and I think if you were to answer it you would be answering it only in

1 your personal capacity?

2 A. Yes, it would only be in my personal capacity. So,
3 I am aware that there has been an announcement in relation
4 to certainly detention. What it does mean in the future is
5 that - and it means there needs to be more support services
6 available to be able to help children. So, if detention is
7 not - we don't routinely arrest and lock up people under
8 14 years old, there's not that many people actually at the
9 detention centre at the best of times now - traditionally,
10 yes, but not in the recent decade. But if that was to
11 occur there would need to be support mechanisms there,
12 which I imagine that's why it's been a long lead time to
13 actually try and work through what they may be to actually
14 provide that support.

15
16 That's not necessarily a personal view, I've been
17 privy to these meetings and contributed and that's a view
18 that I've expressed.

19
20 PRESIDENT NEAVE: Thank you.

21
22 MS DARCEY: I actually had nothing further for this
23 witness.

24
25 COMMISSIONER BROMFIELD: Nothing further from me, thank
26 you.

27
28 COMMISSIONER BENJAMIN: Just to thank the Assistant
29 Commissioner for really taking the time to make that
30 submission, it was important; it gives some insights into
31 the operation of Tasmania Police and exposing yourself to
32 questions. I suppose earlier in your career that may have
33 been common perhaps not so much later?

34 A. Exposing? Oh look, in preparing it, and I certainly
35 didn't do this alone, but there is nothing that I think we
36 should be hiding; if we can do things better, we do it, and
37 you have recommendations that could make that practice we
38 actually do better, we'll welcome them and certainly work
39 through how we might be able to do it. Thank you.

40
41 PRESIDENT NEAVE: Thank you very much. And we've got a
42 break, haven't we now?

43
44 **SHORT ADJOURNMENT**

45
46 MS ELLYARD: Thank you Commissioners. The final witness
47 for today is Ms Andrea Sturges of the Kennerley Children's

1 Homes Incorporated, and I'll ask that she be affirmed.

2
3 <ANDREA MICHELLE STURGES, affirmed and examined: [3.10 pm]

4
5 <EXAMINATION BY MS ELLYARD:

6
7 MS ELLYARD: Q. Thank you, Ms Sturges. Could I ask your
8 full name again, please?

9 A. Andrea Michelle Sturges.

10
11 Q. And you're currently employed as the chief executive
12 officer and public officer of Kennerley Children's Homes
13 Inc?

14 A. That's correct.

15
16 Q. You've made a statement to assist the work of the
17 Commission which has been signed by you today and which has
18 some attachments to it?

19 A. That's correct.

20
21 Q. Are the contents of that statement and attachments
22 true and correct?

23 A. Yes, they are.

24
25 Q. Thank you. Now, before we go on to discuss the
26 content of your evidence, as is made clear by your witness
27 statement, Kennerley Children's Homes has a long history
28 and the Commission's very aware that for some people who
29 might be listening today, the name Kennerley isn't
30 associated with good practice and might indeed be
31 associated with experiences of harm, and I want to begin by
32 asking you to comment on that?

33 A. Yes, that's absolutely correct, and Kennerley
34 Children's Homes Incorporated stand with survivors of
35 sexual abuse or abuse of any kind. Our history, we wrote a
36 book for our 150th anniversary and in that book we asked
37 the historian to actually speak to some of the old boys
38 that had actually been in the home at that time, and we
39 asked her to tell the truth. So it was engaging in
40 truth-telling, and that was because we felt that we needed
41 to acknowledge the abuse that had occurred to children in
42 our care whilst, insofar as we could find in our history we
43 didn't know that the abuse was occurring, that doesn't mean
44 that it didn't; and we understand that for some survivors
45 even hearing our name can be triggering, and, yes, so our
46 history has not always been, as with other institutions, we
47 failed children.

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Q. And what does that history mean there, how do you use that past history of failures in the work that you're doing now?

A. I think it's important to always try to be better, to always try to do better, and to continuously improve your practice, and I think we have, with societal expectations and also out of the Royal Commission had time to reflect and to reflect on our model of care and our service provision. And, in doing so, it was my recommendation to the board that we actually undertake third party accreditation, safeguarding children accreditation; that we be accountable, if you like, not to the board and not to the department, but to a third party who would oversee and monitor us in a way that we weren't being monitored, and that at least from my perspective we will have known that we've done everything in our power to keep children safe now.

Q. It seems like from the history of Kennerley boys home, the risks of not having a good system and the risks of not acting protectively are part of your organisation's history?

A. And learnings, absolutely.

Q. Thank you. Now, as you make clear in your statement, as well as your current role at Kennerley you have a long history working in the Child Protection field more generally. Relevantly, you had a role in Child Protection in Tasmania between 2010 and 2014?

A. That's correct.

Q. What was the role that you held then?

A. Area Director for Children and Youth Services Southern Tasmania.

Q. And, what did that mean, what were the staff under you doing?

A. Approximately 250, and that was Child Health and Parenting Services, Disability Services, Youth Justice Services, Family Violence Services, Child Health and Parenting, did I leave them out?

PRESIDENT NEAVE: Q. You said them first.

A. Oh good. Good, they'd like that.

Yes, and so, the portfolios of all those areas sat

1 underneath me. I saw it as an excellent opportunity to
2 work across silos because I, know, having come from
3 Queensland and other jurisdictions that quite often some of
4 the blockages to good service and good practice are the
5 silos themselves, and so, it was encouraging for me that I
6 could use, for example, a CHaPS nurse to go on a
7 priority 1, unborn baby alert, and to make that connection
8 and relationship with young mums about to have children.

9
10 MS ELLYARD: Q. And to make the connection really acute,
11 when you had the role that you had at the department, there
12 were Child Safety Officers working under you?

13 A. That's correct, yes.

14
15 Q. And out-of-home care services were working and
16 reporting to you?

17 A. And under me, yes.

18
19 Q. And as a result of that you the opportunity to make
20 some observations about how, in particular, out-of-home
21 care services were managed in the department at that time?

22 A. That's right.

23
24 Q. You've also indicated that prior to coming to Tasmania
25 you had a history of working in another jurisdiction in the
26 same field, could you just summarise that for us?

27 A. Yes, so I held multiple positions largely though Child
28 Safety Service managers, areas directors for Ipswich
29 Western Zone, worked along SCAN teams, so they were teams
30 where Police, Education, Health, all came together with
31 Child Safety to discuss cases that they were worried about,
32 and so, for 20 years or so I worked in various senior
33 executive positions in Queensland.

34
35 Q. And I take it from that, you were able to bring that
36 experience in Queensland to bear in the way you understood
37 and responded to the system once you got to Tasmania?

38 A. Absolutely.

39
40 Q. And the way you're able to respond to it now from the
41 different position of working in an NGO?

42 A. That's right.

43
44 Q. The Commission's heard evidence earlier this week that
45 the cohort of children in out-of-home care in Tasmania, the
46 majority of them are in placements organised directly by
47 Child Safety Services; I think the figure is 72 per cent in

1 placements organised directly through Child Safety Services
2 and 28 allocated between you and your colleague NGOs?

3 A. That's correct.

4
5 Q. Is that consistent with your understanding?

6 A. Yes, that's true. Yes.

7
8 Q. You describe in your statement an experience that you
9 had of a difference of opinion, if I can use that
10 expression, as between you and Child Safety Services about
11 whether or not some carers who were at the time your carers
12 were suitable to care for children; can you tell us about
13 that please?

14 A. That's correct. Initially, I first started with
15 Kennerley in 2016, and so, for a period of about 2016 to
16 2021 I noticed that there was a high level of transfer -
17 well, a number going across the department, and those
18 carers were all carers who had children in their care where
19 there were worries. So, we had worries about parenting
20 styles, about discipline, about emotional, possible
21 emotional harms and physical harms, and so, when I realised
22 there was a theme, so there was a pattern emerging where,
23 you know, 10 to 12 households had gone across over a period
24 of time, I started to look at just how many and identify
25 them and do a bit of a root cause analysis about, what were
26 the common themes that were in that cohort of carers.

27
28 What I found was that there had been scrutiny from us,
29 there had been increased monitoring, there had been
30 increased training expectations over time, and staff
31 members had got to the point where they were emotional and
32 quite upset about some of these carers, and so, what
33 happened was over time we went forward with these carers to
34 out-of-home care, talked to them about the concerns and
35 worries we had, saying to them that these carers are asking
36 you to come across to you, or we're saying we're not
37 prepared to support them, so one or the other.

38
39 And basically I was wanting to say, "Hey, did you
40 know", and I wanted to know that the managers knew, higher
41 than a CSO and higher than a team leader, because for me
42 there was a pattern, and so, I wanted that pattern to be
43 very clear and I wanted those in the powers to be able to
44 help me with a policy issue. I wanted to have a
45 deregistration process, in --

46
47 Q. When you talk about a pattern, you're talking about a

1 pattern of foster carers who were being supported by
2 Kennerley, who were being deemed by Kennerley as not
3 providing safe and appropriate care to children?

4 A. Yes, not suitable.

5
6 Q. But when that was being raised with the department who
7 had responsibility for placing children in those
8 placements, the department weren't persuaded that there was
9 an issue?

10 A. No, and I thought maybe that's because they didn't
11 have the volume, because there was so many different people
12 involved, and I was worried that maybe the records
13 weren't - maybe they weren't writing it down, maybe my
14 closure summary that went across with them got lost. And
15 then, what if a Child Safety Officer then wanted to place,
16 and they didn't know that, then they might place more
17 children there.

18
19 And what I heard anecdotally from other carers that we
20 knew along the gossip line was the fact that they were
21 actually having other children placed with them, and that
22 raised flags for me, because I felt that any harm to
23 children in state care, whether it be physical, emotional,
24 is unacceptable. And so, I wanted to make sure that the
25 policymakers understood, so I speak to them - a public
26 servant who was in charge of out-of-home care, oversaw it,
27 and said I wanted to have a policy meeting, and myself and
28 the clinical Practice Leader wanted to come and meet and
29 talk about a deregistration process which is something that
30 we felt was needed.

31
32 Q. And just to pause there. Deregistration of carers?

33 A. That's correct.

34
35 Q. To make sure that they wouldn't perhaps by mistake
36 have children placed again with them by CSOs who weren't
37 aware of the history of concerns?

38 A. That's right.

39
40 PRESIDENT NEAVE: Q. Can I just clarify that, there is
41 no system of registering carers but you were wanting to
42 have some carers, in effect, barred? So, there's no formal
43 system of registration of all carers as I understand it?

44 A. That's right.

45
46 Q. Yes. So you want to say, "But these people should not
47 be carers"?

1 A. That's right.

2

3 PRESIDENT NEAVE: Thank you.

4

5 MS ELLYARD: Q. And what was the reaction when you --

6

7 COMMISSIONER BROMFIELD: Q. By this time the carers,
8 were now the carers - department carers rather than
9 Kennerley carers, is that correct?

10 A. Yes, transferred across service provider.

11

12 MS ELLYARD: Q. Transferred within the nation --

13 A. Department.

14

15 Q. -- to suggest to the department that these carers
16 weren't suitable?

17 A. Absolutely.

18

19 Q. But they were still caring for children?

20 A. Absolutely.

21

22 Q. And when you sought to have that policy discussion
23 about the possibility of a deregistration process, what was
24 the response that you received?

25 A. Well, I provided a de-identified table of all of the
26 harms, the harm types, and children's ages and
27 stages de-identified to just try and say, this is how
28 serious this is. And also to alert them that they might
29 want to do some sort of a review to make sure that they
30 were safe, and I felt that that needed to be from a policy
31 perspective; that we needed to talk about, and I even
32 offered to help write the policy and the deregistration
33 process because I'd been involved in things like that in
34 Queensland so I felt like I could use that knowledge.

35

36 Q. And what was their response?

37 A. The meeting was with a manager level and the first I
38 heard of it was on the day, I was told I was going to a
39 different place, which was to the Dep Sec's office and was
40 being held in the marine building and I thought I was going
41 to out-of-home care at St John's Park. So, that startled
42 me a little because I wondered why all of these people were
43 involved, and there was approximately seven people in the
44 room, so my Clinical Practice Leader and I walked into a
45 room and felt completely blind-sided.

46

47 There was a minute taker and there was the normal

1 greetings. Every person in that room was looking at the
2 floor, they weren't looking at us, which made me even more
3 nervous because I knew a lot of them and they weren't even
4 able to look up and smile, so it sent a message,
5 something's up, this is not going to be a good meeting, and
6 it wasn't a good meeting.

7
8 I was virtually told that I should, and my board,
9 should perhaps "adjust our risk appetite".

10
11 Q. What did you understand that to mean "risk appetite"?

12 A. Well, I was very clearly asked first up, and it was
13 just as the Commission was - it was being announced - I was
14 first asked, "Was there any sexual abuse allegations in any
15 of this material and did I know of it" and I said
16 categorically no, "Something like that I would have
17 reported to the police as well as to you. No". And then
18 after a couple of discussions where I said, you know, "I
19 wanted to provide the context of how I got here and I
20 really didn't want to be here I really wanted to be over
21 there, this was not a formal - we were wanting to just
22 bring to your attention and we thought you'd want to know
23 and you'd want to you to investigate. And at that point I
24 was virtually told that was I clear that when I went back
25 to my board the message I was going to give them, and that
26 was that they should possibly readjust their risk appetite
27 and decide whether or not they should be in the game.

28
29 Q. So I just want to understand what risk appetite means.
30 Risk of what, risk to whom?

31 A. Risk tolerance, risk appetite for actually being in a
32 game where children were being exposed to harm, and that
33 suggested to me that that was okay.

34
35 Q. So as a lay person I understand that what you were
36 being told was, "look, deal with it", like, learn to live
37 with the fact that children are in foster care and might
38 not be getting good care?

39 A. And it's a risky business, and at that point it was
40 abundantly clear that, unless the matters related to sexual
41 abuse, it didn't matter. And when we left that meeting the
42 two of us walked to the car; I remember Monika, the
43 Clinical Practice Leader, was shaking, and she was pasty
44 white, and we got in the car and she burst into tears and
45 she said, "I've never been spoken to like that in my life".

46
47 Q. Now, can I take you up on - as I understand it, it was

1 clear that the concerns that Kennerley had had about these
2 12 carers didn't relate to allegations of sexual abuse but
3 to other kinds of harm?

4 A. That's correct.

5
6 Q. And the response that you received from the department
7 in that meeting was, well, if it's not sexual abuse, what
8 are you talking about? You make it clear in your statement
9 that you do see that part of the job of protecting children
10 from sexual harm is protecting them from other kinds of
11 harm; can you explain what you see as that connection?

12 A. Research material that I witnessed, the previous
13 gentleman from Tas Police who was talking about it, and my
14 experience in Child Protection is that children that are
15 physically, emotionally and psychologically abused are more
16 vulnerable. That means that they're more vulnerable to
17 exploitation and to predators, and so, when I knew of
18 children 70 per cent of which were due orders when I worked
19 in the department, that meant that they were subject to a
20 care and protection and a Youth Justice Order, which meant
21 we'd failed them as parents. So, when you've got that
22 number you can see the trajectory, and you can also see
23 that where emotional and physical and psychological harm is
24 ignored when they're small, that they can go on to be much
25 more vulnerable to sexual abuse, and so, for me we need to
26 focus our attention on a zero tolerance policy to any form
27 of abuse of any child, but more particularly where we have
28 a moral obligation as a state to protect them.

29
30 Q. When you say "the moral obligation" you mean because
31 the state's their parent?

32 A. Yes, absolutely. We should be doing better.

33
34 Q. On this question of risk appetite you comment at
35 paragraph 49 of your statement of your observations of the
36 risk appetite that Child Safety Services have in this area,
37 and you've made some observations in your statement about
38 what appears to be a difference between what's acceptable
39 for children in out-of-home care compared to what people
40 might accept for their own children. Can you talk about
41 that?

42 A. That's correct. I know that I'd had several
43 discussions with out-of-home care at different times around
44 some of these carers that we were transferring, and I'd
45 actually voiced that it wasn't okay, and I think the words
46 were something to the effect of, "We don't have that
47 luxury". And it's said to me that there's a skewed risk

1 tolerance and harm minimisation for the sake of a bed,
2 almost for the sake of somewhere for a child to be, and
3 that frightens me.
4

5 Q. Connected to the question of risk appetite is the
6 question of children who don't have a bed at all or who are
7 choosing an unsafe place for themselves, what's been
8 referred to in evidence that we've heard as self-protecting
9 or self-placing. You talk about that your statement.
10 What's the essence of the concern that you have about the
11 idea of self-protecting or self-placing as a concept for
12 children in this area?

13 A. I have [REDACTED] grandchildren, [REDACTED]. From the age of
14 10, and they're young now, will not have the capacity to
15 make a decision. In terms of their developmental
16 milestones, they don't have - and I've lost the words - but
17 it's - they don't have the cognitive capacity to actually
18 make that assessment, and yet we apply that to children and
19 young people 10, sometimes younger, roaming the streets
20 and, you know, making decisions about where they're going
21 to live, and suggesting for one second that they are
22 capable of doing that is beyond me; it's negligence. To
23 say that it's all right for a child to be roaming the
24 streets at that age and decide where they're going to
25 couch-surf, it's not safe, it's not a safe decision.
26

27 And I think it's a cop-out. I think it's because it's
28 too hard. I think it's because, as the officer who was
29 saying earlier, how, you know, whether they're in state
30 care and whether they're not and the difference, and I
31 caught some of it, not all because I was chatting to you,
32 is that, with children in state care, Child Safety Officers
33 can go and get them, police can assist them, they're the
34 parent. For parents out there that are doing it tough,
35 that's sometimes harder to actually make that happen, as
36 the officer was saying. So, yeah.
37

38 Q. So really, kids had who are in state care ought to be
39 easier to protect in that sense because there's levers that
40 can be pulled by the state?

41 A. Surely. Absolutely, yep.
42

43 Q. One of the things you reflect on in your statement
44 related to your time in the department in Tasmania was what
45 appeared to you to be regional differences between the
46 responses that notifications about older children received
47 and a comment that was made to you that in Hobart there

1 were too many teenagers in care. Can you tell us about
2 that?

3 A. Yeah, I think I had at that time about 14 young
4 people, and worked very hard actually with Tas Police and
5 their Early Intervention Team about trying to keep them
6 safe at different times. And - oh I've lost the thread,
7 yes, so the bar.

8
9 Q. It was about the risk - comments were made to you
10 about --

11 A. Yeah, so there was a suggestion, and it was well-known
12 among the senior executive that the Launceston office, for
13 example, had a higher bar, so in other words, they lifted
14 the bar. So when intake matters came in they'd close them
15 because they'd say, "Oh he's 12, he can self-protect" and
16 so they wouldn't intervene. And from my perspective,
17 that's just almost taking the easy route out; in fact, they
18 should have intervened. Those children, you know, were
19 hanging around with criminogenic individuals, potential of
20 being groomed, and it was actually - it was around
21 statistics; they almost were proud of that fact, and for me
22 it's unconscionable to think that that's okay; you don't
23 close that at intake. The child is not able to make that
24 determination, it should have been investigated and a full
25 investigation and safety plan with the family, if need be,
26 or some intensive supports. There could be a very good
27 reason why that child doesn't want to be at home.

28
29 And, you know, there are other skewed, you know,
30 statistics too around that time. You know, I remember
31 someone saying to me, they had too many children going into
32 Ashley and then being reunified - not going into Ashley -
33 being reunified and then re-entering care. And when I
34 looked at the stats I realised how bovine they were.
35 Pretty much what they were doing was they were counting
36 every time my young people went to Ashley, that they'd gone
37 home and then they'd re-entered.

38
39 MS ELLYARD: So I just want to unpack that. So there were
40 statistics suggesting you that you had too many -
41 effectively failed reunifications of kids leaving care and
42 coming back?

43 A. Yes.

44
45 Q. But actually they weren't going home they were going
46 to Ashley?

47 A. Jail, yeah. They were going into detention. And I

1 guess, you know, that's a really important thing in terms
2 of the statistics that come out and the Child Protection
3 Information System is archaic, and so, there needs to be
4 funding for an appropriate IT system that actually
5 facilitates the work for staff members rather than making
6 it harder.

7
8 Q. On this question of records and standards, at
9 paragraph 80 and following of your statement you talk about
10 your observation that there's a lack of consistency across
11 the Child Safety Service about the records that will be
12 kept about children in out-of-home care and the
13 implications for the safety of children who might be being
14 missed. Can you tell us about that?

15 A. Yeah. I think that, you know, the sector itself could
16 do well to improve its systems. I know that, if I reflect
17 on the National Redress Scheme and some of our records,
18 they're appalling, there's very little in them. But
19 equally, the state department records, you know, there
20 isn't the clinical governance, there isn't that clinical
21 governance around record-keeping and information standards,
22 and that means that a child's journey and important facts
23 about that child aren't collated and aren't there.

24
25 And I heard some of my colleagues speak about that
26 earlier, they're virtually absent, and sometimes when I've
27 looked at files, and that was in my other role in the other
28 hat, they were atrocious, you know, "Great visit, all went
29 well". Well, who was there? Was it mum? You know, and
30 others it said, "Mum late, cancel visit", and there was no
31 context, so when a child looks back on their journey and
32 calls for their file, it's littered with nothing, no
33 information and redacted to death, so they actually can't
34 see what milestones or even if their family did care and
35 did come to visits.

36
37 Q. On this question of accuracy of information, as I
38 understand it that you had an experience when you worked in
39 the department of something quite significant being wrong
40 with a child's records with quite profound implications for
41 whether that child could be safely placed. Could you tell
42 us about that?

43 A. Yeah, I was standing in for the Child Protection
44 manager even though I didn't need to, and I did that on
45 purpose because I actually wanted to know how it was
46 working and what that looked like, and I remember being at
47 this meeting and it came up this particular child was very

1 difficult to place. And, you know, I just kept asking more
2 and more appreciative enquiry, "Why, what?" And then it
3 was, "Oh well, you know, there's been some problematised
4 sexualised behaviours". And I thought, you know, "The
5 child's ■, what do we know about this?" And sort of said
6 "Well, who around this table can tell me, and who wrote
7 that?" And we went back through and I found who the CSO
8 was - nearly said her name - and so we went and got that
9 person and we brought them to the room and we asked them
10 exactly on what basis that information had been recorded.
11

12 Q. The information that the child displayed problem
13 sexual behaviours?

14 A. Yeah, and it was untrue. So, the assessment made by
15 that CSO was flawed, and then we went back and looked at
16 other things, and that was over time. It was really clear
17 that that child had been labelled as having sexualised
18 behaviours when in fact they hadn't, which means that that
19 child was unduly labelled as being a perpetrator, possibly.
20

21 And also, there were two things: there was also the
22 neglect of that because there'd been nothing to do to
23 assist that child, if that was the case; but then there was
24 also the fact that this child's placements had been
25 compromised, is in, there were none available because
26 everyone was saying "no", and everyone around the table was
27 saying "no", and that's where I kind of said, "You know,
28 but I've seen this name come up before, why, what?"
29

30 And I think that, you know, the system, it's either
31 risk averse or risk tolerant; it kind of skews between the
32 both.
33

34 Q. You raised this in your statement at paragraph 53 and
35 following that what you observed is the lack of a good
36 model for assessing risk and a good model against which we
37 can have consistency of decision-making about these things.
38 There is the Tasmanian Risk Framework in use in Tasmania;
39 what's your reflection on the sufficiency of that to guide
40 this kind of assessment by Child Safety Officer?

41 A. Inadequate, totally inadequate, and I guess in the
42 learnings from the Crime and Misconduct Commission in 2005
43 in Queensland that I am aware of, after that inquiry there
44 was a system called Structured Decision Making that was
45 brought from America to Australia, and it's an actuarial
46 model. Now, the Tasmanian Risk Framework, because I've
47 already talked about this, so the Tasmanian Risk Framework

1 is a set of principles and it's really the VRF that's been
2 turned into the TRF, so it was once the Victorian Risk
3 Principles and they've just been adopted here when someone
4 moved from there.

5
6 They're not robust enough, so they're open to
7 interpretation and they're open to cognitive bias and
8 error. So, when on a particular day when you're an intake,
9 if you've had a particularly hard day, if you've got cases
10 mounting up, if you've got all those other things that can
11 get in the way of making a good decision, and if you
12 haven't spoken to enough people in the information
13 gathering stage, you can make the wrong assessment.

14
15 An actuarial tool isn't the total solution, but for me
16 what's really good about it is, it limits. So, for
17 example, if we looked at family risk factors, so parental
18 risk factors. So, one might be, both parents are under 25:
19 tick, tick. Both parents are known to the Child Protection
20 System: tick, tick. Both parents are - so you go through a
21 whole list of variables and it's several pages long, and
22 what actually happens is at the end it tells you what the
23 score is; it tells you whether there's alarm bells, it
24 tells you whether it's a 1, it's a 2 or it's a 3. So,
25 that's a category 1, 24-hours response, category 2 and
26 category 3. So category 2 can be two weeks. So it depends
27 on the protective factors so it looks at those as well.

28
29 It also rates people like power professionals,
30 teachers, educators, Tas Police, rates them higher because
31 they're in contact with the children. So, I guess for me
32 you get a better assessment, you get a more consistent
33 assessment applied because, if you've got new child
34 protection workers or if you've got season they can burnout
35 too, so you have a risk that one assessment for one child
36 might be different on one day to another, and I think it's
37 really important to have a tool that helps.

38
39 Q. Do you see this framework operating in the out-of-home
40 care context, for example, care concerns that might come up
41 that need to be assessed by a Child Safety Officer?

42 A. Absolutely. There is the poorest resourcing of a
43 system I've ever seen. The poorest professional
44 development, and I was horrified when I first came from
45 Queensland because I didn't think Queensland was the best
46 either, but I was horrified at the lack of systems and how
47 hard we made it for social workers to do their job, and we

1 didn't give them the right tools, and the risk assessment
2 framework, the TRF is not an adequate tool.

3
4 Q. You make the point in your statement that from your
5 observation the out-of-home care team within Child Safety
6 Services is particularly poorly resourced with particularly
7 high caseloads. Perhaps it's an obvious question, but
8 what's the implications for the system to be able to
9 respond to children at risk of sexual harm?

10 A. They can't --

11
12 Q. If the out-of-home care system's resourced in that
13 underdone way?

14 A. They can't. They can't. And when I was in that other
15 role, wearing that other hat I actually changed the
16 reporting, and I made out-of-home care report directly to
17 me, not to the manager of Child Protection, and I did that
18 on purpose. I wanted to see them, I wanted to have vision,
19 and I wanted to have that direct reporting around numbers.
20 I discovered that at that time they were one of the most
21 poorly resourced areas of child safety, but they were most
22 important because they are monitoring. And when you've
23 got - my TCCs, therapeutic coordinators have, and this is
24 just to give you a benchmark, 24 households that they're
25 responsible for and that's the regulation of care and
26 monitoring. Child Safety have 60 each.

27
28 So, if you're a carer and you're not doing the right
29 thing, you're better off over there because you're not
30 going to be monitored than if you're sitting over with us,
31 and I think that's why some of our carers actually at the
32 time requested to transfer because they knew they won't be
33 monitored, and they're not.

34
35 Q. This raises the question of support and training for
36 carers as well as for monitoring. You've described in your
37 statement quite a detailed package of training that's being
38 delivered to Kennerley staff but it's also been given to
39 carers. Why?

40 A. They're part of a team. And, you know, if they're not
41 part of the team and if they're not in the room with us
42 they're not learning that what we are learning. They're
43 also feeling like we don't tell them everything or we don't
44 share everything. It's all about relationships.
45 Relationships are critical. If those relationships and
46 trust - a carer will tell you when they're doing it tough
47 and they'll put their hand up when they're not coping

1 because there's trust and there's relationship and there's
2 no judgment.

3
4 I think carers are the most poorly treated individuals
5 in the system. In fact, I'd go as far to say as the system
6 is abusive, system's abuse of carers, system's abuse of
7 CSOs, system's abuse of partners, system's abuse across -
8 we're reflecting the very thing we're trying to stop, we're
9 reflecting the abuse of home environment, it becomes quite
10 dysfunctional.

11
12 And I call it, it's something called "parallel
13 processing", and I can't really describe it, except to say
14 to you, it's when a part of the system starts to reflect
15 another, and so, we start to reflect the abuse, emotional
16 physical and sexual that's happening in the dysfunctional
17 client group we work with at times. And, I've seen that in
18 staff, I've seen really good staff from Child Safety go,
19 I've seen them be diagnosed with post-traumatic stress
20 disorder and --

21
22 Q. It's a hard job, even in a good system it's a hard
23 job?

24 A. Hard place. It's extremely complex and it's
25 emotionally laden. You know, I sleep better at night
26 because we are a safeguarding children's organisation, but
27 that doesn't mean I don't stop worrying, I do still worry,
28 but you can only do your best and I think that that means
29 that governments need to invest in the system, they really
30 do, and that's in their staff too and their professional
31 development because how can you ask someone to do a job
32 that's that complex where burnout is so common and all of
33 those distortions are part of normal bias that we all have
34 as human beings, how can you ask them to do that job
35 without the tools, and to do a good one?

36
37 Q. The Commission has the benefit of a statement,
38 although she hasn't come to give evidence, from [REDACTED]
39 who was engaged in the relevantly recent past inside the
40 Department of Communities to work on a series of reform
41 projects, and one of the observations that she makes about
42 her time was of a culture that was very insular of
43 management who were very resistant to change, and perhaps
44 you would see that as evidence of a traumatised
45 organisation, but I'm interested in your reflection on her
46 evidence which was that inside the department itself it
47 seemed to be operating to resist any change, to punish

1 people who suggested change was needed.

2 A. Yeah, yep. It's - I think it's called professional
3 accommodation, and I've often seen bright eyed social
4 workers, psychologists heading into Child Safety with the
5 best intentions, and they all do, and within a very short
6 time they accommodate. And I often say to students coming
7 to Kennerley on placement - "I've got six at the moment".
8 It's exciting, free labour - that they, with their new eyes
9 and their lenses, before they leave and they're with us
10 eight weeks, I want to know what they saw. I want to know
11 about ethical dilemmas, I want to know about all those
12 sorts of things because they haven't accommodated yet. And
13 I think that's the danger in this system, that that
14 accommodation means that they all start to act like each
15 other, and I do know that there's a lot of bullying goes on
16 in social work and particularly in Child Safety.

17
18 I was going to tell you now, and I don't know if now's
19 the right time, but there was a example I had where it was
20 all about being right, and I remember there was this -
21 there was a little boy who had been temporarily placed in
22 his normal respite placement, and it was to do with sexual,
23 risk of sexual abuse by a male member of the foster carer
24 household. We went to the complaint and care meeting, it
25 was formal, we supported the carers through that. The
26 carers were amazing, they said that, "We're a safeguarding
27 children's organisation, we've done the training, of course
28 you've got to investigate this, of course you've got to",
29 which was great.

30
31 As time went on it was very clear that the matter was
32 referred to police as far as I know and then they said that
33 they were happy for the department to look at it further.
34 It ended up being that the CSO had made a determination
35 that the child had made this allegation of some description
36 that they'd been sexually abused. So there was big - quick
37 move and all of that happened which was appropriate. And
38 then as it came out nothing had happened, and I went to a
39 meeting with - and they'd done words and pictures, and with
40 two of the really excellent practitioners that I worked
41 with when I was there, and I was really pleased that this
42 particular unit - I think they were called CPCEs at that
43 time - they had actually conducted the investigation and
44 they talked to the little one.

45
46 And I was at a meeting that they were kindly -
47 involved me in where the CSO was in the room and they told

1 what the findings and recommendations were.

2

3 Q. The findings and recommendations being the child's
4 safe, there hasn't been any conduct of concern?

5 A. Yes.

6

7 Q. They could go back?

8 A. Yep, and the child should go back. And the CSO threw
9 her arms back in absolute, God disgust, and pretty much
10 said, "So you're saying that I was wrong" except there were
11 a few expletives in there because I think she forgot I was
12 in the room and, "It's not gonna happen this week, it will
13 happen next week" which would have been after Christmas.
14 And two of the CPCs chorused in and said, "No, goes home
15 today, in time for Christmas Eve". "Are you kidding?" And
16 it was a - "I'm right". And because - and it was ego was
17 in that room, and that's not child-centred.

18

19 And, you know, it's complex, it's such a complex job
20 to do, we should have the best of people doing it and we
21 should also be trained with police. Police should be
22 training Child Safety Officers in interviewing children and
23 recording evidence, they should be our partners; like, that
24 should absolutely be happening.

25

26 Q. In that example no doubt the Child Safety Officer had
27 made the best decision that she could at the time but
28 subsequent events had revealed that a different risk
29 assessment could be made, but it sounds from that example
30 that she took it really personally as an indictment on her
31 rather than an outcome after review that would help the
32 child?

33 A. Yeah, and we had a little boy that just wanted to go
34 home, like it was the only home he had ever known.

35

36 Q. So does that mean that really what was necessary for
37 that particular Child Safety Officer was perhaps support
38 and clinical supervision to treat it as a learning
39 opportunity instead of a punishment?

40 A. Yes. Clinical supervision, overseen by a clinical
41 psych, absolutely, around decision-making.

42

43 Q. To your knowledge does that happen for Child Safety
44 Officers in out-of-home care?

45 A. No.

46

47 Q. You mentioned a little while ago about sleeping well

1 at night and I took that to be a reference to having
2 a degree of confidence in the safety of children who are
3 cared for under the auspices of Kennerley. What is it
4 about the way in which the Kennerley system operates at the
5 moment that makes you feel comfortable that children in
6 your carers' care are protected from harm, including most
7 particularly of course, sexual harm?

8 A. I think because we have the relationship with the
9 carers. They're very clear on our expectations.
10 Attracting carers is a really hard thing to do. Asking
11 people to open their hearts and homes to kids, when they
12 have their own, when they have their own economic pressures
13 and so forth - and it's a voluntary job, they don't get
14 paid a lot of money - it's a difficult thing to ask.

15
16 When we went through the Safeguarding Children
17 Organisation training with Australian Childhood Foundation,
18 I had to re-write everything, and our modules, or the
19 modules, they're safeguarding modules, they're ACF owned,
20 they're pretty confronting. So you go through them and I
21 remember thinking to myself, how on earth am I ever going
22 to attract a carer when the first thing I've got to do is
23 put them through this? But what's happened is, we've had
24 the conversation about what sexual abuse is, physical abuse
25 and we've not shied away from it, and it's pretty
26 confronting stuff.

27
28 What's happened is, an unintended consequence is, that
29 carer I was talking about earlier and the little boy, said
30 upfront, we're a Safeguarding Children Organisation, we
31 know about this, it's right that you're investigating it.
32 So there's an openness to those conversations, we haven't
33 given them enough credit, they do understand, and, you
34 know, they do want to be part of safety planning and they
35 do want children to be safe.

36
37 I would say to you that I'm more convinced than I have
38 ever been that we are safeguarding children and that we
39 have doing everything that we humanly can do every day to
40 do that; whether or not we'll succeed and never have
41 another, I can't answer that and I would doubt it, because
42 I think that with the right - words - factors, with the
43 right things, things can go really pear-shaped and really
44 wrong, but we're doing everything we can to set those
45 standards so much higher, and that our staff have those
46 relationships of trust with the carers and we see them
47 regularly, we see them more than once a month, and we have

1 the relationship, and I really believe that the staff we
2 have all have a postgraduate certificate in developmental
3 trauma - cost me \$5,000 a pop for each one of them to go
4 through: sound investment. Because when they're talking to
5 carers and before things get really bad and heated and, you
6 know, everyone loses it, they're actually able to help them
7 with strategies to manage the trauma-based behaviours
8 because any child that enters state foster care has
9 experienced trauma of some kind, and even just the fact
10 that they've been removed is trauma enough, let alone what
11 we don't know that's written, you know what we don't know
12 that's written on them, because a lot of the time when they
13 come in you don't know what they've been through, we don't,
14 we only know a skerrick.

15
16 And I think that all organisations should be third
17 party accredited. I don't think it's a tick and flick, oh,
18 yeah we've got a plan for that. I actually think you need
19 to have someone else watching. My board have to know about
20 every slip, trip and fall; they have to know about every
21 single complaint in care, allegation, anything; they have
22 to be told. It's actually on all our government's
23 documents, our meeting documents, it's listed, and it has
24 to be recorded. What's more, it has to be recorded on the
25 portal for ACF, so I have to report it to them too and at
26 the end --

27
28 Q. Does the department want that information from you?

29 A. No.

30
31 Q. So, you've described how you feel able to sleep
32 because of the system. To what extent does the department
33 or the Secretary who's the parent of these children that
34 you're caring for, to what extent does the Secretary
35 require these kind of proofs from you about what you're
36 doing to keep children safe?

37 A. Our six-monthly reports still have the same name of
38 the department before I even started with it on it. The
39 reports are antiquated and say nothing - nothing - about
40 the quality of care the children are experiencing or not.
41 They asked me for the percentage of placements that I
42 refuse, and it's supposed to be less than 5 per cent, by
43 the way. They ask me how long a child's lived in the one
44 placement: that doesn't tell you if it's a good placement.
45 They ask about whether they're on short-term or long-term:
46 I figured they'd know that. They ask about carer
47 recruitment, how many I've got. I'm supposed to have at

1 least 20 respite carers for example: I have about 30. They
2 ask me about the number of children with a Case in Care
3 Plan, and there's less than 5 per cent, and I can tell you
4 that's what I've written every single time I've written
5 those reports: there are less than 5 per cent of children
6 in our care, of which is 105, that have a current Case in
7 Care Plan that says there's a plan for this child. Surely
8 they should all have them.

9
10 Q. Whose responsibility is it to prepared that plan?

11 A. A CSO. Sometimes we receive them and they've got the
12 wrong child's name on, the wrong date of birth. The
13 records are appalling. Now, I'm not saying - so there's
14 less than 5 per cent of that 100 that have one. I'm not
15 saying that - there may be some that they don't give us -
16 could be possible. Highly doubt it, it's always been
17 horrendous stats and I don't see that that's changed.

18
19 Q. And so, thinking about the various steps that you've
20 taken on behalf of Kennerley through getting third party
21 accreditation, has the department required Kennerley to do
22 that in order to continue to be a foster care agency in
23 Tasmania?

24 A. They haven't. I do know that the Attorney-General
25 announced it in 2018, I think, that that would be likely.
26 No, it's not part of our funding agreement currently.

27
28 Q. I want to turn then to ask you about a couple of
29 issues that build on this because they're about oversight
30 in the sense of oversighting the system. The Commission's
31 aware and we're going to be hearing from them tomorrow,
32 that two of the parts of the oversight structure for
33 out-of-home care in Tasmania is firstly the position of the
34 Child Advocate, and secondly the role that is played by the
35 Commissioner for Children and Young People.

36
37 In a submission that's been attached, or a summary
38 document that's been attached to your witness statement
39 you've expressed a view about the way in which the work of
40 those two offices could be improved or should be changed
41 and I wanted to ask you about them. Firstly, thinking
42 about the position of the Child Advocate, a recent position
43 from the last three years that sits inside the department,
44 what's your view about the efficacy of that role and what
45 could make it more efficient?

46 A. Total conflict of interest: total. Overseeing its own
47 system. I know that - I heard someone earlier talk about

1 this same thing, about - yeah, and I'll leave that for a
2 second. But in terms of Child Advocate, I think it's a
3 toothless tiger. It can't intervene and change things.
4 So, it can make recommendations. The individual that's in
5 that role is an amazing person, they do a great job; they
6 can't get to everything, they can't make the change happen.
7 They can make recommendations but it doesn't mean the Child
8 Safety team leader or the Child Safety Officer would change
9 the decision. I'd call it a toothless tiger.

10
11 Q. What would give it some teeth?

12 A. Get it out of there, doesn't sit there.

13
14 Q. If there's going to be a Child Advocate, where in your
15 view could do that position sit where it would have more
16 teeth?

17 A. Well, I think we could probably model on the
18 Queensland or the Victorian system where there's the
19 Reportable Conduct Scheme, but also, they have a - is it an
20 Office of the Guardian? I can't remember, I've read about
21 it, I think I wrote about it, but certainly I think that
22 they should be able to - so there should be the powers to
23 independently look at individual cases. They should be
24 able to see all of the complaints in care and scrutinise
25 them. They should be able to change decisions. So, the
26 Child Advocate position should be able to change case
27 direction. It's a role that should have that capacity and
28 I don't think it sits in Child Safety, it shouldn't.

29
30 Q. Perhaps this is an obvious question because you use
31 the term "conflict of interest" but can you just unpack,
32 what's the conflict? You've mentioned that the person who
33 holds the role is wonderful and does good work, so I
34 understand your evidence isn't at all a reflection on that
35 person?

36 A. No.

37
38 Q. But what is it that creates the conflict of interest?
39 A. I was listening to the inquiry all day and some being,
40 and I don't know if it was Moynihan, there was one of them
41 talked about it, and she talked about how - Wright, was it
42 Ms Wright?

43
44 COMMISSIONER BROMFIELD: Ms Wright, I think.

45
46 THE WITNESS: -- talked about being involved in a system
47 and how those relationships --

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MS ELLYARD: Q. "Regulatory capture", was her phrase.
A. Yes, it was brilliant. That's exactly what I'm talking about, yep.

Q. What about then the role of the Commissioner for Children and Young People? The evidence that the Commission has is that the Commissioner, although it's not in the governing legislation, is funded to exercise an oversight role, a systemic oversight role in relation to out-of-home care. What's your view about the efficacy of that model and again how it could be improved to better protect children in out-of-home care from the risks of harm?

A. So, I'd have to go further back. So, the systems in Child Safety that record the stats that go to the CCYP are flawed. So, the stats don't mean anything. So, even though you get them, I would struggle to be able to have the transparency that you would need. I don't know enough about the information and the data that the Commissioner for Children and Young People gets now. I certainly know that the inadequacy existed in the types of reports that could be given, so I'd be saying, unless we become super transparent about those statistics and unless we have systems that can report and monitor, then they can't talk to - yeah, I think the Commissioner does amazing work, I think it's a wonderful thing to have in every state and jurisdiction, but again, more teeth, more legislation embedded in so there's more powers, and the capacity whether it's sat in that office or somewhere else, Child Advocate, maybe sit there, Reportable Conduct schemes, maybe sit there; I really think that it needs to be much more robust as a system.

Q. The final question I wanted to ask you, Ms Sturges, and perhaps you feel you've said this already, but it's clear from your witness statement that in making these quite strong comments about the failures of the system, you're not criticising individual workers. I'd be glad if you, from the various perspectives that you hold, could tell the Commissioners what you think would help Child Safety Officers keep children safer? What could the system do to help them do their work of making sure that children aren't sexually harmed in care?

A. Have a culture of investment: investment in people, investment in clinical governance, in professional development across the sector, so open it up. You know, I

1 spend \$60,000 a year on training and development: well,
2 imagine if we all put into a bucket and we did, you know, a
3 community of practice around distortions in
4 decision-making, around you know, systems to make the job
5 easier for them to do.
6

7 Our case management system is a bit like Facebook.
8 When I talked to ISW, a firm here in Hobart, I asked them
9 to design a system that was really intuitive, captures all
10 my regulation of care, stops them not filling in a certain
11 thing, red flags, won't let them place children unless
12 regulation of care is ticked off. You can buy those
13 systems, they exist.
14

15 CPIS dies, every time you go to type into it, it'll
16 die and you lose all the work and you lose your train of
17 thought. And imagine, if you're halfway through something
18 that's really important, it crashes, does it several times,
19 there's five different phone calls, you don't get back to
20 it, you've lost it, it's not saved, the record's gone. And
21 I think that if you invest in them clinically, you invest
22 in IT, you invest in ongoing development, psychological EAP
23 care of them, because we're burning them out.
24

25 And, you know, a close friend of mine who was a
26 manager at one point has been diagnosed with PTSD, and I've
27 seen the system break them and they're trying to do a good
28 job, they want to do a good job in an incredibly complex
29 environment, so emotionally charged and they don't have the
30 skills, and they would have the skills if government
31 invested in it long-term; if we worked with our partners
32 like police and Health and Education and almost had, I
33 don't know, almost a Child Safety person in each one high
34 up that then could break down the silos when they happen.
35

36 And if we could embrace a cultural shift from the top,
37 from the very top, where there is no tolerance for abuse
38 and neglect, and in saying that in the last few months I've
39 had a good working relationship with someone that's there
40 that seems to be - there's hope for us again as a sector,
41 because we're being spoken to, and that hasn't happened for
42 a long time.
43

44 But invest in them, treat them as your most valuable
45 asset. I think, if you do that, they'll take care of the
46 kids, and I think, if you take care of the carers, they'll
47 take care of the kids. If you take care of the staff, it

1 just - it's common sense.

2

3 Q. What about therapy for children?

4 A. Or the absence thereof.

5

6 Q. Well, I'm interested in your view on this. It's clear
7 from what you've said that a lot can be done to help Child
8 Safety Officers do their jobs better and identify children
9 at risk. Where children have been harmed either in care or
10 out of care and need a therapeutic response, the Child
11 Safety Officer needs to find someone to refer that child
12 to. What's the state of therapeutic treatment for children
13 in out-of-home care in Tasmania right now?

14 A. It's shocking, it's atrocious, the waiting lines are
15 so long, and I think that a child coming into foster care
16 should have a gold card, a gold card approach, which means,
17 door's open: psychologists being available, clinicians, the
18 TIP Program, family violence, children that have seen that
19 hideous abuse.

20

21 Just because - well, when a child enters care they're
22 already traumatised, which means you do something about
23 that, and then you might unpack a whole heap of other
24 traumas that you weren't aware of. Because unless - I had
25 an Irish nana, an Irish background, she said, "A stitch in
26 time saves nine". You spend the money, you invest there,
27 then down the track you actually have healthier thriving
28 individuals. When you don't invest in the most vulnerable
29 at the very beginning, the trajectory is very different.

30

31 MS ELLYARD: Thank you, Ms Sturges, thank you
32 Commissioners, those are the questions that I had for
33 Ms Sturges, but I'm conscious that there may be follow-ups
34 from the bench.

35

36 PRESIDENT NEAVE: Thank you very much. Any questions?

37

38 COMMISSIONER BENJAMIN: No.

39

40 COMMISSIONER BROMFIELD: Q. I had one, I guess it comes
41 from an observation really. Child Protection is risky
42 business, and I'm thinking right back at the beginning of
43 your evidence you talked about that meeting where you were
44 told you needed to have a greater risk appetite.

45

46 Listening to you, I'm wondering if perhaps there's
47 been an evolution over time where risk appetite has turned

1 into a harm appetite and that there's an appetite for
2 ongoing harm, and whether you'd care to comment on that as
3 an observation?

4 A. I was most concerned that you would ask me a question,
5 and that's because I hold you in such high esteem because
6 of your research work, so my apologies. I'm going to try
7 to answer that.

8
9 I'd absolutely mirror what you just said. There has
10 been an increasing tolerance for harm, and I've seen that
11 in the role I was in and over the years it seems to have
12 got worse, and I think my Clinical Practice Leader, Monika,
13 would say exactly the same. It's almost like her lenses
14 two years after coming to us are clearer, and when you're
15 out of the system you can see it clearer. When you're in
16 it, it's not as easy, but it is that accommodation that
17 somehow it's a luxury they don't have. It defies logic,
18 doesn't it? It's that psychological distortions that
19 happen to us in systems like that of abuse.

20
21 Q. And based on your clinical experience, who do you
22 consider are the children in this state who are least able
23 to be resilient to harm? It's a Dorothy Dixier.

24 A. Thanks. I think - the most vulnerable to harm. Well,
25 I guess, children in state care, number one, but there are
26 many children that I believe should be in state care that
27 aren't, and equally I think there are some children that
28 need to be at home because they're less at risk.

29
30 There's something that - there's two things I've
31 always said to myself under my breath, "Grace under
32 pressure" and the second one was, "Do no harm", and when a
33 system is harming I just don't understand why those
34 children aren't at home: we're not doing any better.

35
36 COMMISSIONER BROMFIELD: Q. They're the only questions I
37 had and I wanted to thank you for the work that you do with
38 children?

39 A. Thank you so much. Thank you, Commissioners.

40
41 PRESIDENT NEAVE: The Commission would like to echo those
42 thanks and for the passion with which you spoke to us today
43 and the convincing arguments that you put to us, I think,
44 about the investment that's needed in the safety of
45 children, so thank you very much indeed.

46
47 THE WITNESS: Thank you very much, Commissioners, for your

1 time, thank you.

2

3 MS ELLYARD: Thank you, Commissioners, that's the end of
4 the evidence for today.

5

6 **AT 4.07PM THE COMMISSION WAS ADJOURNED TO**

7 **FRIDAY, 17 JUNE 2022 AT 9.30AM**

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