

JOINT STANDING COMMITTEE ON THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

**REVIEW OF THE FUNCTIONS EXERCISED BY THE
COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE**



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 9 MAY 2018**

SESSION ONE

Members

**Hon Dr Sally Talbot, MLC (Chair)
Mr K.M. O'Donnell, MLA (Deputy Chair)
Hon Donna Faragher, MLC
Mrs J.M.C. Stojkovski, MLA**

Hearing commenced at 10.06 am

Mr GRAHAME SEARLE

Director General, Department of Communities, examined:

Ms JACKIE TANG

Assistant Director General, Child Protection, Department of Communities, examined:

Ms RENEÉ GIOFFRE

Principal Policy Officer, Department of Communities, examined:

The CHAIR: On behalf of the Joint Standing Committee on the Commissioner for Children and Young People, I would like to thank you for your appearance before us today. I am Hon Dr Sally Talbot, the member for the South West Region. I am the Chair of the Joint Standing Committee on the Commissioner for Children and Young People. I will just get the other members of the committee to introduce themselves, just moving down the table.

Mrs J.M.C. STOJKOVSKI: I am Jessica Stojkovski. I am the member for Kingsley.

Hon DONNA FARAGHER: I am Donna Faragher, member for East Metro.

Mr K.M. O'DONNELL: I am Kyran O'Donnell, member for Kalgoorlie.

The CHAIR: We have put Kyran at the end of the table, even though he is the Deputy Chair, because he is sick.

I will just continue with the formal statement. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege. However, this privilege does not apply to anything you might say outside of today's proceedings. Today is a public hearing. If during the hearing you feel that evidence you are about to give should be taken confidentially, please let us know so that we can respond appropriately. Do any of you have any questions about your attendance here today?

Mr SEARLE: One of your questions is about data and data sharing. We were trying to get something ready and it just did not quite work in time to show you. I have a handout that demonstrates where we are going, but it has names in it of real people because it is real data. Whilst I am happy to hand it out, I would much rather collect it at the end of the session because it is inappropriate for me to give you details of individuals. So I am just making sure that is appropriate before I —

The CHAIR: We actually have a number of options to deal with that, including redaction or acceptance by the committee and given a private status. So shall we leave that question until the end of the meeting but recognising that all the committee understands the sensitivity.

Mr SEARLE: I am just happy to frame it, because if I give it to you now and things change, it is tricky.

The CHAIR: Yes. So when we get to that point we will give you the option and you can decide. We have a series of questions for you today, but before that would you like to make an opening address?

Mr SEARLE: I am happy just to answer the questions.

The CHAIR: Okay. We have a number of them here. Our normal practice would be to get through what we can get through, recognising that we do not need to stay absolutely on track, and while I will lead the questioning, other members of the committee will come in with their own points for elaboration. And anything we have left over at the end, we may ask you for a response. We would

like to start to pick up on some threads from the previous time you appeared before us, Mr Searle, by asking you about Roebourne. When you appeared before the committee at the end of last year, you talked about Roebourne as—I am quoting you—"probably the most meaningful engagement Roebourne has had with government in terms of how we can start to find a way forward for the community". Would you like to start by giving us an update on what is happening in Roebourne?

Mr SEARLE: Roebourne continues to be a relatively fractured community. Whilst it is fundamentally an Aboriginal town, these days there are a number of different age groups and corporations operating in the town, which makes it very hard to get a single view of the community's view of the world. A lot of it comes back to politics, in the broadest sense of the word. I was back in Roebourne three weeks ago and met with the elders then and worked through the process with them. The process is continuing and we are continuing to engage with the community. We now have finalised a brief action plan that the community have by and large agreed to. I will give a copy to everybody. This identifies the major issues that the community is concerned about and worried about, and it then provides a series of actions under those things that had been identified by the community. Again, there is not uniform support for all of them. Issues such as alcohol management are pretty divisive within communities, but these are the sorts of issues that we have finalised down to, and most of these things have now got action items underneath them that we are progressing. For instance, a review of servicing contracts is a 6718 project that we fund up there that is now starting to work through the list of government services provided in the town to work out which ones the community thinks of value versus the ones they think are inadequate for their community, so we start to work with them about how we refine that list.

The CHAIR: Have you managed to come up with a complete list yet? Even that was a challenge, was it?

Mr SEARLE: We have got something but it is not a complete list. Part of the problem is that things that were originally counted in the first review of government-provided services—things like police are costed into that, education is costed into that list, and they are things that are not going to change in the foreseeable future. But that work is starting. I think the community gets that they have got to stand up as part of this, and there are regular ongoing meetings. We are actually increasing our child protection staff on the ground to try to help that process. There are child protection staff now co-located with the police task force in Karratha to work on that in the police building. So there is a lot of activity going into trying to solidify and bring together the government's response. There are now plans for the youth justice division workers to move into the child protection offices in Roebourne as well. Those works are continuing. Our senior person in the reform unit on the ground up there, Chad Stewart, is working really closely with the community, and they have now got to the stage where the community is actually very comfortable with him, as an Indigenous man, even if he is a Maori, in their context. I think it was never going to be a quick process, but I am confident we have a better understanding of what is going on and what the responses are to them.

The CHAIR: I notice that you are now calling it the West Pilbara plan.

Mr SEARLE: Yes.

The CHAIR: When we look at this, this is a vast amount of work. It has got capital things in it like establishing a men's shelter and obviously a lot of recurrent and specific project work. The first thing that I would perhaps like to ask you is whether you have got the resources to do this in the West Pilbara.

Mr SEARLE: There is a range of things in here that are going to take us time. Some of them might not cost much money at all; others will cost significant money. We made a conscious decision to call

it a West Pilbara plan for a couple of reasons. One is that when you look at the events that are under investigation in Roebourne, it is clear that they do not just affect Roebourne. There are a number of kids in other centres around the region that are involved. Roebourne pretty much gets pilloried on a regular basis, and we did not want to do anything to continue to highlight a focus on Roebourne. The community there, as was presented at the elders meeting, are sick and tired of being portrayed in the way they are in the media and very angry about it. So we did not want to make it the thing that focused the attention of the world on Roebourne.

The CHAIR: The second question that occurs to me is that when you look at other communities which are clearly troubled—I know we have had those couple of Northern Territory reports recently—there is one from the last 48 hours in Halls Creek. Do we assume that communities like Halls Creek do not have any of this or are you in any way going to be able to take this as a template and roll it out for other communities?

Mr SEARLE: It is safe to say that child abuse in its various forms occurs across the state. Roebourne is not a particular case of difference from anywhere else. Whilst this is a short-term plan effectively around Roebourne, the reality is part of the establishment of the Department of Communities is examining the whole issue of how a community as a whole operates and whether our traditional siloed responses to problems could be improved. In government, traditionally we operate in such a way as to believe that poverty, mental health, drug and alcohol problems, child neglect, homelessness, and family and domestic violence are totally unrelated things, because our responses have all been siloed and separated from each other. The reality is a lot of those things coexist in a family. And it is this ability to examine the family unit as a whole, identify the issues and try and respond to those at an earlier stage that is the only sensible way to do what we are doing; whereas at the moment what we do is we spend virtually all of our money in Treasury responses rather than at the primary end. We talk a lot about early intervention but we do not really do much of it. We talk a lot about evidence-based policies but we do not actually do much of it. So part of what we are trying to do in the new department is actually turn it on its head and work out what the intervention actually looks like. Already we have seen the early years initiative announced in the last few weeks, which is about making sure that kids are ready for school, and it started with communities we know from the health data are problematic, and target 1-20, which is about trying to keep the next issue of cohort of kids out of the justice system. So there are two or three things we are working on across the department to try and reset the way communities operate, reset the way people get help, to try to get to the stage where we do not have to do these sorts of recovery operations rather than preventive operations.

The CHAIR: I just want to talk about other things about Roebourne, because clearly what you said about siloing goes directly to the question about the data collection. You did make some specific comments which made a big impact on the committee when we heard you talk about the fact that only one of your agencies has any sort of mobile computing capacity. Can I start by asking you about the way that the Roebourne situation came to light and came to the attention of government agencies. We heard from the commissioner that there were various informal reports and that all his investigations could not link those informal reports to anything concrete. Have you had a chance to go back and look at the way the situation developed and to see whether there was a moment at which somebody missed something or somebody did not ask the right questions?

Mr SEARLE: No, I have not. To be clear about it, my understanding is that it came to light because of the disclosure of a particular child and a very capable young policewoman who did most of the disclosure. The interesting thing for me is I am not aware of any report from a health professional in Roebourne about there being any reportable issues, which, given the number of kids involved, is quite remarkable.

The CHAIR: I understand the rate of STDs amongst children in that area should have rung the bell for somebody—should have flashed a red light.

Mr SEARLE: I do not have those figures in front of me but that would be my expectation.

The CHAIR: Is that something that you would contemplate going back and looking at at some stage or is there the capacity to do it?

Mr SEARLE: I think the whole issue of mandatory reporting and what did or did not happen in this case does need to be looked at, but at the moment we are focused on how to help the kids and work with the kids that we know have got problems. But there is an issue I think around mandatory reporting that is of concern.

The CHAIR: So there might have been some people who were not complying with their mandatory reporting obligations or some people who are not captured by the obligation?

Mr SEARLE: The former, I think.

The CHAIR: They were not complying with the law.

Hon DONNA FARAGHER: Can I just check? With the mandatory reporting, does that come under the act with the responsibility of your minister? Who is actually responsible with respect to the mandatory reporting act or legislation?

Ms GIOFFRE: It sits in the Children and Community Services Act, so I would assume that it is the minister.

Hon DONNA FARAGHER: I have had a quick read of this. All of this is absolutely essential from my point of view. I hear what you say in terms of moving it out to not just reference to Roebourne, and I accept that. So there is a serious issue in Roebourne, and whilst some might not like the constant focus on Roebourne, sometimes you need to call it for what it is, and there is a significant issue. But if there are issues surrounding the mandatory reporting, I think absolutely—sorry, this is my personal view—that needs to be addressed, because you cannot do the early intervention and a whole range of other things if those people who have a responsibility to report are not reporting. I suppose we are making the assumption that that has not occurred.

Mr SEARLE: I am making the assumption. I know there has been no report.

Hon DONNA FARAGHER: Yes, and I accept that, but I think that there really does need to be some further work in relation to that area, because all of this is really great but if something is not being identified, then all this great work is not going to be as good as what it could be.

Mr SEARLE: I agree with the member absolutely. There are plenty of published reports about the extent of STIs amongst young children in the north west of Australia, not just WA. The question you have got to ask is—there are not too many ways to get an STD—why have those cases not been reported as part of the mandatory reporting framework. It is a fairly serious question and absolutely something we will be following up on, because a lot of the services up there are actually funded by government, so I think there should be some consequence for people failing to report for whatever reason.

The CHAIR: The committee has heard evidence in the past, which you are probably aware of, that training service providers in their mandatory reporting obligations in some cases leaves a lot to be desired. Monitoring the success of the training is done with a ticked box—"did you enjoy the last three hours?" rather than "did this make any substantive difference to the reporting mechanisms?"

Mr SEARLE: My real concern in the short term is they are health professionals.

The CHAIR: Thank you for that. We might leave the specific issue about data to the end, which will leave us the option of going into a closed session, which is nice and neat. I might move to just talk more about the siloing that you spoke of. We know that your department certainly as much as, if not more than, any other has been affected by the machinery-of-government changes. I wonder if you could just talk to us in general terms about whether you feel that machinery-of-government changes have made the breaking down of those silos a more achievable objective than it might have been 18 months ago?

Mr SEARLE: Yes. The simple answer is yes.

Mrs J.M.C. STOJKOVSKI: Could you give us some examples?

Mr SEARLE: Yes, I can. Jackie might be able to talk to this as well from our recent experiences. We have been out talking to the staff a lot over the last 12 months and in the Kimberley for probably three years about what we are doing now is not great despite the best efforts and people having great intentions. The rules from various agencies do not necessarily reflect the priorities within the community. By way of example, housing has a waitlist. You can get on a priority list off the waitlist but it is still 12 months. If you have a family in a domestic violence circumstance and you need to find them somewhere to live tonight, that is not much use to you. What we are now starting to see across the regions are the child protection staff talking to the local housing staff about what is going on and housing is starting to talk to them about what makes sense, what are the priorities, what do we need to do. There is a big piece of policy work to change all those settings, but in the short term we have given them a couple of lines in the practice manual that talk about taking into account cross-departmental priorities, which gives them an out clause, so if there is someone they have got to house right now in order to prevent something, they can do it. That has never happened in the past. Those discussions are happening in a range of locations. In the Kimberley in particular, we have a target to be one department by 1 July this year. That is one front counter, one office, one starting point. We are running multiple prototypes at the moment about how the hell we are going to get there. But it is just recognising the fact that families need help, and what we do is provide programs and the two do not match up. It is using some of the stuff that comes out of the Department of Communities, Disability Services Commission and their local coordinators and this idea of going in and working with a family to identify what the major issues are and priorities are and then basically brokering services so that a family can deal with the major issues first. That is a huge shift from where we are. The project in the Kimberley has probably been going on for two months so far—maybe a little bit longer—including staff talking about what is it and what will it look like. A lot of discussion with staff has been on the basis of issues, starting with a blank sheet of paper, “Which would you do stuff the way we do it now?” And the answer from everybody is no. So we are saying, “Okay, here's a blank sheet of paper. Tell us how you do it to get the best results.” It has been an interesting journey, and challenging for a lot of people, but I think people are starting to get it. In reality, we are bringing together parts of six different agencies—all of three and parts of another three—so it is quite a culture mishmash. There is lots of horrible bureaucratic stuff to sort out—everything from leave forms to travel approvals to reconciliations of credit cards through to do we as an agency provide tea and coffee and milk for our staff. I mean, it is everything from the sublime to the ridiculous. So trying to bring things together is a major task and the system is overloaded more so because the cost of that long term will be gigantic. We have tried to come up with practical and pragmatic approaches that mean we can change what we do on the ground.

The CHAIR: One of those areas that right from the beginning appeared to be particularly challenging was the stated objective of government to bring the youth justice services from the Department of Justice into the Department of Communities. Last November you talked about the fact that we

would need statutory amendments to the act to make that happen. Could you give us an update on that?

Mr SEARLE: My understanding is that is still a matter of cabinet discussion. We do not control that act, so it is not our act to amend.

The CHAIR: What are the current youth justice functions of your department?

Mr SEARLE: We do not do any of the youth justice functions at this point in time, but we are, by way of practical agreement, trying to relocate youth justice staff with our staff where practicable because, at a very simple level, if one of our kids in care is in front of the justice system, youth justice prepare a report for the court and we prepare a report for the court, which just to me seems a bit silly. So there are some things we are trying to get to get closer alignment between the two groups, whether or not the formal change happens. We think that co-locating them makes good sense anyway.

The CHAIR: Okay. So co-location would be a bit different from bringing them in-house?

Mr SEARLE: Absolutely, and our preferred position is still to bring it in-house, but in a practical sense we can at least start talking to each other by getting them to co-locate.

The CHAIR: Continuing on the theme of the MOG changes, I am sure that you know that at the end of March we spoke to Parkerville. When we asked them what they thought of the machinery-of-government changes, they said that the Department of Communities was essentially in chaos as a consequence of undergoing immense upheaval.

Mr SEARLE: Yes, it is an interesting quote.

The CHAIR: Can you give us your views about that statement?

Mr SEARLE: I think that is coming from somebody who is sitting there waiting for a tender to come out that has not come out, so it is very much about a particular point of view. In terms of the child protection part of the business, there has been practically no change in terms of how we deliver that, but what has happened is that there was a lot of work going on with an out-of-home-care tender—a very different model, a very different way of doing business, lots of consultation with a community services centre. Then the machinery-of-government changes happened, and what we did was took a step back to say, “Well, given the machinery-of-government changes, does that change the nature of this tender? Does the tender need to be the same as it was, given we are about to lock ourselves into four or five years without any effective means of changing the tender?” So we took half a step back to have a look at what are the consequences of this. In the end, I think we will probably end up doing what was planned anyway, just because it is too big a task, given everything else that is going on, to rejig the tender. But one of the things we really want to see happen is that we review our tenders and the way we do business to make sure we incorporate the operations of the agency in one tender rather than have multiple tenders with the same, which is where we are now. There are some agencies where we have got 30 or 40 contracts with those agencies. That is not efficient for them and it is not efficient for us. So taking the time to step back and say, “Is there a better way to do this?” given our new responsibilities, I think is a sensible thing to do. As I say, in that case I do not think we will do it. The housing tenancy support tender—what used to be called the STEP program—we are actually rejigging to take into account the fact that we have got a broad range of responsibilities and we can get more value out of that if we change that tender. It is this, “Are we what we were or something different? If we are something different, why are we letting the same tenders that we always let?” There is also a pace-of-change question. It seems in that tender in particular, the large agencies were consulted; the small ones were not as involved. So there are different levels of preparedness and awareness within the community sector about what

we are doing and why we are doing it. Yes, I can understand the frustrations from peak organisations, quite perfectly. The pace of change is always an interesting issue.

Hon DONNA FARAGHER: I would think it was not necessarily the tender per se. Certainly, the way I see it is that their concern is to the fact that significant work had been undertaken as part of an overall reform and then it did seem to stagnate, and then that is the reason that these people are a bit confused as to the new department and their views with respect to that reform process, and at some levels they invested quite a bit of time in terms of consultation and all of those sorts of things, and things changed and then they are a little bit left wondering where it sits. Yes, that might involve a tender process at the end of the day, but there is also getting an understanding of the overall commitment towards certain reform processes that have been underway for, in this instance as I understand it, quite a significant period of time.

Mr SEARLE: Yes, I accept that absolutely. Also, with the way that process panned out, there was virtually nobody left in the agency who had been involved in that process that would give them —

Hon DONNA FARAGHER: Therein lies one of the problems.

Mr SEARLE: Yes, but they were given packages before I arrived and before the new department was formed, so we had a couple of problems—I accept that absolutely—that were their making, but we took the opportunity to go back and have a look because it is foolish to go out with the tender process that no-one in the agency understands.

The CHAIR: I just want to take you to a couple of comments that were made by the commissioner earlier this year in a hearing about the oversight of children in secure care facilities. We have heard quite a bit of evidence about the increasing number of children with complex needs, and of course the commissioner is running that vulnerability series at the moment, which is highlighting these kinds of issues. First of all, can I ask you what is the evidence that the proportion of children in care with complex needs—am I using the right terminology? Is this current terminology?

Ms TANG: Yes.

The CHAIR: Okay. Is that proportion of children increasing?

Ms TANG: I think it is probably fair to say that it is. One is because, yes, the complexity is increasing, given the social context in which they are residing and living, but also it is the identification of that and the understanding of what trauma brings and the need to respond to that. So maybe in the past you would have said that is a very difficult child who is naughty and difficult. Now the conversation is actually, “What has happened to this child?”—not as an excuse, not to lose accountability around that, but to understand it from a different context that the response needs to be different. Therefore, the category or the nature of that understanding is identifying that there are complex needs that need to be addressed. In relation to that as well, one of the reforms—because the reforms have not stagnated; we have certainly had a closer look at them with different eyes and in a different context—is looking at the needs assessment tool in relation to how we assess needs for children that we come into contact with and then being able to direct the services to those needs to be able to address them. The secure-care element of that is a very small number again, which is probably identified around 200, which is an arbitrary number, of maybe very complex children who we are needing to find placement for within the community sector or within our own management, but the secure-care element is probably a small group which is rotating through, and it is how we find alternative interventions for those children so that they are not going through secure care.

At the moment we are going through the process of selecting an evaluator for secure care because it is a closed environment and it does need close supervision over what is happening. We cannot tell ourselves we are doing a great job if we really have not assessed that. So I was very keen at the

early stages, and particularly as part of the legislative review, that we made that process whereby we formally evaluated secure care and how it operated, particularly because there are administrative decisions. If it comes out that we are doing a job that is really positive and it actually has really positive outcomes for the young people involved, that is great. If we do not, then we need to approach it differently and look at how we administer it actually or provide services for that group. We have constrained that evaluation to looking at secure care in itself. The question was whether we should go more broadly and look at the mental health services that young people are actually engaged with beyond secure care, because our feeling is that at times we are the last resort. We cannot say no. So we need to be able to have a service which, when everyone else says no or it does not fit the criteria, we are left with what are our options to keep these very vulnerable children safe. We have constrained, as I said, the evaluation to what we are doing, and I think once we have a really good handle on that, then we can be talking to the Mental Health Commission and the health department about that, about the pros and cons of what we do and what the other agencies might be doing which impacts on our ability to get the positive outcomes for young people.

The CHAIR: Okay. I assume that we are distinguishing between evaluation, which is the term you used, and oversight?

Ms TANG: Yes. One of the evaluations is the extent of oversight that occurs. We have assessors that are going in. One of the things is looking at how does the assessment process occur, how do we appoint assessors, how do they go in, what do they look at, and quite fairly people could say if we appoint the assessors and we determine when they go into secure care, it is not truly independent. We like to think that someone going in who is looking at it objectively is actually doing that, but someone sitting outside would say, “Well, actually you’re just paying people to go and look at your service and could be quite” —

The CHAIR: It is the watchers watching themselves?

Ms TANG: Yes, and I absolutely accept that. Coming from a background—where or when you are placed in a secure environment, it is because the court has imposed it or a statutory authority has imposed it—I am very sensitive to the fact that these are administrative decisions and it is a closed environment. Part of the evaluation is what is the role of the assessors. With the legislative review, it has not actually stated who would do that oversight, but the question of independent oversight is clearly one of the recommendations. That recommendation has not gone to the extent to say which agency would do that, but it is clearly putting out there saying this is a very necessary activity to look at.

The CHAIR: Just continuing on that theme for a moment, you will be aware that the commissioner is endorsing the establishment of a single oversight body for children in all secure care arrangements across the state. He includes in that Kath French, Bentley adolescent unit and Banksia Hill. Do you have a view about that?

Ms TANG: I probably have a personal view about it to the extent that who the commissioner might oversee is entirely for others to make that decision. My view is that I agree that external oversight brings much clarity to how a service is running. If there is a common view about how children and young people are moving through those systems and there is an oversight over how children are moving through that, then there is some value in that. Who does that is not my call. We have the Inspector of Custodial Services who oversees Banksia, so that is clearly a role there that is already in place. On the question of who does it, it is more importantly who is having that view and who is actually the external oversight.

The CHAIR: Yes. The point the commissioner has made to us is that any child in secure care requires oversight by specialists—people who have actually got their heads around what it means to be in

secure care. I would just quote him, “These skills are similar for children in care whether as a consequence of mental health, welfare, justice or even disability.” He talks about, “A readymade oversight model might combine the effective services currently provided by OICS and the Mental Health Advocacy Service, and rather than focusing on ensuring specific services, it would be more effective to look at the overall picture involved in supporting children in care.” That has obvious commonsense attached to it. I wondered if the department is of a mind to endorse that principle. Some obvious problems would have to be addressed, like the fact that children in Banksia Hill are actually not subject to any sort of custody order —

Ms TANG: No, in —

The CHAIR: Sorry. Kath French.

Ms TANG: I think it does have some difficulties to be actually able to say we endorse that. The whole royal commission is around how is oversight done in the future, how do we get oversight of behind closed doors, because the more eyes you have on a situation the more risk will come to light and we will be able to intervene. I suppose from my position I would probably fall short of saying yes, we absolutely endorse that case, but I would put to you, as I have already said, that any oversight or further scrutiny of any situation, whether it is young people, children or adults in a secure environment is absolutely the favoured way to go, but how it is done.

Mr SEARLE: Look, we very strongly support oversight—not a problem. We are happy to have people do that. My concern would be once you start mixing the correctional system with the mental health system with the troubled teaching system. They are very different operating models and very different rules apply. To have one group doing all the oversight would, I think, create a set of challenges. The Inspector of Custodial Services has got a big enough role as it is, so you would not expand that.

The CHAIR: So these specialist skill sets might be broken down by jurisdiction, by policy, by agency area.

Ms TANG: I suppose the situation is how do you get an oversight and trend across the criteria of secure care or security but not lose the specialist knowledge of how you focus on each of those areas, because they are dependent but very much co-dependent.

The CHAIR: I think it would be helpful for the committee if you could just give us an idea, perhaps by giving us a couple of empirical examples, obviously with no identifying information, about who goes through the Kath French centre. The circumstances that lead to somebody being in Kath French?

Ms TANG: It can be someone, and a young woman comes to mind from a very recent example, who is at a loss. They are at a point where they may be heavily involved in drug use, heavily involved in alcohol abuse. They have not been able to be engaged in relation to a secure placement—that is the wrong language—a permanent placement or stable placement. So they are constantly on the move. Their behaviour might be that they are associating with people who are in a drug world, who may be selling their bodies—prostitution—to get the money or to get the circumstance of exchange of drugs for sexual favour, and their behaviour might be the case to the extent they may be throwing themselves under vehicles or jumping out of vehicles while they are moving. The question then comes to the extent of is it a case where the prison or the department can liaise with mental health services and if they deem that it is actually a behavioural problem and not a mental health problem. I am not a specialist in that, but it is like, well, what comes first. So it comes to a point where there are no other avenues, but what you do. This child is basically at risk of significant self-harm. We have made that determination, so therefore how do we provide almost a circuit breaker. You are in

secure care for 21 days initially, as in for a set time, and then an application can be made for a further 21 days, so it is a very short period. For example, in a situation like that we would place that young person into secure care and then work very intensively. There are only six places at secure care and we say it is more from the skill of staff, rather than the actual building itself, who work very closely. With the girl that comes to mind, she probably would have been in secure care over a period of time, maybe a couple of years, six or seven times.

The CHAIR: So it is a maximum period of 21 days.

Ms TANG: And then you can apply to have a further 21 days.

The CHAIR: Yes. And can you keep applying indefinitely?

Ms TANG: No.

The CHAIR: So it is two?

Ms TANG: Yes. A young person can actually appeal against that decision, and so that can come up to myself to appeal that decision. That usually comes to an executive director, and I can then go into that to appeal it. If they are still dissatisfied with that, the young person can take it to SAT. The problem with that 21 days is the time you go through that process. The time lapse of getting that heard is very short. That is the type of young person that we would have there. It may be that people are rotating through that service, too. It gets to the point with that particular girl—I will just use that as an example because it is very fresh in my mind and the most recent example—to the extent where even Grahame became involved working with the highest levels in the health department to say “How can we get a different solution to this circumstance than the young person going back into secure care?” because that is what we did not want. Something had to change. So I raised it with Grahame, and Grahame raised it, as I say, with the health department, who, I must say, were very responsive, trying to work through what is a big system in itself. Then we are still tracking that young person—it is safe to say that this week it looks like she may have a more stable environment to work with supported, but that all depends on whether she chooses to stay there. So it is a daily event that occurs with this particular young person. We try to look at something different, try to engage her with the right services, making sure she does not abscond. But we try to get her an assessment and she absconds. That is the type of young person that we are dealing with.

The CHAIR: What sort of age group are we talking about? What are the youngest?

Ms TANG: She is 17 and a half. Now, what we could say is, “Oh, well, in six months’ time she’s 18—not our problem.” You cannot do that. The issue around secure care is really children should not be placed there under 12 really but it comes down to 10 and even goes younger. We are really trying —

The CHAIR: So you have got children under 10 in Kath French?

Ms TANG: We have had, yes, but we absolutely do not want to be there. As children age out their complexity—it is about that—then they may actually not even engage with us at all, so we do not know where they are or, if we do know where they are, they are not engaging sufficiently for us to get the services. So it really is being at the right place at the right time.

The CHAIR: So Kath French is the only facility in the state, is it not?

Ms TANG: Yes.

The CHAIR: And you have got six beds?

Ms TANG: For that type of service.

The CHAIR: It was bigger, was it not? When it opened it was about 12, was it not?

Ms TANG: I do not believe so, but I may be wrong.

The CHAIR: I think the number of beds was reduced. Is six enough?

Ms TANG: I would hope that we did not need six. The question is: do you build more facilities or do you look at the services that are provided so that we do not need that service? My preference is we do not run the service at all. Then there is actually a service. As I say, we come in at the end. So is 12 enough? Is 20 enough? The problem is that if you have those extra numbers, does that mean it drives children to be placed there as opposed to the system the other way? It is a really vexed question.

The CHAIR: Yes, you fill the beds as they are expanded.

Ms TANG: Yes.

Mr SEARLE: Part of the problem is, yes, we inherit kids who have come from a very troubled background. A number of those kids have got very challenging behaviours at all sorts of levels, which means foster care might not be appropriate, there is a range of things that do not work, and you cannot lock the doors. So the reality is that a lot of these kids at any one time are not where they are supposed to be. My responsibility is effectively they are in my care. What do I then do about that? How do I try to ensure those kids are as safe as we can make them?

The CHAIR: Are the kids in Kath French secured?

Ms TANG: Absolutely.

Mr SEARLE: Yes.

The CHAIR: So the doors are locked?

Ms TANG: Absolutely.

The CHAIR: So you have got authority under the act to place them under some sort of restraint?

Mr SEARLE: As an administrative decision, which is something we think needs to be looked at.

The CHAIR: And do any children challenge it? Do they take you to SAT?

Ms TANG: Yes.

The CHAIR: How many times a year would it go to SAT?

Ms TANG: I think it is a very unusual circumstance, but I have been in the position since July last year and I think I am aware of probably about three. It is only a relatively recent thing. I think it is a good thing. It should be allowed. It is just the timing of it. They can ask for a review. So it is at the point they ask for a review. A management decision is made as to whether they should go out earlier. They do not all stay for 21 days. If there is significant improvement, then they may be released a little bit earlier, as long as there is a suitable arrangement to go into.

The CHAIR: I had assumed it would be used on occasions—now I am doubting this assumption—as a kind of respite for a carer who says, “I can't do this anymore.”

Ms TANG: We actually guard against that. We challenge the district officers. This is not respite. This is not about the carer and it is not about the district caseworker. This is about the child—so if the child has no other service that actually brings that circuit breaker. But I know that the executive directors who work for me challenge the district directors around, “This is not your respite.” So we try and have other respite carers, whether that is with other family or a regular respite where that might be or we might say that where there is a difficult case where we cannot place with a sector or in other circumstances, rather than placing them in secure care, we might actually say, “I have a residential home that we normally have four children in—it might be the case that we have the availability to only have one or two children with the same staffing.” That is a very expensive model

but at times necessary. So you have got to move through that based on the children's needs at any one time and we do not always meet them.

Mrs J.M.C. STOJKOVSKI: With the SAT process, if a child decides they want to go down that way, it is a complicated process. Is there any assistance for them to negotiate that?

Ms TANG: I believe there is, yes.

Mr K.M. O'DONNELL: In relation to the Kath French centre and the example you gave of a young girl, what happens if that young girl is at a remote location? Do your staff then arrange —

Ms TANG: She has to be brought down, but she is then out of country, if we are talking about Aboriginal—and even more disconnected from the various supports that they might need. But is the solution you have a secure facility in every region?

Mr K.M. O'DONNELL: No, that is not what I am suggesting.

Ms TANG: I am not saying you are saying that, but that is a good question. When you are talking about six placements

Mr K.M. O'DONNELL: Statewide.

Ms TANG: Statewide. To my mind, if we could have alternative services, which meant they did not have to go there, that would be my absolute goal.

Mr K.M. O'DONNELL: I observe that sometimes with women's refuges, as we are talking female, sometimes those centres step up and beyond a little bit and bend the rules to try to help as well in circumstances with families especially.

Ms TANG: Women's refuges really deserve medals for what they do, but these are circumstances where young people are just not safe.

The CHAIR: Yes, the secure element of the system is crucial.

Ms TANG: Yes, and they are not safe. If they are not safe to themselves, they are not safe to others. If they are not safe to others, they cannot go into a refuge where there are other children. You have to consider the best interests of every child.

Mr SEARLE: At the end of the day, we are talking about six beds across about 5 000 kids. So we are talking about a tiny percentage, but there is a percentage of children who are just out of control and unsafe in terms of their behaviour towards both themselves and others, and that is when it gets really tricky. How does a system as big and as clunky as ours actually deal with that small cohort of kids who really need very professional and intensive help? That is what the Kath French centre was originally about. It was how do you get these intensive interventions with these traumatised kids. I think the issue about where that intersects with the Mental Health Commission is actually the gaps between Bentley and out-care—so Bentley cuts out technically at about 16. The other starts at 18.

Ms TANG: The most difficult group has no space.

Mr SEARLE: We think there are some broader issues in there, but that is one of the things we are taking up with the commission and the health department around clearly the process we have just worked through with this young girl. It shows there is a challenge; there is a problem that the system is not set up to cater for. So how do we actually start to work together to work out a way through that.

The CHAIR: Will you include the Commissioner for Children and Young People in those deliberations?

Mr SEARLE: The commissioner and I meet regularly and I will include him in those discussions. The events we are talking about were in the last week or the week before.

Ms TANG: Yes, over two weeks. We are still tracking it to the extent I get daily reports on what is happening with that young woman.

The CHAIR: Are those six beds always used? Does it operate at capacity?

Ms TANG: My understanding is yes.

The CHAIR: Can I just come to the other end of the equation. In your setting the scene for that topic, you talked about early intervention and the need to do that assessment as a child comes into care. We recently saw that Telethon Kids Institute study, which showed an astonishing level of FASD. The obvious conclusion is that the system has failed those children pretty substantially. What the commissioner has pointed out to us is that most of those kids would have come into contact with an agency at some stage on their way into Banksia Hill.

Ms TANG: Yes.

The CHAIR: And that agency has failed to pick up the fact that they had brain damage. Do you have some comments to make about that? How do we change that?

Mr SEARLE: I have a couple of points—yes, he is right. It is a simple point.

The CHAIR: It must mean that a number of children go into care and have their assessment and the assessor fails to see that they have got FASD.

Ms TANG: There has been a lot of focus in relation to assessment for FASD. The discussions that I have had within my department with staff is that we understand FASD. We understand these are the behaviours which reflect FASD. What we really need is the ability to respond. So there is a lot of push for this, and assessments are anywhere between \$4 000 and \$5 000 to say a child has FASD. That is one thing. But once we know the specifics of that, then how do we respond to the behaviours. The behaviours is really looking at that trauma-informed approach around understanding where the child has come from, what are the circumstances, their high alcohol use and that therefore it is suspected that learning difficulties and other responses are related to FASD. Then how do you provide a context for that child to progress? The fact that a number of children in Banksia had that situation is not surprising.

Mr SEARLE: Whilst I accept absolutely that it is over-diagnosed, we see a lot of the symptoms. As Jackie said, the cost of getting kids assessed, if you did it for all the kids who came into care, is significant. More particularly, what interests me is in none of the debate around the Banksia Hill data was there any discussion about stopping young pregnant women drinking. FASD is totally preventable—totally preventable—not curable. So to keep on going on about how you treat the symptoms and not how do you change the underlying cause, which is definite and absolute, but that appeared nowhere in the public debate—nowhere. Absolutely I accept that we have got an issue, but the right place to treat this is in getting young women to understand the consequences of drinking while they are pregnant.

The CHAIR: Yes, I think that is the emerging challenge for policymakers—to understand early intervention frequently involves prenatal intervention. The commissioner talks about that data that shows that the best indicator of a child graduating from high school is prenatal visits through prenatal contacts with the health service. It is an astonishing piece of work.

Mr SEARLE: There is a whole range of evidence that says that period is truly important, and I just think in our public discourse we do not talk about it enough. I just think until we start to change that and help people understand the cause of the problem—the problem here is the cause and effect

are so far apart. While we talk about it in a whole range of other media outlets, it does not get talked about, it does not get shared, and we actually lose that focus on this is how we can actually prevent this rather than trying to treat it.

The CHAIR: I think I might just take you back now. I have probably skipped around a bit here, but I wanted to go to the work that the commissioner has just done about the engagement with schools. That is the second section we wanted to ask you about, because one of the things the commissioner has reported to us—I think it is in the report—is it is quite startling to see the number of children who say that they have an undiagnosed condition, a condition that has not been recognised by their school, and in some cases obviously that is FASD. It might be all sorts of other things. Can I just start by asking you whether you are familiar with the report?

Ms TANG: Yes.

The CHAIR: The “School and Learning Consultation”. Have you had a chat with the commissioner about what the report shows in terms of the way your department interacts with children?

Ms TANG: I have not personally, no. I meet with his staff on a fairly regular basis, but, to be honest, we have been talking about other things.

The CHAIR: Clearly, there are areas that directly intersect with your interests about children’s engagement with the learning processes, which is another one of those vital markers.

Ms TANG: As an example, recently the education department started up a full services school project, which they are running out of Armadale, and that is very much looking at children who may come to the attention of the school with additional needs and how it might be responding to that. We have been at, I think, three meetings. At that meeting are representatives from juvenile justice in relation to the services they provide in the area, child protection—there is a few of us there are around that—and the education department. It is that early aspect of looking at that if you see a family that is identifying or students that are identifying with those needs, how do you link those services. One of the examples of the areas it might target is for young girls who are pregnant. So it comes back to Grahame’s earlier comment and also just a cohort of education where you can say, “Oh, well, they’re pregnant—on their way” sort of thing. But it is really looking at how we can look at vulnerable groups and across our services, within defined areas, and try to deliver services to families at an early opportunity—so, to keep children in school. My question was, “Are you only looking at children who are in the school system?” because that really is earlier intervention once they are disengaged. The response back to me was, “No, we are looking to re-engage children back into the school.” That is one example of where we are working with the education department. The commissioner for children staff is not in that meeting, but it is very much around thinking about if they are going to school and spending the majority of their time with their teacher, what are the issues that are being identified and how do you assist teachers to see that they have a critical role. A lot of our referrals are from the education department because they see the children every day, they see the differences, they see when they are not there, they see whether they are turning up not clean and without lunch, and all sorts of things. So they are a clear eyesight to a family. But then how do you provide services to teachers so that the first response is not a phone call to child protection saying, “The child does not have their lunch.” That is not a child protection issue but it might be an indication of the family struggling otherwise. So how do you support that environment, which is a strong community environment, engage the family and try and connect with services around that?

Mrs J.M.C. STOJKOVSKI: Have you got any opinions on the child and family centres that you see at some schools? I know that in Westminster—I cannot remember who runs it now—they have a child

and family centre there and they are trying to engage the families in that early intervention or just provide extra information.

Ms TANG: My opinion is child protection is a very lonely space to be in and the more people that want to be working with families and children to support much earlier, then that is a great outcome for us, because otherwise, if they are not there earlier and they are not there in the early stages or earlier, then by the time we get the young children, they are quite damaged and traumatised, and we are basically trying to pick up the pieces and provide a service. So anything that is much earlier will get my vote.

The CHAIR: Yes, that is a very good response. There is no room for empire building or —

Ms TANG: Absolutely not.

The CHAIR: — barriers being put up in child protection, is there?

Ms TANG: No.

The CHAIR: That is a very interesting way of describing it. Thank you.

Mr SEARLE: If I could just take that step further. Part of what we are trying to do is understand— school attendance is fundamental to shifting the bar. If you look at Aboriginal school attendance, I assume it is the same in the goldfields, but in the Kimberley it is 60 per cent. Sixty per cent is the average, and in some communities we are talking about 40 per cent. That is not an educational system in any way as any of us would understand it. In one of our housing programs, we have made 85 per cent school attendance a mandatory condition of a tenancy. So your house depends on your kid going to school. We provide a range of background services to support that. In one of the trial sites, we are currently at 95 per cent school attendance for Aboriginal kids in Broome. So there are indications that we are actually shifting the bar in terms of school attendance by linking it to a housing program. It is just understanding how can we move the levers in this part of the business to actually affect the broader outcomes, and I think that is the learning that is going on at the moment. It is how can we join the dots up. So we are now starting to have a discussion—we have not done it yet—what if they fail that. You do not actually want to evict them. So you use the income management powers under the child protection act as a consequence of the kids not going to school—so it is how do you join the dots to get the outcomes that you want as a society.

The CHAIR: Yes, and the sensitivity of those levers in different situations.

Mrs J.M.C. STOJKOVSKI: Do you think that out-of-the-box thinking is as a result of these machinery-of-government changes?

Ms TANG: I can say that what I talk to staff about is very much that permission to freely talk to your colleagues who are now under the one umbrella. The further you get from the metropolitan area, the more likely that the staff will already be working—to some extent they know who the players are. They live in the town. So one is about they know each other but they have not really got the permission to sit down and talk about cases and work together. This is very early stages but that is the message. You have permission. Do not wait until 1 July, until we officially joined up as far as service delivery. What I have found is that discussion around the incentives and the consequences of families—I have been involved in those case discussions, really just to try to model how we would do this and that—if there is a family that has multiple agencies turning up on their doorstep, we are not seeing a shift in behaviour in the sense of they are likely on the verge of eviction. So what are the benefits we can offer a family; how can we get more coordinated; who is the better lead; who has the better relationship—is it the sector who has, the agency, or is it actually housing or is it justice? So how do you work together to coordinate who the lead agency is and then come in and understand we are supporting each other—that we have an agreement with the family that, “Okay.

If your kids are going to school, you don't have the drug dealers on your doorstep? You're actually paying the rent and you're keeping alcohol off the site, then we won't impose." So how do we work together? In the end, if for whatever reason that does not come to pass and eviction needs to occur, then we will have to look at what happens after that, but we are trying much more coordinated thinking in that it is not child protection alone, it is not housing trying to deal with this and it is not kids with disability involved. It is how do we get all those levers to work together. It is early days. I do not want to make out that it is actually —

The CHAIR: No. It is very, very interesting and particularly dear to this committee's heart, given that housing was one of the agencies—some years ago, I must say—who responded to the commissioner's query about how they handled complaints from children by saying, "We don't deal with children. Children are not part of our remit."

Ms TANG: I have been very pleasantly surprised with the attitude of housing staff that I have come across. The days of the clipboard checking on the tenancy I think is long gone.

The CHAIR: Can I just also draw attention to some evidence the commissioner gave us—I think he mentioned this at the public briefings as well—that the school and learning consultation was conducted under the opt-in provisions, so it actually only got to a very small proportion of children. So the committee has taken a bit of an interest in trying to reverse that so that future consultations of this type will be an opt-out. So you might have some conversations about that, too. Given the time and that we are going to lose a couple of members in about 10 minutes, I thought this might be the moment to move into a closed hearing so that we can talk about the data. I know that members are very interested in that. I have now got a little bit of formality. Hansard stays, of course, but you understand the provisions.

[The committee took evidence in closed session]
