

CHILD SAFETY COMMISSION OF INQUIRY

Harry Gibbs Commonwealth Law Courts Building,
119 North Quay, Brisbane

On Tuesday, 14 April 2026 at 10.00am

Before: Mr Paul Anastassiou KC, Commissioner

Counsel Assisting: Mr Tom Diaz
Mr Joshua Forrest

1 COMMISSIONER: Yes. Ms Freeman, you're back. Welcome
2 back.
3
4 MS FREEMAN: I am. Thank you, Commissioner.
5
6 COMMISSIONER: Great.
7
8 MS McMILLAN: I am also back.
9
10 COMMISSIONER: You're also back.
11
12 MS McMILLAN: I am.
13
14 COMMISSIONER: Thank you. And there's a new face at the
15 Bar table.
16
17 MR O'BRIEN: Commissioner, my name is O'Brien, initial D,
18 of King's Counsel. I appear for Ms Leanne Maree Linard,
19 who's a former minister for child safety, as you'd be
20 aware, Commissioner. I'm instructed by Mills Oakley.
21 Obviously the minister's giving - or the former minister's
22 giving evidence on Thursday.
23
24 COMMISSIONER: Yes
25
26 MR O'BRIEN: And I haven't formally sought leave to
27 cross-examine anyone. I anticipate I probably won't need
28 to, but if that arises obviously I'll rise to my feet. But
29 I should announce my --
30
31 COMMISSIONER: Well, Mr O'Brien, welcome --
32
33 MR O'BRIEN: Thank you, Commissioner.
34
35 COMMISSIONER: -- and I'll grant you leave. It's plain
36 that as a former minister there's an interest that goes
37 beyond being merely a witness and, accordingly, I think it
38 is appropriate that you have leave --
39
40 MR O'BRIEN: Thank you, Commissioner.
41
42 COMMISSIONER: -- and I'll allow you to ask such
43 questions, obviously subject to relevance --
44
45 MR O'BRIEN: Of course.
46
47 COMMISSIONER: -- as you see fit.

1
2 MR O'BRIEN: Thank you, Commissioner.
3
4 COMMISSIONER: Thank you, Mr O'Brien. Ms Freeman.
5
6 MS FREEMAN: Thank you, Commissioner. Commissioner,
7 I call Deidre Mulkerin, who's in the witness box.
8
9 COMMISSIONER: Yes.
10
11 Good morning, Ms Mulkerin.
12
13 MS MULKERIN: Good morning, Commissioner.
14
15 MS FREEMAN: Perhaps if the witness could be sworn in.
16
17 COMMISSIONER: Yes.
18
19 MS FREEMAN: Thank you.
20
21 **<DEIDRE ANN MULKERIN, AFFIRMED** [10.03 am]
22
23 **<EXAMINATION BY MS FREEMAN**
24
25 MS FREEMAN: Could you please tell the Commission your
26 full name?
27 A. Deidre Ann Mulkerin.
28
29 Q. And you used to be the Director-General of the
30 Department of Families, Seniors, Disability Services and
31 Child Safety and various iterations of that name from
32 February 2020 until November 2024; is that right?
33 A. That's correct.
34
35 Q. And currently you are now enjoying retirement?
36 A. I am.
37
38 Q. And you've provided a statement in response to a
39 notice issued by the Commissioner, and that statement is
40 dated 8 April 2026; is that right?
41 A. That's correct.
42
43 Q. And I'll also just get you to identify your curriculum
44 vitae as well, please. If the witness could be shown this.
45 A. Thank you.
46
47 Q. Is that a copy of your CV, Ms Mulkerin?

1 A. Yes, it is

2

3 MS FREEMAN: Yes. I'll tender that, thank you,
4 Commissioner.

5

6 COMMISSIONER: Thank you, Ms Freeman. Ms Mulkerin's
7 curriculum vitae will be exhibit CL-100.

8

9 **EXHIBIT #CL-100 - MS DEIDRE MULKERIN'S CURRICULUM VITAE**

10

11 MS FREEMAN: Thank you, Commissioner. Commissioner, those
12 are the questions I have for now.

13

14 COMMISSIONER: Yes

15

16 MS FREEMAN: I might have some at the end. Thank you.

17

18 COMMISSIONER: Of course. Thank you. Mr Forrest.

19

20 **<EXAMINATION BY MR FORREST**

[10.04 am]

21

22 MR FORREST: Good morning, Ms Mulkerin.

23

24 A. Good morning.

25

26 Q. Firstly, thank you for being here and assisting the
27 Commission and sharing with us some of your expertise in
28 the child safety space. Before I commence I just wanted to
29 ask two questions so I can make sure I'm pitching the right
30 area. One is, just so I know what level of knowledge to
31 assume, have you been following any of the hearings over
32 the last fortnight or are you coming in essentially cold?

33

34 A. I watched the very end of Mr O'Brien's evidence
35 yesterday afternoon.

36

37 Q. Yes.

38

39 A. But I have not watched any other evidence.

40

41 Q. All right.

42

43 A. I haven't watched any of the hearings at all.

44

45 Q. All right. Thank you. That's helpful. Also, you're
46 now no longer with the department. Can I assume that over
47 the last few weeks at least you've had now an opportunity
48 to review some of the core documents from your time as DG?

49

50 A. I had the opportunity last week to review some
51 documents, not all of the bundles, obviously.

52

1 Q. All right. Yes. They're all sort of queued up in
2 front of you, and there's a lot of material. We won't be
3 going to much of it. I'm going to go through a number of
4 topics, which I'll tell you about as we go, but the first
5 of those is your role in the department. You commenced in
6 the department as Director-General in 2020, in February,
7 February 24; is that right?

8 A. That's right.

9

10 Q. And you served as the Director-General until the end
11 of 2024?

12 A. Early November 2024.

13

14 Q. Yes. And during your time as Director-General you
15 served under a number of ministers. The first of those was
16 Minister Farmer until around November 2020; is that right?

17 A. That's correct.

18

19 Q. After that was Minister Linard from November 2020
20 through to about May 23?

21 A. M'hmm. That's correct.

22

23 Q. And then after that until the end of your time at the
24 department you served briefly under two different
25 ministers, Ministers Crawford and Mullen, each for a short
26 period, and that took you to essentially the end of your
27 time as DG?

28 A. Yes, that's correct.

29

30 Q. All right. Now, as Director-General of the department
31 you were someone that held a number of important statutory
32 roles under Queensland law?

33 A. That's correct.

34

35 Q. Is it right that one of those roles was as a chief
36 executive of the department for the purposes of what was
37 first the Public Service Act and then later became the
38 Public Sector Act?

39 A. Yes, that's correct.

40

41 Q. Yes. And another one was that you were - and we've
42 heard a little bit about this over the last fortnight - the
43 accountable officer of the department under the Financial
44 Accountability Act?

45 A. That is correct, yes.

46

47 Q. I want to deal with them in turn. So, starting with

1 your role as Chief Executive, is it right that amongst your
2 statutory functions and responsibilities were general
3 managerial responsibilities?

4 A. Yes.

5

6 Q. And another of your functions and responsibilities was
7 to establish and implement goals and objectives in
8 accordance with government policy and priorities?

9 A. Yes, that's correct.

10

11 Q. And another one of your functions was to act as the
12 primary policy adviser to the minister about significant
13 issues relating to the department and the public sector,
14 including providing expert, impartial, coordinate and
15 comprehensive policy advice?

16 A. Yes, that's correct.

17

18 Q. Yes. Summarising those roles, is it correct to say
19 that you were essentially an interface between the
20 department and the minister?

21 A. Yes, one of them, and often the primary or the lead,
22 but not the only interface.

23

24 Q. Yes. And as the primary interface, as you've
25 described it, is it correct that you were an interface
26 essentially in both directions in that you had both what
27 I'll call a downstream policy implementation role --

28 A. M'hmm.

29

30 Q. -- but also an upstream advisory role; is that --

31 A. Yes, that's correct.

32

33 Q. Yes. Is it fair to say, Ms Mulkerin, that the
34 financial dimensions of the out-of-home care system was a
35 significant issue that implicated both of those roles: the
36 downstream and the upstream role?

37 A. Yes.

38

39 Q. All right. Focusing for a moment on the downstream
40 policy implementation role, what degree of latitude were
41 you given by your respective ministers as to how you would
42 implement the policy priorities that came down to you?

43 A. If you're asking me about implementation of government
44 policy --

45

46 Q. Yes, I am. Yes.

47 A. -- then, yes, my experience is that largely ministers

1 will rely on the expertise of the Director-General or the
2 department to determine the pace, the scale, the order in
3 which reforms might occur, and of course at no time is
4 there only one stream of reform underway. So there's
5 always - in agencies like the department there are always
6 multiple, multiple streams of new work, work in
7 development, work partially implemented, and so a lot of
8 the thinking is about the when to start, how to implement,
9 what complements something already underway, who's already
10 working on a similar thing and therefore do you need to
11 divert them onto the new. So, yes, all of that is within
12 the purview of the Director-General in concert with the
13 executives.

14
15 Q. Yes. Thank you. Turning to the second of
16 the statutory hats that you wore, that is the accountable
17 officer hat, am I right that being the accountable officer
18 meant that you, rather than the minister, had ultimate
19 approval authority over the expenditure of departmental
20 funds?

21 A. That's correct, and in this portfolio decision-making
22 over the funding. In other portfolios it's different, but
23 in this portfolio, yes, it's the decision of the
24 Director-General.

25
26 Q. And when you refer to "this portfolio" you're
27 referring to Child Safety in particular?

28 A. Yes.

29
30 Q. Yes. Is it also right that as the accountable officer
31 under the Financial Accountability Act you were invested
32 with the statutory function of achieving reasonable value
33 for money by ensuring the operations of the department were
34 carried out efficiently, effectively and economically?

35 A. Yes.

36
37 Q. Yes. Am I right also that the concept of achieving
38 reasonable value for money was something that would have
39 been explained in your time in something called the
40 "Financial accountability handbook"?

41 A. Yes, that's correct.

42
43 Q. And is it right that the description that appears
44 there is a description that value for money involves the
45 concept of maximising the available benefits from every
46 dollar spent; does that sound broadly right?

47 A. I can't recall exactly what it says, so if you're

1 quoting it then I - I have no kind of independent
2 recollection of it.
3
4 Q. It doesn't sound wrong at least?
5 A. No, no.
6
7 Q. Yes. Can I --
8
9 MS McMILLAN: Mr Commissioner, maybe the witness could
10 just speak up a little?
11
12 COMMISSIONER: Yes.
13
14 MS McMILLAN: It's a little hard to hear. Thanks.
15
16 WITNESS: Perhaps if I --
17
18 COMMISSIONER: Thank you.
19
20 WITNESS: Does that assist?
21
22 MS McMILLAN: Yes. Thank you.
23
24 MR FORREST: Thank you, Ms Mulkerin. I'm going to suggest
25 some dimensions that the financial accountability handbook
26 says that value for money has, and tell me if any of these
27 don't ring true. One is subjecting activities to vigorous
28 analysis?
29 A. Yes, that sounds like something that it would say.
30
31 Q. Sounds reasonable. Another thing is ensuring that
32 programs, activities and projects are continuously renewed
33 and evaluated to ensure outcomes?
34 A. Yes.
35
36 Q. Sounds broadly correct?
37 A. Yes.
38
39 Q. And another dimension is that explicit evaluations
40 made as to whether the government or other potential
41 providers are best placed to provide services?
42 A. I don't recall that, but, yes, again --
43
44 Q. That's less familiar; all right. I might come back to
45 some of those dimensions in connection with some other
46 topics, but for now I just want to check whether also as
47 accountable officer you had some other prescribed

1 obligations under something called the financial
2 performance management standard?

3 A. Yes.

4

5 Q. And is it right that one of those obligations was to
6 adopt a "proactive approach in monitoring the
7 appropriateness of the systems, operations and overall
8 financial position and performance of the department"?

9 A. Yes.

10

11 Q. And another of the obligations under that same
12 standard was to establish cost-effective internal control
13 structures, which includes an organisation structure and
14 delegations that support the objectives and operations of
15 the department?

16 A. Yes.

17

18 Q. All right. Focusing for the moment on the process by
19 which the department budget proposals are made --

20 A. M'hmm.

21

22 Q. -- we've heard evidence over the last few days from
23 Mr Short, your CFO, and Mr O'Brien, your Deputy DG of
24 Corporate Services, that the department's budget proposals
25 and certainly those that originated with Mr Short would
26 flow through Mr O'Brien and eventually reached you for
27 final sign-off?

28 A. Yes. Yes. But not in that linear way as described.

29

30 Q. Yes.

31 A. Budget proposals are in their essence policy
32 submissions as well.

33

34 Q. Yes.

35 A. And so they are often generated by the policy arm of
36 the department in concert with the delivery arm and
37 Corporate Services. But of course they ultimately have to
38 be endorsed by the CFO and then the head of Corporate
39 Services. So they will also be endorsed by the Deputy
40 Director-General of Policy, for example --

41

42 Q. Yes.

43 A. -- as a statement about the policy intent of
44 government and is the budget submission consistent with the
45 policy direction of government.

46

47 Q. Yes.

1
2 COMMISSIONER: Ms Mulkerin, I apologise for interrupting
3 you. Your voice is --
4 A. Soft.
5
6 COMMISSIONER: -- declining in volume. Could you just try
7 and be conscious of that?
8 A. Thank you.
9
10 COMMISSIONER: Thank you.
11
12 MR FORREST: Thank you, Ms Mulkerin.
13 A. It's very rarely I've been told that I'm too quiet.
14 This is a unique challenge.
15
16 Q. I see. You've said it's not a linear process, and we
17 heard from Mr Short that even though there is sort of a
18 reporting line the budget process is to a considerable
19 extent iterative in that there's feedback being received
20 from Treasury, other stakeholders all throughout the
21 reporting-up process. I presume you'd agree with that
22 observation?
23 A. Yes, indeed. And with the minister and the minister's
24 office.
25
26 Q. Yes. Yes. Can I turn to the second topic, which is
27 the state of the department at the time of your arrival?
28 A. M'hmm.
29
30 Q. You arrived, as you've said, on 24 February 2020.
31 Could I ask that you bring up in one of those bundles
32 called the public interest immunity bundle --
33 A. Yes.
34
35 Q. -- the document behind tab 10, which is I think at
36 page 347 of the bundle.
37 A. Yes, thank you.
38
39 Q. So this is an incoming brief for you that was prepared
40 ahead of your arrival by Mr Short. Do you have any
41 recollection of receiving this brief?
42 A. I don't remember this brief specifically. It came in
43 a bundle of about the same number of white folders on this
44 desk when I arrived.
45
46 Q. Yes. Yes. I want to suggest to you that it tells you
47 a number of alarming things --

1 A. M'hmm.
2
3 Q. -- at the time of your arrival about matters which, in
4 fairness to you, were not at all of your making. The first
5 is, as we can see at the top of the document just under
6 "Key background", that the department's running roughly a
7 \$1.5 billion controlled budget, but if one tracks down to
8 "Next steps" and in particular the second dot point we can
9 see that for the coming financial year the department is
10 tracking towards a fairly significant \$123 million
11 overspend?
12 A. Yes, I can see that.
13
14 Q. Yes. And it also alerts you that this is something
15 that is sufficiently significant that it's come to the
16 attention of the Treasury and the minister's office, who
17 are seized of the matter?
18 A. Yes.
19
20 Q. Yes. And we also learn in this document that a body
21 that you've spoken about and spoken about in quite
22 praiseworthy terms in your witness statement, the
23 Queensland Treasury Corporation, has been commissioned to
24 undertake an independent review to identify the cost
25 drivers lying behind the overspend?
26 A. Yes.
27
28 Q. And at the time of your arrival the interim findings
29 from that review were available and you know that a report
30 is coming or at least not far off?
31 A. Yes.
32
33 Q. There's also a signal in this document that the QTC
34 report may be reported back to a body called the CBRC, or
35 the Cabinet Budget Review Committee, which we've heard a
36 lot about recently and we now understand is really the
37 arbiter of budget decision-making?
38 A. It's the decision-maker.
39
40 Q. It's the decision-maker, yes. And finally this
41 document signals to you, doesn't it, that the department
42 before you had arrived in the late 2019 year MYFER, or
43 mid-year financial sort of process, had flagged to the CBRC
44 that in its main budget submission for the 2020/21 year it
45 was likely to be putting in a submission about a future
46 investment plan?
47 A. Yes.

1
2 Q. And the future investment plan that's being referred
3 to there is something called the care system investment
4 plan, isn't it?
5 A. Yes.
6
7 Q. And this was a department-initiated analysis and plan
8 which was in place before - or at least had been reported
9 before you arrived?
10 A. Yes.
11
12 Q. We've heard from Mr O'Brien that as your Deputy DG he
13 was reporting to you on a weekly or at least a fortnightly
14 basis?
15 A. Yes.
16
17 Q. Is it safe to assume after receiving this brief that
18 you probably would have been briefed by Mr O'Brien on both
19 the QTC reporting process and also the care system
20 investment plan?
21 A. Yes, that's correct.
22
23 Q. Yes. I'd be grateful, please, if we could then move
24 to the care system investment plan and see what that
25 signalled to you. That's in another bundle, I'm sorry to
26 tell you. That's in the master bundle at tab 59, which is
27 in the second volume.
28 A. Sorry, I'll just close this one. Sorry, master
29 bundle?
30
31 Q. Volume 2 and tab 59.
32 A. Tab?
33
34 Q. 59.
35 A. 59. Thank you.
36
37 Q. And if I could ask you to take up page 983, which is
38 the page commencing "Executive summary"?
39 A. Sorry, I'm struggling with the folder.
40
41 Q. Take your time, Ms Mulkerin.
42 A. Apologies, page?
43
44 Q. 983.
45 A. 983.
46
47 Q. And could I ask you to just focus on an in text box

1 with light blue text entitled "The problem" and the
2 surrounding paragraphs?

3 A. Yes.

4

5 Q. So when you see the care system investment plan it
6 signals to you immediately that the department that you're
7 arriving at is experiencing a supply failure that predated
8 you?

9 A. So, yes, it calls out pressures in the out-of-home
10 care system that are longstanding.

11

12 Q. Yes.

13 A. So this is not a - I didn't read this and think, "Oh,
14 my goodness, this is new information."

15

16 Q. I understand.

17 A. I knew this when I arrived. I knew this from my
18 experience in New South Wales working in the same system.
19 I knew this from my previous experience in Queensland prior
20 to going to New South Wales.

21

22 Q. Yes.

23 A. So this statement could have been written at any time
24 in the last 20-plus years.

25

26 Q. Yes. What you're saying is, as alarming as it may
27 appear to you, at least it wasn't surprising?

28 A. No. No, not surprising at all.

29

30 Q. And the description of the problem we can see there is
31 an undersupply of planned funded places for children in
32 care?

33 A. Yes.

34

35 Q. And therefore the use of high-cost short-term care
36 models essentially as an overflow service?

37 A. Yes.

38

39 Q. Yes. And are you saying that you understood that that
40 was a problem in Queensland before you arrived?

41 A. Yes.

42

43 Q. Yes. We've heard evidence that I think that you would
44 agree with that that dynamic using high-cost IPS places as
45 an overflow service is concerning not only economically but
46 also from the standpoint of child welfare; you'd agree with
47 that?

1 A. Yes, I would. I would also say that it is a
2 longstanding feature of child protection systems everywhere
3 that even when there is strong funded capacity there are
4 always occasions when an urgent need might arise, a
5 short-term need might arise, a particular young person's
6 needs are - you know, need particular wraparound care, or
7 in a region where there is very little work and demand and
8 so a short-term high-cost immediate response will in fact
9 always be required. So, yes, yes, a concern about are they
10 stable placements for children and young people and the
11 overall budget impact, and I would say that it should be
12 understood that there will always be a need for some kind
13 of this placement, you know, because of the nature of
14 the work.

15
16 Q. Yes. I don't think there's any real controversy about
17 that. Broadly the evidence has been that there's always a
18 place for emergency placements being used as an emergency
19 or on an emergent basis. But what the care system
20 investment plan and the later QTC analysis shows is that
21 IPS places are not just being used for that purpose; that's
22 right, isn't it?

23 A. Yes, correct.

24
25 Q. Yes.

26 A. And that is the problem that is being called out.

27
28 Q. Yes.

29 A. Yes.

30
31 Q. And in fact by using IPS arrangements as an overflow
32 service to service a demand gap because funded supply is
33 low what ends up happening, the QTC analysis shows, is that
34 children who enter the overflow service end up staying
35 there for longer because there's no funded family-based or
36 OSD supply for them to go to after the emergent period?

37 A. Yes, and that is both - for some children and young
38 people our preference would be that they be placed with
39 kin, for example, or in a more therapeutic residential
40 care, and for some it would be to stay in that arrangement.
41 So it's not a complete, you know, one for one --

42
43 Q. Yes.

44 A. -- everybody in to an IPS arrangement should move out.
45 For some children and young people that is the appropriate
46 response.

47

1 Q. Yes. Can I move on to a second feature of the dynamic
2 that the CSIP report points out, and if I could ask you to
3 take up page 990 and focus on table 3. This, I suggest,
4 indicates that one of the problematic features of using IPS
5 packages as an overflow service is that they are massively
6 more expensive than family-based care?
7 A. All non-family-based care is significantly more
8 expensive than family-based care.
9
10 Q. Yes.
11 A. Family-based care is the least costly option of all of
12 the options available.
13
14 Q. Yes. And the differential that's shown here, we've
15 heard some evidence, may have come down a bit in recent
16 years but, just looking at the comparison there between the
17 unit costing of foster and kinship care at less than
18 \$10,000 and the general residential care category at about
19 \$300,000, that's a really significant difference?
20 A. Indeed it is. Indeed it is.
21
22 Q. Another significant aspect of IPS arrangements which
23 this report points out is that they can be bought without
24 having allocated budget funding in place?
25 A. Yes.
26
27 Q. You agree with that?
28 A. I do.
29
30 Q. Yes.
31 A. It's a significant issue.
32
33 Q. We've heard a lot of highly technical evidence about
34 this over the last few days, and I won't go into the body
35 of the report to further explore it. But the essential
36 issue is that when the department pays for family-based or
37 OSD placements it has to do it from allocated funds,
38 whereas for IPS placements it can do it from allocated
39 funds but it can also do it when allocated funds are not
40 available?
41 A. Yes, yes, and the key factor is that the allocated
42 funds have to be within the forward budget too.
43
44 Q. Yes.
45 A. So a key factor is you're committing to a three- to
46 five-year contract and as the statutory financial officer
47 you cannot commit long-term contracted funding without the

1 certainty that there is three to five years of that funding
2 in the budget or in the forward allocations.

3
4 Q. Yes. I mean, it's very technical, but is it something
5 close to in layman's terms - and I appreciate this is
6 probably too simplistic, but when the department is buying
7 OSD and family-based placements it can effectively put it
8 on, so to speak, the debit card if there's sufficient funds
9 available to cover the contract, but if it's buying IPS
10 placements it can put it on the debit card, but if there's
11 not sufficient funds available it can also put it on, so to
12 speak, the department's credit card?

13 A. Yes, not quite how I would explain it, but, yes, one
14 is about commitments and future funding that you know for
15 certain is locked in --

16
17 Q. Yes.

18 A. -- and the other, there is the discretion of the
19 department to sort of move money around, for example.

20
21 Q. Yes.

22 A. So if there are savings in another area, like
23 vacancies of staff, then money can be moved from there to
24 fund other things.

25
26 Q. Yes.

27 A. Whereas the contracted money, once it's committed, it
28 is locked in and not able to be moved around to cover other
29 commitments.

30
31 Q. Yes. Would you agree with some of the evidence we've
32 heard from Mr Short and Mr O'Brien that it's this aspect of
33 the IPS placements, that you can buy them with unallocated
34 funds, which uniquely drives deficits in the department?

35 A. Yes. If there was sufficient - if there was funding
36 in the OSD-contracted funding bucket to fund all
37 placements, then that would - that is where it would be
38 funded and that is what would drive, you know, the work and
39 the commitments with the non-government sector.

40
41 Q. Yes. And would you agree also that it's very
42 difficult to run up deficits if you're just buying
43 family-based and OSD placements because the financial
44 delegations in effect prevent you from overspending?

45 A. I'm not sure that I would make that connection because
46 deficits are - can be created by a whole range of things,
47 for example, overstaffing, for example, so workforce costs.

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Q. In your time as DG is it correct to say, as Mr Short said, that the primary driver of the department's deficits in those years was the overreliance on unfunded IPS agreements?

A. I would say it's the mix of available placements, of which the IPS contracts and funding was the budget pressure. It's sort of chicken and egg, though.

Q. Yes. Is what you're saying is that it was created by the budget pressure produced by increase in demand but insufficient supply of funded places?

A. Correct.

Q. Thank you. Can I suggest to you that the care systems investment plan also indicates at page 992 - and if I could ask you to focus on figure 3, which is the CRC-PaS number of placements that we now understand that broadly is talking about IPS?

A. Yes.

Q. There's a lot of acronyms in this area.

A. It's had many different names over 20, 30 years.

Q. Yes. And what this seems to suggest, and this is explored further in the body of the report, is that after fairly - after relative stability between the years 13 to 16, the fiscal years, we seem to be from fiscal year 17 through to the 2020 forecast at the beginning of what looks like an exponential growth curve; would you agree with that?

A. Yes.

Q. Because we can see from 17 to 20 that we have growth of just shy of - essentially it's just shy of doubling every two years over those four years?

A. Yes.

Q. Was that aspect of the IPS dynamic of particular concern to you coming in at what appeared to be the start of an exponential growth curve?

A. Yes, of course it's a concern that there's a trend that's heading in the direction that the department, I'm sure, did not want in those years.

Q. Yes. I want to suggest that another thing that the care system investment plan identified was the, in broad

1 terms, solution to what it had identified as the market
2 failure, which was, and I think you would agree with this
3 from some of the things you've already said, to invest in
4 building up the supply of lower-cost placement options and
5 in particular family-based care because in relative terms
6 it is by far the most cost effective?

7 A. Yes. So my view is always that most children are best
8 served by being cared for in a family environment --

9

10 Q. Yes.

11 A. -- and particularly kinship care.

12

13 Q. Yes. And another thing that this report shows, which
14 is of acute relevance when you're sitting at the bottom of
15 an exponential growth curve, is that by investing in those
16 sort of low-cost placements you can actually achieve
17 countervailing exponential cost savings; do you agree with
18 that?

19 A. Yes. Of course, investment at the right time at the
20 right scale is what is always required to try and turn a
21 curve.

22

23 Q. And actually you've used a very important phrase
24 there, which is "at the right time", isn't it, and there's
25 two reasons why getting ahead of that growth curve in a
26 timely way is essential. One is it's an exponential growth
27 curve, so it doesn't get any better. But the other is also
28 that there is a time lag in bringing on family-based and
29 even OSD placements?

30 A. Correct. Correct.

31

32 Q. So it's right, isn't it, that to bring on a family
33 care-based placement it will take at least six to nine
34 months under perfect conditions for the new carers to come
35 online?

36 A. Different - and I'm sure the Commission's already
37 heard this evidence. There is different work to bring on
38 board new foster carers as opposed to kinship carers.

39

40 Q. Yes.

41 A. So for kinship carers it can be a particularly long
42 and detailed process.

43

44 Q. Yes.

45 A. Because it is fundamentally different care from
46 general foster care. General foster care, you're
47 recruiting, training, assessing, supporting carers who have

1 put up their hand to care for children that they don't
2 know; whereas a kin carer is putting up their hand to care
3 for a child within their extended family, and that brings
4 with it lots of extraordinary strengths and also some
5 challenges for the family to navigate as well, and because
6 many kinship carers are First Nations people what we found
7 too is that there is a lot of work and support alongside
8 community-controlled organisations to support prospective
9 kinship carers. So it's different work. It's longer, it's
10 deeper and profoundly important.

11
12 Q. Yes. And you're right to pick me up on that. So I'd
13 given you a time lag figure of six to nine months, which
14 was for foster carers. But you're correctly explaining
15 that for kin carers the process can be even longer?

16 A. Correct.

17
18 Q. And that, doesn't it, reinforces the sense of urgency
19 in taking immediate action to bring those sorts of
20 placements online: because of that lag in getting those
21 placements into the system?

22 A. Yeah, it's - I would say it's a dual pressure in that
23 most children who come into care they are known by the
24 department. Very few children and families are not known.
25 And I may get a chance to talk specifically about COVID,
26 how that was - that turned things upside down in ways that
27 we did not expect at all. So some work can happen with
28 families. If parents are able to work with us - because we
29 ask parents to identify who is within their kin circle that
30 they feel confident and comfortable with caring for their
31 children. So, yes, it's different work, and usually
32 children coming into care happens as a result of some sort
33 of crisis.

34
35 Q. Yes.

36 A. So, even though we might know the child and family,
37 the circumstances of them coming into care, sometimes is
38 planned and sometimes is unplanned, which means that an
39 immediate placement is required.

40
41 Q. Yes.

42 A. And so you're really relying upon the capacity mostly
43 of general foster carers, because most children in the care
44 system are placed in family-based care by far, you know,
45 80 per cent. So more than 80 per cent of children in total
46 are placed with family-based care.

47

1 Q. Yes. Can I suggest that another reason why the CSIP
2 analysis must have signalled to you that urgent or
3 immediate investment was required was because their
4 modelling showed that the net cost savings of bringing on
5 line more family-based carers and more kin carers would
6 really start to kick in at around year 3, year 4; do you
7 agree with that?

8 A. Yes, assuming everything went to plan, there was no
9 interruption, no global pandemic, no change to all of
10 the policy arrangements, yes.

11
12 Q. Yes. Can I turn then to the QTC phase 1 report.
13 That's behind tab 7 of the first bundle that you were
14 looking at, which was the public interest bundle.

15 A. Apologies, which tab did you say?

16
17 Q. So that's tab 7 of the public interest bundle.

18 A. Thank you.

19
20 Q. And we can see on page 150 that you would have seen,
21 I think, a draft final report within a few weeks of
22 assuming office and then this final report comes in in
23 April. I don't think it's necessary to take you through
24 this report in any detail because at paragraph 42 of your
25 witness statement I think you, if I may say so, perfectly
26 capture what QTC concluded. I think this is not yet on the
27 system, but you say at paragraph 42 of your statement that:

28
29 *QTC's review and recommendations also*
30 *supported the position of the department*
31 *that [and I emphasise this next bit]*
32 *smaller investments would not produce the*
33 *scale of change required to ease placement*
34 *pressures.*

35
36 So can I take from that that you understood the QTC review
37 to be essentially endorsing the market analysis that the
38 care systems investment plan had done and, like the care
39 systems investment plan, concluding that the only solution
40 to address the market failure was an immediate and
41 substantial investment in lower-cost forms of care?

42 A. Yes.

43
44 Q. Yes.

45
46 COMMISSIONER: Mr Forrest, can I just check that
47 Ms Mulkerin's statement is somewhere in the bundle? If it

1 isn't, we'll tender it separately.
2
3 MR FORREST: I think we may have to tender it separately.
4
5 COMMISSIONER: Yes.
6
7 MR FORREST: I'm told that there's a supplementary bundle
8 which is being prepared.
9
10 COMMISSIONER: That's all right.
11
12 MR FORREST: So I may have to tender it at the end.
13
14 COMMISSIONER: Why don't we tender it now?
15
16 MR FORREST: All right.
17
18 COMMISSIONER: So Ms Mulkerin's statement will be CA-73.
19
20 **EXHIBIT #CA-73 - MS DEIDRE MULKERIN'S STATEMENT**
21
22 COMMISSIONER: Mr O'Brien, do you have access to this
23 document?
24
25 MR O'BRIEN: Yes, I do.
26
27 COMMISSIONER: Yes.
28
29 MR O'BRIEN: Thank you, Commissioner. We received it last
30 night. Thank you.
31
32 COMMISSIONER: Yes. Thank you. I assume you have a copy
33 of your statement?
34 A. I do. Thank you. Thank you, Your Honour.
35
36 COMMISSIONER: Yes. Thank you, Ms Mulkerin.
37
38 MR FORREST: Ms Mulkerin, both Mr Short and Mr O'Brien
39 have expressed I think similar understandings of the QTC
40 report as you, which is that what was needed to get ahead
41 of the exponential growth curve was an immediate and
42 substantial investment but also a timely investment.
43 Mr Short gave evidence that there was a critical and
44 limited window of opportunity to act, and yesterday
45 Mr O'Brien accepted that the window of opportunity to make
46 that investment was one, maybe two budget cycles; do you
47 agree with that?

1 A. Yes.

2

3 Q. Yes. And we've briefly touched on the difference -
4 we've used the term "immediate and significant investment",
5 or that phrase. Can I just confirm that when we're talking
6 about an immediate and significant investment that we're
7 talking about a front-end investment in family-based and
8 OSD services and not - a term that we've heard a little bit
9 about - deficit funding?

10 A. Yes, really for two main reasons. The first that
11 I spoke to earlier about without long-term committed
12 locked-in funding, difficult to change the contracted mix,
13 and the contracted mix is one of the impediments to
14 creating whole-scale change, and my experience over 20,
15 30 years in leading big systems is that the - it's -
16 obviously it's commonsense, but the larger the problem
17 becomes the more effort goes into just managing the
18 problem --

19

20 Q. Yes.

21 A. -- let alone changing the response or the services,
22 and so ultimately it can feel like you are chasing your
23 tail, just treading water, and in fact more and more effort
24 has to go into treading water. So it wasn't just about the
25 likelihood that a large investment upfront could then have
26 significant financial benefit. For me, more importantly,
27 it would give the opportunity to disrupt that trend --

28

29 Q. Yes.

30 A. -- and give us the opportunity to provide different
31 care responses for children and young people, different
32 services for their parents, and, really importantly, sort
33 of pick up the pace about the Our Way reforms, so the work
34 that we were doing walking alongside community-controlled
35 organisations, which was at the very early days when I took
36 up the role. And my strong view then and my strong view
37 now is that those reforms, the scaling-up of the
38 community-controlled sector, the scaling-up of delegated
39 authority and everything that goes around that is one of
40 the key promises and hope for a different outcome for the
41 First Nations children and families in the child protection
42 system. So, even though it was clear it was a five- to
43 10-year horizon to sort of reach the end goal, the longer
44 we delayed it of course it was another five or 10 years in
45 the middle of a whole range of other pressures that were
46 growing and growing.

47

1 Q. You made an insightful comment then that sometimes
2 problems that are left to run away from you become
3 unmanageable. You've come in in February 2020 and you were
4 presented with the sort of confronting financial data that
5 we've just seen. Your assessment, I take it, was the
6 problem was still at a manageable stage then but action
7 needed to be swift?

8 A. I think I would never describe the system or the work
9 as unmanageable. I think it's issues are longstanding,
10 known and understood. The question is never about do we
11 know what to do. The question is always do we have the
12 resources, the capacity and the runway to implement the
13 scale of the reforms.

14
15 Q. Yes. All right. So at this point you did know what
16 to do, and you had one or two budget cycles to do it.
17 I want to take you through those two budget cycles. This
18 is the next topic?

19 A. M'hmm.

20

21 Q. Can I start with the 2020/21 cycle. So, fortuitously
22 in a sense, that cycle was pushed back in the COVID year;
23 do you recall that?

24 A. Yes.

25

26 Q. So the budget was moved from June to December, and the
27 department's budget submissions weren't due until August?

28 A. Yes.

29

30 Q. Does that sound right?

31 A. I'm not sure I would describe it as "fortuitously",
32 but.

33

34 Q. Fortuitous in the sense that that gave you some time
35 to digest both the care systems investment plan and both
36 phases of the QTC analysis before making your budget
37 submission?

38 A. Yes, I'd - I had consumed them already before I began
39 in some ways.

40

41 Q. Well --

42 A. And then as the documents unfolded, yes, of course
43 I turned my mind to them.

44

45 Q. If not for that delay, the department's budget
46 submission would have gone in in March. You didn't have
47 the final QTC phase 1 report until April and the phase 2

1 report didn't come until close to August, so --
2 A. One of the great benefits of government process is
3 that there is always another opportunity, if not the full
4 year budget, then there's mid-year, there's urgent - you
5 know, you can get your budget submissions in urgently. So
6 there are other opportunities that you can seek to put in
7 front of government.

8
9 Q. Yes. Let's just focus on this first opportunity. So
10 we heard from Mr O'Brien yesterday that in February of that
11 year, and it may have predated your arrival --

12 A. M'hmm.

13
14 Q. -- the department had drafted a budget proposal which
15 embodied the invitation of the care systems investment
16 plan --

17 A. M'hmm.

18
19 Q. -- which was a significant upfront investment in
20 family-based care of just shy of half a billion dollars?

21 A. M'hmm.

22
23 Q. Do you recall seeing this draft?

24 A. I do. It was - as I recall - I'm sure I'm remembering
25 correctly - it was completed before I arrived.

26
27 Q. Yes.

28 A. But I saw the document, yes.

29
30 Q. Yes. So I think that's right. We've not seen every
31 draft but we've seen a draft from 7 February, which was a
32 couple of weeks before you arrived. Is this summary of
33 that proposal broadly what you remember it to be? One
34 component was a \$70 million deficit coverage for the
35 previous year, a liquidity injection?

36 A. I actually don't recall the detail of the submission.

37
38 Q. All right .

39 A. It is some six-plus years ago now.

40
41 Q. Yes. Well, we do have a copy and, for reasons that
42 are not important to you, I was hoping we could avoid
43 giving it to you, but I think we've --

44
45 COMMISSIONER: Mr Forrest, you're taking these
46 propositions from a submission. If you ask the witness to
47 make the assumption that what you're putting to her is

1 correct, that probably suffices and will avoid the need to
2 take her to the document.

3

4 MR FORREST: All right. Yes, that's a very elegant
5 solution. Thank you, Commissioner.

6

7 WITNESS: Thank you, Commissioner.

8

9 MR FORREST: Assume, Ms Mulkerin, if you can, that the
10 package had these elements. One element was \$70 million of
11 deficit coverage for the previous year's deficit. A second
12 element was around a \$160 million investment in the care
13 systems investment plan?

14

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47

1 Q. You'd accept that?

2 A. Yes.

3

4 Q. We've heard evidence from Mr Short that this draft
5 proposal never reached consideration by the Cabinet Budget
6 Review Committee because at the departmental level it was
7 shelved; is that your recollection as well?

8 A. I don't recall.

9

10 Q. Do you recall whether or not that proposal was put to
11 Cabinet Budget Review Committee at all?

12 A. I don't recall. I do recall that at the beginning of
13 COVID many of the usual processes of government were
14 suspended, and I think at this time that you're
15 referencing, February/March 2020 --

16

17 Q. This is August 2020.

18 A. Oh, August 2020.

19

20 Q. Was the submission date.

21 A. Oh, August 2020. So certainly then many of the usual
22 processes of government were still in abeyance, so the
23 usual running of Cabinet processes, Cabinet Budget Review
24 Committee, and, as I recall, any submissions that were put
25 forward to CBRC were COVID specific.

26

27 COMMISSIONER: What does that mean, Ms Mulkerin? In
28 answer to an earlier question you indicated you would like
29 the opportunity to say something about the impact of COVID.
30 This might be a convenient time for you to do so.

31 A. Thank you. So if I just finish that train of thought
32 and then --

33

34 COMMISSIONER: Of course.

35 A. -- of course I'll answer your question, which I'm very
36 keen to do. So, for example, Health had considerably -
37 considerable extra costs as a result of the pandemic. So
38 that was prioritised. Police had additional cost as a
39 result of the lockdown mandates. So those functions of
40 agencies that were specifically responding to COVID and the
41 demand from COVID were the budget submissions that were
42 prioritised appropriately by government.

43

44 COMMISSIONER: Yes.

45 A. I turn to the question about the impact for the
46 department for COVID. There were a couple of really key
47 impacts. The first was that in that six months around

1 COVID we had a dramatic what I described as a spike in the
2 number of children coming into care. I think I recall it
3 was around 500 children, young people who came into care.
4 So this was a pattern that was very different from what had
5 been a very steady pattern of entries into care prior to
6 COVID.

7
8 So the first thing was the number was - there was a
9 dramatic increase. The second was the who was coming into
10 care. So it is historical trend that predominantly younger
11 children come into care, under five years old. It's very
12 unusual for older sort of 14-plus to come into care for the
13 first time. And that is exactly what we saw through COVID.
14 We saw a cohort of older young people who actually weren't
15 known to the department, so had no prior history. Their
16 families had no history. So that was the third thing that
17 was very unusual and unexpected. And they presented with
18 very challenging needs and behaviours. They had a complex
19 mix of mental health issues, disabilities and very complex
20 behavioural issues.

21
22 When we started to see this trend emerge I asked for advice
23 from the data analysis team to sort of do a deep dive so
24 that I could understand - we could understand who these
25 young people were, what were their characteristics, was it
26 uniform across the state.

27
28 And the other impact of COVID of course was the lockdowns:
29 locked down, not locked down, locked down, not locked down.
30 The impact that that had on the work of the department is
31 that many foster carers were very concerned about having
32 extra adults, extra people coming in and out of their
33 household, for various sound reasons. They were protecting
34 their safe bubble for their family and the children they
35 were caring for. So we often had much more Teams
36 discussions with carers rather than in their houses face to
37 face. We had to make lots of adjustments for how we did
38 all of the work, the child protection work.

39
40 But one of the primary impacts was of course it really
41 constrained our ability to recruit new family-based carers
42 because everybody of course was appropriately focused on
43 their immediate safety and their health and the health of
44 their children and their elderly parents. Even though it
45 seems like a long time ago now, it was a highly disruptive
46 time that disrupted a lot of the usual routines and work
47 that we undertook.

1
2 So we had a sudden spike in older young people with very
3 complex behaviours that we didn't have history with, and
4 really diminished capacity to recruit and find family-based
5 care. Those almost exclusively - that group of young
6 people went into either IPS arrangements or residential
7 care arrangements.

8
9 The other significant impact is that we along with many
10 other agencies at the same time also experienced
11 significant workforce difficulties. Our vacancy rate
12 exponentially increased at this time, and that was largely
13 driven by in a lot of our regions our recruitment of staff
14 is based on international workers, social workers from
15 Canada and Ireland and England, and interstate. So with
16 the borders closed none of that recruitment could happen.
17 So the pool from which we could draw in order to recruit
18 staff sort of literally overnight evaporated. So we had a
19 time in which demand unexpectedly significantly rose, our
20 usual ways in which we might deal with it were
21 significantly compromised, and the ability to deploy staff
22 to respond to some of those spikes was significantly
23 compromised. It was a - you know, it was a very, very
24 difficult combination of events.

25
26 MR FORREST: Just to --

27
28 COMMISSIONER: Is there anything else you wish to add to
29 that? If you think of anything in due course, do. Feel
30 free to raise it.

31 A. Thank you, Your Honour. I think the other thing is
32 that I - I will own it - expected that those young people
33 would return home, would return to their families once we
34 had emerged from the COVID pandemic. I assumed that they
35 were children and families who were receiving a lot of
36 support from their local school, for example, community
37 agencies, disability services, and that they were families
38 who had difficulties but with a lot of support, and once
39 that support was withdrawn because of the lockdowns they
40 really fell apart.

41
42 COMMISSIONER: You continued in your role post the COVID
43 era?

44 A. I did.

45
46 COMMISSIONER: Without trying to unpack what the drivers
47 for increased demand during the COVID period might have

1 been - and some may be obvious. Just the effects both
2 emotional and otherwise of a family being locked down
3 perhaps in an isolated situation --

4 A. Yes.

5

6 COMMISSIONER: -- and not able to access the sort of
7 services you describe may have been a driving factor. In
8 fact perhaps one can infer that, which is what I assume --

9 A. Yes.

10

11 COMMISSIONER: -- your evidence amounts to, an inference
12 that because of those constraints affecting families it led
13 to increase in demand for child protection services?

14 A. Yes.

15

16 COMMISSIONER: That demand doesn't seem to have abated
17 post COVID?

18 A. No.

19

20 COMMISSIONER: Which does call into question somewhat the
21 inference that might be drawn from - as to the impetus for
22 increasing demand during COVID. It doesn't mean that it's
23 not a factor, but if it were discretely identifiable as a
24 factor, that is the range of constraints that occurred
25 during COVID, one would expect that post COVID those
26 constraints would no longer continue to drive demand?

27 A. So I would answer that question like this. As I said,
28 I fully expected that that group of, you know, 500-odd
29 children and young people would return home after COVID,
30 which they did not, and I think that that was because it
31 showed how seriously under pressure those particular
32 families were. So in a sense they fell apart and then they
33 just could not resume care of their children.

34

35 So in an environment in a sector where there is no latent
36 capacity, already under pressure, as we've heard, and then
37 add another couple of hundred on top of that, then that's
38 extra pressure on top, which then of course has a ripple
39 effect, you know, in every kind of aspect.

40

41 And then you are quite right, COVID time passed, and,
42 again, fully expected that we would start to see a return
43 to usual patterns of growth. But instead what we've seen
44 is continued growth, and I think that is not about COVID.
45 I think that --

46

47 COMMISSIONER: That's what we might call fresh demand?

1 A. This is - yeah, correct.

2

3 COMMISSIONER: Post-COVID demand?

4 A. I think that is much more of a result of the time in
5 which we are living, which is extreme cost-of-living
6 pressures and housing pressures, and there is a
7 correlation, well researched, well understood, between
8 stress, economic stress, poverty and child protection
9 pressures. Of course it's also true that not every family
10 who experiences financial stress, you know, their children
11 become known to child protection. But over the last couple
12 of years, as you would be well aware, those financial
13 pressures in the community and in families has been really
14 acutely felt, and I think that that is probably more about
15 the continued growth, you know, those impacts on families,
16 on top of the COVID bump.

17

18 COMMISSIONER: Well, the COVID-driven demand, if we can
19 call it that, made the problem bigger?

20 A. It did.

21

22 COMMISSIONER: It made the supplier constraints more
23 acute?

24 A. They did.

25

26 COMMISSIONER: And, contrary to your expectation, it
27 seems, fresh demand continued to place pressure on the
28 system?

29 A. Yes. I think the other thing to call out too is that
30 in Queensland there has always been a sort of limited
31 correlation between a growth in notifications to the child
32 protection system and a growth in children coming into
33 care. I think I saw in one of the documents it showed,
34 like, a very, very steep incline in the number of
35 notifications coming into the department year on year on
36 year, but that same steep incline - you know, there is some
37 growth, obviously, but it doesn't mirror the steep incline
38 in notifications.

39

40 COMMISSIONER: That assumes of course that the
41 notifications are properly assessed, and if they're not
42 that's a whole different topic?

43 A. Yeah. I --

44

45 COMMISSIONER: If they result in a child concern report,
46 that is doesn't mature into a child harm report - I might
47 have the nomenclature wrong - then there may in fact be an

1 artificial variation between notification and the incidence
2 of children being taken into care, and that's about the
3 evaluative mechanism that is used by the department to act
4 upon notice of a concern and to evaluate whether that
5 notification should be taken further and action taken
6 eventually, if properly assessed, in removing the child for
7 the child's protection?

8 A. I understand that that steep incline is largely
9 related to a significant increase in reports to the
10 department around domestic and family violence concerns.
11 So, as you know, Queensland, like most states, over the
12 last, you know, five, eight years or so has done a lot of
13 reform work in the domestic and family violence space, and
14 police and schools are mandated/required to report concerns
15 to Child Protection, and I think with the increased focus
16 on domestic and family violence that has generated many
17 more reports to the department. You're quite right, then
18 what actually happens with them is a whole separate
19 discussion. But in terms of the actual number coming into
20 the department I think a lot of that has - the increase has
21 been driven by the domestic and family violence reforms.

22
23 COMMISSIONER: Yes. Thank you.

24
25 We went a little off topic, Mr Forrest. Do feel free to
26 return to where you were.

27
28 MR FORREST: It's actually very, very helpful. That was a
29 very illuminating discussion, and it picked up on some
30 things that I'd like to follow up with you. So you have
31 said that COVID had I think three relevant - what were
32 three relevant additional challenges. One was you saw a
33 surge in the demand, what you've called a spike, so we have
34 more kids coming in. The second thing was that you were
35 having older kids coming in?

36 A. M'hmm.

37
38 Q. Sometimes with complex needs. And we know from other
39 evidence we've heard in this hearing block that that often
40 carries an additional cost because, while they're not
41 always unsuited for family-based options, they tend to be
42 less suited?

43 A. Yes.

44
45 Q. So that's an additional cost pressure. And the third
46 thing that you mentioned was that the existence of COVID
47 meant that there were additional challenges to recruiting

1 carers. So the QTC analysis and the care systems
2 investment plan analysis, which identified an exponential
3 cost curve, is all based on the financials from the -
4 sorry, the departmental data from the previous financial
5 year, 2018/2019. If you know that pre-COVID you have an
6 exponential growth curve coming, and at the start of COVID
7 your demand and your cost pressures increase, and your
8 ability to recruit low-cost options decreases, doesn't that
9 elevate to the highest possible level the urgency of the
10 sort of investment that even pre-COVID I think you
11 understood was necessary?

12 A. So elevated in my view, yes.

13
14 Q. It did. Yes.

15 A. But of course CBRC is turning its mind to cost
16 pressures and urgencies across every portfolio.

17
18 Q. Yes.

19 A. Health, education, transport, you know, every - every
20 Director-General, every CEO is arguing to CBRC that their
21 particular issue/priority is the priority.

22
23 Q. Yes.

24 A. And of course, you know, they can't all be the
25 priority, and that is the deliberation of CBRC, about what
26 is the - you know, they are taking into account all of the
27 priorities and pressure points across government.

28
29 Q. You said earlier that you couldn't recall whether or
30 not the draft proposal from February ever went to CBRC. So
31 do you know whether or not --

32 A. I don't recall.

33
34 Q. You don't recall?

35 A. I don't recall. We submitted budget submissions every
36 year that I was the Director-General and mid-year updates
37 every year that I was the Director-General.

38
39 Q. Yes, I see. Just on the COVID cohort as well, in your
40 Director-General role I understand that you are in contact
41 and liaising with your counterparts in other jurisdictions.
42 Was the same sort of dynamic during COVID a surge both in
43 demand and in older, more complex children coming in
44 something that was being experienced in the other states
45 and territories?

46 A. No, it was not.

47

1 Q. All right.
2 A. No, it was not. I rang - I rang around my colleagues
3 across the country to see if we were experiencing - if
4 everybody was experiencing the same pressures - they all
5 had slightly different issues that were emerging - because
6 I was keen to understand, obviously, what was going on,
7 what was driving it, and hoping that somebody else had some
8 magic sauce that I could, you know, shamelessly pinch to
9 try and solve the issue at our end.

10
11 Q. Yes. And with the cohort of older children that were
12 coming in in their teenage years, presumably after some
13 point that cohort of you said a couple of hundred or
14 hundreds of --

15 A. Five hundred-ish.

16
17 Q. -- 500 or so children would have just aged out of the
18 system. Did you see a dip after a few years as those
19 children exited?

20 A. I think that that would have been experienced last
21 year, I suspect, because - so COVID year 20/21, many of
22 those young people were 14ish. So, you know, that tail of
23 exits would be occurring last year and this year,
24 I imagine. I don't know. I don't have access to the data.

25
26 Q. No, that's okay. So you don't know what went to CBRC.
27 What we do know, though, is what came back --

28 A. M'hmm

29
30 Q. -- from CBRC, and that was that in the budget that was
31 delivered in 1 December the department didn't get any new
32 upfront funding; that's right?

33 A. I think, yes, I - that's --

34
35 COMMISSIONER: That's 1 December 2020?

36
37 MR FORREST: 2020, yes, Commissioner. And what it
38 received was \$98.3 million to cover the existing deficit?

39 A. M'hmm.

40
41 Q. I mean, I understand that COVID was sort of a very
42 unusual time in many respects and the competition for
43 government funds would have been particularly intense, but
44 do you agree that the department would have had a fairly
45 compelling case coming back to CBRC with a proposal that
46 had by then been validated by the QTC at the CBRC's
47 insistence?

1 A. I can only answer for what we did.

2

3 Q. Yes.

4 A. I can't answer for whether or not CBRC found it
5 compelling.

6

7 Q. Did you think that you had a compelling --

8 A. I find all of the work that we do compelling and the
9 arguments that we put compelling, otherwise we wouldn't put
10 them.

11

12 Q. But that would have been a compelling budget proposal
13 because it was a budget proposal which embodied the
14 analysis and the insights that had come from the QTC
15 analysis that CBRC had itself commissioned?

16 A. Yes. But, again, it is not - it is the usual work of
17 departments to proffer to government evidence, research,
18 reviews to advance a particular policy issue or a pressure
19 point. You actually don't get very far unless you have a
20 really robust body of evidence. So, yes, this was
21 particularly important and important to the department
22 I think as much as anything else because it confirmed, like
23 independently confirmed, what we knew from our own
24 experience, what we could see from using our evidence from
25 talking with frontline staff about pressure points, talking
26 to carers, talking to our partners in the sector.

27

28 So all of that combined indicated that we - that our
29 analysis and our understanding of the system was sound, and
30 the extra analysis provided by QTC I think gave great
31 confidence to our partners in Queensland Treasury and
32 Premier & Cabinet, and ultimately to Cabinet Budget Review
33 Committee and of course to the minister, who had to make a
34 decision about whether or not to submit it because the
35 submissions are submissions from the minister. They're not
36 from me; they go from the minister.

37

38 Q. By that you're saying you can't recall, if it was
39 shelved, whether or not that happened at the department
40 level but it is possible that it happened at the
41 ministerial level; is that what you're suggesting?

42 A. Or it was at the direction of CBRC that the only
43 submissions coming forward were of a certain type.

44

45 Q. I see.

46

47 COMMISSIONER: By that you mean in relation to other

1 activities of government?
2 A. Yes.
3
4 COMMISSIONER: That were being prioritised?
5 A. Yeah, yeah. Yes. Yes.
6
7 COMMISSIONER: So that's a sort of ex ante decision by the
8 CBRC --
9 A. Yes.
10
11 COMMISSIONER: -- that its resources will be focused in
12 other areas?
13 A. Yes. Yes. It's usual practice that Treasury will
14 give some guidance to departments about priority areas,
15 policy areas for government, submissions that CBRC will
16 receive. So, you know, it's a iterative two-way
17 discussion. We're trying to elicit as much information as
18 we can from Treasury about trying to understand what CBRC's
19 priorities are, and of course we're trying to influence at
20 the same time our priorities so that, you know, we have the
21 opportunity to put that to CBRC.
22
23 MR FORREST: So you've opened up I guess two new
24 hypotheses that we can test in due course. One is that if
25 it was shelved it may have happened in the minister's
26 office, and another is that CBRC may have pre-emptively
27 told the department to shelve it?
28 A. I simply don't recall.
29
30 Q. Sure.
31 A. But I was just saying in general there are lots of
32 ways in which submissions make their way to CBRC. There
33 are also lots of ways in which lots of work will happen
34 inside an agency at the direction of a minister or in
35 discussion with our colleagues in Treasury, and then
36 government will make a decision about a different priority.
37 Like, that is not - that is just the usual running of
38 government.
39
40 COMMISSIONER: Mr Forrest, there should be some
41 documentary record of what in fact occurred. Was the
42 submission propounded to the CBRC or not should be capable
43 of clarification by reference to some document, which I'm
44 assuming presently the Commission does not have.
45
46 MR FORREST: We do not, no.
47

1 COMMISSIONER: No. Well, I might ask Ms Freeman whether,
2 to save time, such a document that indicates what happened
3 with the submission, whether it was not propounded or by
4 reason of some decision of the CBRC, could be produced so
5 that this matter can be clarified.

6

7 MS FREEMAN: I'll get some instructions, Commissioner.

8

9 COMMISSIONER: Thank you. Thank you.

10

11 MR FORREST: In the event - and you may have caught this
12 in the section of Mr O'Brien's evidence that you saw
13 yesterday, but, in addition to not receiving an injection
14 of upfront services funding, that budget also involved the
15 imposition of savings measures on the department?

16

A. I recall.

17

18 Q. Yes.

19

A. I definitely recall that.

20

21 Q. Yes. Well, I thought as you were giving evidence
22 about the pressures that were on the department during
23 COVID and in particular with its frontline workforce that
24 it must have been a rather difficult process gouging out
25 savings by not filling vacant positions and cutting down on
26 travel and supplies and so on?

27

A. Again, it is not an unusual request from government to
28 ask departments to make savings. So it's not a - you know,
29 it's not a one-off, it's not unusual. You know, it's quite
30 a usual process. And, as I recall, the allocated savings
31 target for my department was considerably smaller than
32 other agencies. So I understood that to be in recognition
33 of the existing pressures that we were under.

34

35 Q. That was a concession to the budget pressures that the
36 department was under?

37

A. Correct. Correct.

38

39 Q. But, in any event, by focusing on gouging out small
40 savings while letting the exponential growth curve rumble
41 away unchecked, even achieving those savings as you did,
42 it's the case, isn't it, that the department then added in
43 that year another \$98 million to its deficit --

44

A. Yes.

45

46 Q. -- which was funded in the next year's budget?

47

A. Yes. Yes, it was a regular pattern.

1
2 Q. Yes. I just want to turn to the next budget cycle,
3 which is still within the so-called window of opportunity.
4 I can be relatively brief here, I think, because it was
5 canvassed with Mr O'Brien yesterday. But in broad terms in
6 this second COVID budget cycle the department goes to the
7 CBRC with a big ask?
8 A. M'hmm.
9
10 Q. It's roughly a \$1.5 billion package --
11 A. M'hmm.
12
13 Q. -- over the financial year and the four forward
14 estimate years?
15 A. Yes.
16
17 Q. And we know that that one does go to CBRC, and
18 presumably that was a budget proposal that you signed off
19 on and went through the minister's office and --
20 A. Yes.
21
22 Q. -- was in front of them? In your view, was a package
23 of that size, \$1.5 billion, sufficient to seize the window
24 of opportunity that remained?
25 A. Yes, which was why we would have asked for the scale.
26 So it's not random, you know, the submissions that you
27 make. You make them based upon the arguments that you put
28 to CBRC about the cost, that's in our case escalating cost,
29 demand, pressure points. So we - my position was always as
30 Director-General never to try and overshoot the amount -
31 it's a non-technical term, but you know what I mean -
32 because a lot of what happens between government and
33 agencies is an article of trust.
34
35 Q. Yes.
36 A. That they trust that the advice that we give them is
37 expert, professional, in line with their policy intent and
38 reasonable; so not a kind of overstating the problem. My
39 view was always that that never helps anybody because it
40 erodes trust, and already the ask and the scale of change
41 was difficult for government to respond to. So it's - for
42 me, it was always about trying to find a fair and
43 reasonable ask so that it responds to the scale of the
44 issue but doesn't say to government, "This is an
45 open-ended, you know, kind of cheque. Please fill it for
46 us."
47

1 COMMISSIONER: Ms Mulkerin, may I just clarify something
2 with you. The predicate of propositions - the last
3 proposition put to you by Mr Forrest was that there was in
4 the 2021/22 budget year still a window of opportunity open
5 to abate the consequences of not acting at or about that
6 time to avoid the consequences of the known projected
7 demand increase that had been analysed quite carefully by
8 the QTC and in respect of which a plan had been by then
9 formulated by the department focusing upon increased
10 investment in family-based care because of the innumerable
11 benefits associated with family-based care --

12 A. Yes.

13

14 COMMISSIONER: -- not least of which the cost saving
15 associated with shifting --

16 A. Yes.

17

18 COMMISSIONER: -- children to family-based care rather
19 than being reliant upon the more costly residential care
20 option. So what I want to just clarify with you is whether
21 you accept that timing or the window of opportunity, as
22 Mr Forrest metaphorically puts it, was a critical element
23 in taking effective steps to abate the forecast consequence
24 if the system remained unchanged?

25 A. So, yes, as I said earlier - not so eloquently I think
26 I said the larger the problem becomes the harder it is to
27 abate, and for me, as you will see in my CV, this has been
28 my whole career. So for me every missed window is an
29 opportunity that we miss to make a difference, a positive
30 difference. So it --

31

32 COMMISSIONER: And when you've missed the window --

33 A. So it matters for children and families. Time is
34 critically important to them. You know, children get
35 older. Their opportunity to be returned home, their
36 opportunity to settle, to engage in school, like, all of
37 that matters in their lives, and we can't regain that time,
38 you know. So time is of the essence in every way, in the
39 budget way, in the building new opportunities and most
40 importantly for the children that we care for.

41

42 COMMISSIONER: Yes, because looking at the position
43 through the eyes of the child or young person it is
44 necessarily time critical. If, let's suppose, the child is
45 14 when the child was taken into care, at that time there
46 is no available family-based care for that child even
47 though the child is suitable to be cared for in a

1 family-based environment, in a kinship environment.

2 A. Yes.

3

4 COMMISSIONER: If the steps aren't taken in a timely way,
5 that child won't have the benefit of that option which is
6 preferable, and I think there's a broad consensus and you
7 obviously share it, to residential care?

8 A. Yeah. Yes.

9

10 COMMISSIONER: So the window of opportunity for the
11 children in the system closes, and whilst it may be
12 re-opened at a later point in time for other children who
13 come into the system later it is of no avail to the
14 children already in the system who can't be accommodated in
15 a preferable model of care. That's one sense in which --

16 A. Yes.

17

18 COMMISSIONER: -- we can understand --

19 A. Yes.

20

21 COMMISSIONER: -- what is meant by a window of
22 opportunity?

23 A. Yes. Yes. The other thing I would also say is that,
24 you know, as it's been put to me, there were moments in
25 time or opportunities to act to change the mix, to change
26 the way in which we engaged with the sector and the market,
27 and that is true. There is always, you know, optimal sort
28 of time when there's a window in which all things align:
29 the government is supportive of the agenda, it's willing to
30 fund it, you have a minister who is supportive of
31 the agenda, you have a DG who can push the practice, you
32 have a workforce who are engaged and supportive and
33 willing, you have partners who are willing to lean in to
34 work differently - you know, so, like, everything has to
35 align in order for big change to happen.

36

37 COMMISSIONER: Yes, and --

38 A. And, despite that, there is always - even if all of
39 that doesn't align, there is - there has never been a time
40 in my career when I have said, "This just seems a bit too
41 hard. We just won't be working on that now. Even if we
42 didn't get a big investment from government, even if, even
43 if, even if." So, yes, there is an optimal time when
44 things can work together to get the scale required and the
45 pace that you're after, and I would say strongly even if
46 that doesn't happen there is still a lot of action that can
47 be taken that will improve, you know, the arrangements in

1 place, and I think in my statement I outline all of the
2 actions that were undertaken that were within my control
3 that were independent of any decision that government might
4 take, and I would think that I would not have done my job
5 well if I didn't constantly think about what else can we
6 do, what other options are there, what other stone can we
7 overturn, what is some other jurisdiction doing, what are
8 the experts looking at. So it's sort of not a binary if
9 that doesn't happen then you can't do anything. Yes, of
10 course you want to shoot for the best possible combination
11 of factors, and regardless, you know, work pushes on to
12 improve.

13
14 COMMISSIONER: Another aspect of what I have understood
15 your evidence to be about the need and timing of action -
16 need for and the timing of action is that as the problem
17 becomes bigger the solutions become more difficult; there's
18 a sort of inverse relationship between the scale of the
19 problem that the department is managing and its ability to
20 effectively manage it and effect change?

21 A. Correct.

22
23 COMMISSIONER: That seems to be the manifest position that
24 the department is presently in if one were to consider the
25 feedback from the frontline workers. There's a submission
26 that was recently received by the Commission from
27 the Together union --

28 A. M'hmm.

29
30 COMMISSIONER: -- and it describes the state of affairs of
31 effectively crisis where on a day-to-day basis workers at
32 the frontline are in the position really of crisis
33 management or triage, not able to engage in proactive
34 activities that are preventative in nature because of the
35 immediate pressures of dealing with crisis or crises as
36 they arise. Is that the sort of problem that you had in
37 mind when you spoke earlier about the escalating scale of
38 the problem making things more difficult to effect lasting
39 change?

40 A. Yes, the larger the problem is the more effort
41 obviously has to go in to just managing it, let alone
42 changing it. I would also say, though, that during my time
43 there were two of the key actions that we really put a lot
44 of effort into that were very well embraced by frontline
45 staff and well understood, and significant action that
46 happened on the first was about increasing our use of
47 kinship care, and I think that there has been data that has

1 been submitted that shows the significant increase.

2

3 When I first became Director-General I think that we sat
4 around 17 per cent of family-based care was with kinship
5 carers, and I was aware that some other states were
6 considerably higher. For example, Victoria consistently
7 ran around 60, 70 per cent of their family-based care were
8 kinship carers. So my view was and is that it is very,
9 very difficult now to significantly increase the number of
10 foster carers, and I'm happy to talk about why that is.
11 But I was confident and our actions and impact showed that
12 with significant persistent effort that the number of
13 children placed with kin carers could significantly
14 increase.

15

16 COMMISSIONER: Perhaps we can come back to that.

17 A. The reason that I know that that was well embraced is
18 I visited every office across the state at least a couple
19 of times in my time as Director-General, and routinely
20 I would go into an office and my CSO colleagues would come
21 up to me and tell me that they were currently at X, they
22 knew they had to get to Y, that particularly meant that
23 this many more children needed to be placed with kin
24 carers, and these were all of the things they were doing,
25 and that they were confident in the next two months that
26 they would achieve and are - you know, they would talk
27 about it in detail both at the sort of numbers but also
28 what it meant for the work that they each had to do.

29

30 So it was a galvanising, uplifting, focusing priority, and
31 I would say the same with the reforms that were underway
32 with Our Way. We all felt really deeply that it was one of
33 the key priorities that would forever change the system.

34

35 COMMISSIONER: Ms Mulkerin, there seems to be broad
36 agreement as to the desirability of shifting children from
37 residential care to family-based care, including kinship
38 care.

39 A. Yep.

40

41 COMMISSIONER: This block of hearings is focused on - not
42 exclusively, but it has a focus upon - the correlation
43 between achieving those outcomes, not disputing their
44 desirability --

45 A. M'hmm.

46

47 COMMISSIONER: -- but achieving them, and the funding

1 necessary of the department and then the deployment of
2 those funds by the department to achieve those objectives,
3 and at present I think we are up to the point in the
4 narrative where we're looking at the budget cycle for the
5 21/22 year and what impacts decisions in relation to that
6 budget cycle have or may be distilled from what thereafter
7 happened in relation to certain programs. So,
8 Ms Mulkerin --
9 A. Thank you.

10
11 COMMISSIONER: -- I do not in any way wish to preclude you
12 from saying anything about a topic that you regard as
13 material, and that includes, for example, your views about
14 the limitations applicable to increasing foster carers, for
15 example. So at a convenient time I'll welcome your views
16 about those things.

17 A. Thank you. Thank you, Your Honour.

18
19 MR FORREST: Sorry to bring it back to the vulgar topic of
20 the budget process, but can we just tie off the 21/22
21 cycle. So you had requested a very significant package
22 that in your assessment you thought was credible but
23 sufficient --

24 A. M'hmm.

25
26 Q. -- to seize the window of opportunity, and it's true,
27 isn't it, that what came back from CBRC was not a
28 \$1.5 billion package but a package which covered the
29 \$98.3 million deficit from the previous financial year and
30 provided the department a further \$184.3 million, which was
31 simply to cover the deficit forecast for that financial
32 year?

33 A. Yes.

34
35 Q. So to tie off the window of opportunity you've had two
36 budget cycles after QTC, you're armed with a very
37 high-quality analysis that CBRC has commissioned, you have
38 QTC in your corner saying that large-scale front-end
39 investment is the solution, and after two budget cycles you
40 come back with no additional upfront funding; is that
41 right?

42 A. I'm taking that as correct.

43
44 Q. Yes. Do you agree that after those two budget cycles
45 the window of opportunity was all but closed in terms of
46 getting ahead of the exponential curve or, as you've put
47 it, to I think arrest the trend?

1 A. I think I've already said I don't think that there's
2 ever a time that you close off that opportunity. It didn't
3 occur then, and if in the next budget - you know, we would
4 try again the next budget cycle and in the meantime do
5 everything within our control.

6

7 Q. The cruel mechanics of an exponential growth rate,
8 though, meant that after missing two budget cycles the cost
9 of getting ahead of the curve after year 3 was going to be
10 in the --

11 A. Larger.

12

13 Q. -- intervals of half billion and billion dollars?

14 A. Yes, yes.

15

16 Q. Those sort of increments?

17 A. Yes.

18

19 COMMISSIONER: So as the problem grows exponentially the
20 cost to meet the problem --

21 A. Grows.

22

23 COMMISSIONER: -- equally grows exponentially as well?

24 A. Correct.

25

26 COMMISSIONER: And unavoidably the timeframe allowing for
27 the lead time to implement a program of reform means that
28 in practical terms at least for some children already in
29 the system the window of opportunity has closed, hasn't it?

30 A. That's correct.

31

32 MR FORREST: Ms Mulkerin, similar questions have gone to
33 some of your former departmental colleagues and a
34 consistent theme that's come through in the evidence at
35 least four of them - Ms Wilson, Ms McNamara, Mr Short and
36 Mr O'Brien - was that the thing that was standing in the
37 way of the department doing what it knew it needed to do
38 and wanted to do, which was to adjust the supply mix in
39 favour of family based and lower cost residential care, was
40 a lack of budgeted funds; do you agree with those
41 observations?

42 A. Definitely the largest barrier, sure.

43

44 Q. Could I take you to the significant procurement plan,
45 which is something that comes after those two budget
46 cycles. It's behind tab 61 of the master bundle, which
47 I think is also volume 2. And I think the starting page is

1 1185.

2 A. Yes, thank you.

3

4 Q. And this is a project that you've ultimately approved,
5 we can see there, as the financial delegate.

6 A. Yes.

7

8 Q. Could we track through, please, to page 1190?

9 A. 1190.

10

11 Q. And you can see about midway down there's some
12 paragraphs restating the wisdom of the analysis that was
13 undertaken by the CSIP, and they're all familiar themes.
14 We can see in the dot points that what's lacking is
15 investment in new care options; below that the current care
16 system needs investment. And then overleaf in 1191 we see
17 a similar summary of the QTC analysis, which strikes the
18 same familiar chords that what's needed is significant up
19 front investments.

20

21 Overleaf again at number 3 we can see the objectives of the
22 procurement plan and, focusing on the first two dot points,
23 we have the very worthy objectives of halving the number of
24 children and young people in residential care, and this is
25 something that you've touched on, Ms Mulkerin, something in
26 your discussions with the Commissioner, of doubling the kin
27 care proportion. Isn't it correct that on the CSIP and QTC
28 analysis the necessary ingredient for those worthy
29 objectives to be realised is new funds?

30 A. In relation to growing kinship care not as dependent
31 on large quantum of funds.

32

33 Q. Can you explain why that's so?

34 A. So a lot of the work around - so kin carers are funded
35 in the same way as foster carers. So that funding flows -
36 the allowances flow automatically from government in
37 relation to the department's budget. So it is the
38 recruitment of new family-based care is only constrained by
39 how many places we can fund a non-government organisation
40 to support the carer. So the work about recruitment,
41 identifying, assessments, training, all of that is within
42 the control of the department's staff. The allowances for
43 kin carers flows automatically, as it does for foster
44 carers. The outstanding issue then is about how to
45 support - how to fund an NGO to support them.

46

47 And in that sense there was some work that we could do to

1 look at the overall bucket of money available for
2 supporting NGOs with kin carers and particularly the other
3 stream of work that we were doing with community-controlled
4 organisations to build their capacity to support children -
5 family and kin carers. So we had some funding for that so
6 we could push some of those intentions together. So, yes,
7 ultimately if we achieved 1,000 new then that of course was
8 going to be problematic. But the getting going and getting
9 momentum was something that we could do regardless of the
10 big injection of funding.

11
12 Q. If we track down to 5, which is a little further down
13 the same page, you'll see "Value of purchase" and we see at
14 the side of that section there are no new funds linked to
15 this procurement plan. That's presumably just the
16 inevitable consequence of what's happened in the last two
17 budget cycles --

18 A. Yes.

19
20 Q. -- as not up front funding to call on?

21 A. Yes. So no new funding. We had what was already at
22 our disposal.

23
24 Q. And I took this next section and put it to Mr Short,
25 and he's obviously the sort of finance specialist but he
26 agreed that basically what's described in the dot points
27 under this was sort of scrimping and saving from different
28 budget items and just sort of shifting things around; is
29 that --

30 A. Yes, I'm not sure I would describe it as scrimping and
31 savings. It's millions. But, yes, it is active efforts to
32 look under every hood, every bucket of money, every
33 location. And, you know, we would scoop up - if there were
34 savings anywhere we would frequently - and that was a task
35 that Mr Short would do, would give advice about there seems
36 to be some projected savings in this particular area and
37 I along with the others would make a judgment call about,
38 "Okay, well, let's harvest those savings and allocate it
39 here."

40
41 Q. This is obviously an ambitious and optimistic plan
42 which sets very serious goals. Do you agree that the
43 success of those goals was essentially hamstrung by the
44 lack of new funds?

45 A. Particularly the residential care target, I think, was
46 most impacted.

47

1 COMMISSIONER: By that you mean the transfer of children -
2 "transfer" is perhaps a poor expression, but moving
3 children from residential care to family-based care?

4 A. Yes.

5

6 COMMISSIONER: Which is beneficial for the children - and
7 everybody seems to agree with that - but has a highly
8 material impact on the cost.

9 A. Correct.

10

11 COMMISSIONER: Yes.

12 A. Yeah, correct. And perhaps I'll be able to give
13 evidence later about the reviews that we did case by case
14 by case of every child in residential care, the case
15 reviews that we did alongside First Nations partners
16 specifically looking at younger First Nations children in
17 residential care to explore every other possible avenue.
18 So I'm not trying to be cute by answering your question.
19 I'm just saying that there was a lot of activity inside the
20 department that did happen and could happen regardless. Of
21 course the scale required was dependent on new funding.

22

23 MR FORREST: You were making the very best with what you
24 had?

25 A. Correct, as was my responsibility and what I believed
26 to be the right thing for us collectively to do.

27

28 Q. Yes. You hadn't stopped trying.

29 A. No, never.

30

31 Q. And you mentioned that the lack of new funds made
32 achieving the residential care target in particular
33 challenging. Obviously you're aware that that target
34 wasn't met?

35 A. Yes.

36

37 Q. And in fact the percentage has increased to close to
38 double.

39 A. Yes.

40

41 Q. You'd attribute that, I think, to the lack of
42 substantial funding?

43 A. Everything is connected to everything.

44

45 Q. Indeed. Yesterday Mr O'Brien was asked some questions
46 about why in parallel with the efforts in building up
47 family based and in particular kin care there weren't also

1 efforts to increase the surge capacity in residential care
2 OSD places.
3 A. M'hmm.
4
5 Q. Ultimately he said that was simply because there were
6 no funds available for that. Do you agree with that?
7 A. Yes.
8
9 Q. Ms Mulkerin, I've got three short topics for you to
10 go. We're very much on the home stretch. So the first of
11 those is the parameters-based funding model.
12 A. M'hmm.
13
14 Q. That comes in in 1 July 2023. And you address this in
15 your statement helpfully, but one of the intentions of the
16 parameter-based funding model was to improve the financial
17 security of the department and in particular by getting
18 ahead of the deficit funding cycles that by then had set
19 in?
20 A. Yes.
21
22 Q. One feature of the parameters-based funding model
23 which has received some attention this fortnight has been
24 the inclusion of aspirational placement targets --
25 A. Yes.
26
27 Q. -- which are slightly moderated versions of the sort
28 of placement targets --
29 A. Yes.
30
31 Q. -- we see in the SPP, and the ultimate target was to
32 hit a proportion of 99 per cent of family-based care by
33 fiscal year 27.
34 A. M'hmm.
35
36 Q. We've heard some evidence, including from Mr Short,
37 that the inclusion of aspirational and goals based targets
38 in a forecasting model has the effect that the model will
39 at least until the aspirations are realised continue to
40 under-forecast demand and so not serve the purpose --
41 A. Yes.
42
43 Q. -- of avoiding the deficit cycle; do you agree with
44 that?
45 A. Yes. Yes, I do.
46
47 Q. And you make some comments in your witness statement

1 that these limitations of the parameters-based funding
2 model were understood to some extent.

3 A. M'hmm. M'hmm.

4

5 Q. And that the initial block of targets was never
6 intended to be permanent. Can you give the Commissioner
7 some insight into why it is that the targets weren't
8 revised once it became clear after the first PBFM cycle
9 that they weren't being met?

10 A. So I think you're quite right the intention of the
11 PBFM was to try to assist the department and the work to
12 get on a more sustainable footing. As you've heard a lot
13 of evidence, you know, one thing drives the other. So the
14 lack of ongoing funding, you know, hampered a lot of the
15 intentions. So the PBFM was our effort along with QTC and
16 Treasury to convince government that constant kind of
17 backward deficit funding was just not going to impact on
18 the scale required.

19

20 Q. You used the phrase earlier when we were talking about
21 a different issue that you get to a stage where you're
22 chasing your tail.

23 A. Yep.

24

25 Q. I mean, deficit funding cycles is the definition of
26 chasing your tail, isn't it?

27 A. Correct. Correct. Correct. So the actual working up
28 of the PBFM - and I do not in any way pretend to have, you
29 know, the algorithmic understanding of all of the very
30 complex maths behind the modelling --

31

32 COMMISSIONER: I don't think anyone in this room - I may
33 be making an unfair assumption - would claim that expertise
34 either, but there have been some people who do.

35 A. Maybe Mr O'Brien came close, but I wouldn't pretend to
36 have that expertise. So it was a first for our type of
37 work. It had not been done in other states, as far as I'm
38 aware. So there was a lot that was new and, even though
39 confident in the expertise and the various smart minds from
40 QTC and at our end who were applied to it, you know, in the
41 first couple of years it was likely that there would have
42 to be some changes to either the inputs or the emphasis on
43 a particular piece of work, the modelling. And that it was
44 - my understanding was that it was never going to be a set
45 and forget; you know, you did the work once and then in
46 20 years' time those who came after me would look back and
47 say, "Well, look at those people back then. Weren't they

1 brilliant? We've never needed to change it." I mean, of
2 course that's foolish to think that.

3

4 But it's also fair to say it was reasonable to assume that
5 it would take a couple of years in order for it to work its
6 way through, for us to understand how it drove allocations
7 of funding, for Treasury to understand that, and also to be
8 able to compare the actuals with the aspiration with what
9 the model showed.

10

11 COMMISSIONER: Well, that's precisely it, isn't it? When,
12 to your mind, did it become apparent that the aspirational
13 values attributed to key elements of the funding model were
14 not being realised as against the actuals such that in
15 order to avoid a perpetuation of underfunding of the
16 department leading to a perpetuation of the cycle of
17 deficit funding those values needed to be adjusted to
18 accord with the actual experience up to a given point in
19 time?

20

21 A. So I think that at the end of the first year I'm
22 certain that we did provide advice about the trend
23 information because I think that, given where we were and
24 particularly the residential care target, you know, that
25 was quite a distance away from each other. And it was
26 intended to drive a whole range of behaviour inside the
27 department and with our partners to --

28

29 MR FORREST: Mr O'Brien used the phrase that you were
30 being incentivised; do you agree with that?

31

32 A. Incentivised. And I think it's fair to say that I was
33 also trying to drive a whole series of new practices,
34 procedures, expectations on ourselves and our partners. In
35 a sense it set out the direction of travel, as much as
36 anything else. And I think that's the term that I kept
37 using inside the department and with our partners, that
38 these set the direction of travel: significantly increase
39 kinship care and, when we're on that journey of increasing,
40 at the same time we can affect the decrease of residential
41 care. One has to come before the other.

42

43 COMMISSIONER: Do you agree that the two principal
44 drivers, two variable cost drivers, that are critical,
45 firstly, there's the aggregate demand for child protection
46 services --

47

48 A. Yes.

49

50 COMMISSIONER: -- that involve caring for a child either

1 in a family-based care setting or in a residential care
2 setting? So the first element is what is the demand.
3 A. Yes.

4
5 COMMISSIONER: And the demand forecasts at or about this
6 time have proven to be pretty accurate and the curve, if
7 you like, was pretty steep and upward in direction; that
8 was understood --
9 A. Yes.

10
11 COMMISSIONER: -- at or around 20, 21, 22.
12 A. Yes.

13
14 COMMISSIONER: So that's the main impetus for cost
15 increase, isn't it?
16 A. Yes.

17
18 COMMISSIONER: The number of children you have to care
19 for. And the second significant variable was the
20 allocation of the children as between residential care on
21 the one hand, which is a high-cost model of care, and
22 family-based care on the other.
23 A. Yes.

24
25 COMMISSIONER: And I think Mr O'Brien indicated that if
26 there's a 1 per cent reallocation it amounts to about a
27 \$50 million saving. So it's a very price sensitive --
28 A. Yes.

29
30 COMMISSIONER: -- or cost sensitive issue.
31 A. Yes. And of course the reverse is true. A 1 or
32 2 per cent increase has the reverse impact on the cost.

33
34 COMMISSIONER: Yes. It's either a cost saving or a
35 cost --
36 A. Very sensitive either way.

37
38 COMMISSIONER: -- that has to be incurred --
39 A. Yes.

40
41 COMMISSIONER: -- and continues to increase at that rate.
42 A. Yes, yes.

43
44 COMMISSIONER: And the other variable, which is in
45 monetary terms less significant but nonetheless
46 significant, is the contractual mix in relation to the
47 residential care model as between OSD-funded places and

1 IPS-funded places.

2 A. Yes. Yes

3

4 COMMISSIONER: And I think just taking a headline figure
5 the KPMG analysis indicated about a 10 per cent cost
6 differential between IPS and OSD.

7 A. Yes.

8

9 COMMISSIONER: I'm not sure if you're familiar with
10 the KPMG report.

11 A. Yes. Yes, I am.

12

13 COMMISSIONER: But that's a headline figure. So as worthy
14 as the modelling is, that is the PBFM modelling, it surely
15 has to be in terms of the values that are included in the
16 model for each budget cycle adjusted as you learn more as
17 events turn out about what the actual performance has been,
18 otherwise applying the model on aspirational but not
19 realistic values will lead to the perpetuation of this
20 underfunding and a cycle of ongoing deficit funding; that
21 seems to follow?

22 A. Yes, yes. And I think that your question about at
23 what point should that have occurred, I think that as I've
24 said this was a first for us, it was a first for Treasury.
25 We were both trying to - we were both learning how to
26 actually use, what did it mean. And of course running
27 alongside that was our budget submissions identifying any
28 deficit.

29

30 I don't want the Commissioner to think that at any point we
31 stopped advising government of the actuals. I mean, that
32 was always apparent in our briefings and our documentation.
33 We didn't take - I can only speak for myself of course.
34 I didn't take it as job done that we had convinced
35 government to fund us through the PBFM and then no further
36 advice going to government about, "And this is the actual
37 and this is the trend and this is how far and how close
38 away we are from the aspiration." So both of those things
39 were known.

40

41 COMMISSIONER: So you made that plain to government, did
42 you, or --

43 A. Sorry?

44

45 COMMISSIONER: You gave advice to the government of
46 the day about the extent to which the aspiration, that is -
47 can I use the expression - churn from residential care to

1 family-based care was being achieved?

2 A. There were - there were very regular briefings between
3 myself and the minister, between my executive staff and
4 Treasury and DPC, our oversight agencies, quarterly about,
5 like, every manner of data available to us. And published.
6 You know, I was the Director-General who advocated for the
7 public publication of all of our data on the website.
8 These are, you know, difficult problems to solve and I
9 don't think they're solved by not being open about, "This
10 is the scale. This is the challenge. This is the trend.
11 This is what's different. This is what's up. This is
12 what's down." So none of that was, like, not known. It
13 was all publicly available.

14

15 COMMISSIONER: So when it became apparent to you - if it
16 is the case that it became apparent - so let me know in
17 your answer approximately when the disparity between the
18 ambition and the reality in terms of the aspiration to move
19 from residential care to family-based care seemed not to be
20 tracking in the direction that you had hoped it would and,
21 if that is the case, what advice you gave to government, to
22 the relevant minister I assume, as to how that disparity in
23 aspiration and actuality should be addressed?

24 A. So it is plainly obvious now in hindsight that from
25 the very beginning the ask about residential care from the
26 beginning was difficult to achieve, and the trend was not
27 heading down, it was heading up. So from the very
28 beginning that target --

29

30 COMMISSIONER: The beginning being, what, 2020?

31 A. No, the beginning of the PBFM first cycle.

32

33 COMMISSIONER: I see. So just roughly that is --

34 A. 23.

35

36 MR FORREST: 1 July 23.

37 A. 23.

38

39 COMMISSIONER: Yes.

40 A. So it is a difficult task on top of a difficult task.
41 And my view, was my position, was so long as we could
42 demonstrate to government the range of effort undertaken
43 and demonstrate some positive trend that we could keep
44 having the conversation about, "Do we hold the PBFM as it
45 is this year, we review it the year after? Do we put our
46 effort into really foot to the floor to try and make a
47 difference in terms of the curve?"

1
2 COMMISSIONER: What do you mean by hold? Do you mean in
3 terms of the values that are used within it?
4 A. Yes, yes, yes. Because it was always the case that -
5 at least I understood it was always the case that in my
6 discussions with my counterparts they understood that we
7 were in a year where we were kind of seeing if the PBFM did
8 what we expected it to do, that the values as it gets - you
9 know, as we put them in and then it produced, you know,
10 results --
11
12 COMMISSIONER: But the PBFM doesn't producing anything
13 itself, does it? It's just a tool for analysis?
14 A. Yes, yes, yes.
15
16 COMMISSIONER: So --
17 A. But from there the budget allocation and everything
18 else flows.
19
20 COMMISSIONER: Yes, which means that if the value input is
21 aspirational and not real the budget allocation will be
22 inadequate?
23 A. Yes, yes. I would have expected that we - and I can't
24 recall whether we did this because it was an election year,
25 that then also comes with some stipulations from government
26 about what sorts of budget submissions that they will turn
27 their mind to, as is completely usual practice. I don't
28 recall whether we had a report back to CBRC about the
29 progress of the work and the PBFM. I don't recall whether
30 we did. But that would have been the opportunity to advise
31 government about how close or far off course we were and
32 whether changes were required.
33
34 COMMISSIONER: Was there any point in time from
35 the introduction of the PBFM as a tool of analysis that you
36 were able, assisted by the output of that tool or other
37 representations that you might have made, to obtain a
38 significant increase in new money, and by new money I mean
39 over and above the funds necessary to fund historical and
40 forecast deficits in order to deploy that new money towards
41 the programs that may have had a practical effect upon
42 producing the aspiration you wanted, which was of course to
43 shift children from residential care to family-based care?
44 A. So in that budget - after the allocation in the 23
45 budget year - just checking is that --
46
47 MR FORREST: Yes.

1 A. The next opportunity would have arisen in the next
2 full year budget cycle.

3

4 Q. So March 2024?

5 A. 24. March 2024 for the end of year budget; you know,
6 the budget in June.

7

8 COMMISSIONER: I might return the questioning to
9 Mr Forrest to find out what happened.

10 A. And I don't recall what submissions we did or didn't
11 because, as I said, it was an election year and usually in
12 an election year departments are requested to only bring
13 forward submissions that relate to future election
14 commitments or completing election commitments. There's a
15 specific kind of parameter usually around those years.

16

17 MR FORREST: Just so I'm sure I understand it, PBFM comes
18 in mid-year 23. You leave the department towards the end
19 of 24. You're saying, are you, that the one opportunity
20 you would have had to go to CBRC and ask that the targets
21 be revised was the March 24 main budget submission, and
22 sitting here now you're not sure --

23

A. Yeah, I don't recall.

24

25 Q. -- whether or not you did ask or the department asked
26 for it to be advised?

27 A. I don't recall. I don't recall. What I would say,
28 though, is that there was no time that I recall where there
29 was any tension between ourselves and Treasury. All
30 through my time as Director-General we were well supported
31 by our Treasury colleagues. They gave us very good advice
32 about how to frame submissions, about what submissions were
33 likely to succeed, about emphasis in submissions, and there
34 was no time in that relationship where my Treasury
35 colleagues said to me things like, "We are worried you
36 don't know what you're doing. We're worried the department
37 doesn't know." So there was no lack of support and
38 confidence. And they were fully aware of the scale of the
39 challenges because, as I said, they had walked this journey
40 with us over multiple iterations of many budget submissions
41 and the QTC work. So I am confident that if they thought,
42 based on their discussions with the Treasurer or with CBRC,
43 if there was a window for us to have done that work they
44 would have; they would have advised us of that.

45

46 Q. Yes.

47 A. And of course we would have taken it.

1
2 COMMISSIONER: We've strayed somewhat from the practical
3 question that I'm trying to get to the bottom of which is
4 was there funds provided that enabled you at scale to
5 implement the sort of practices and policies that would
6 have supported the realisation of the objective of moving a
7 very large proportion of children from residential care to
8 family-based care?
9 A. No.

10
11 COMMISSIONER: No.

12
13 MR FORREST: But the reality is, isn't it, from the time
14 of the introduction of the PBFM to the end of your time as
15 Director-General, despite the introduction of that new
16 forecasting tool, the department remained in an escalating
17 deficit funding cycle without new funds?

18 A. Yes. And I think the Commissioner has made the point
19 that our forecasts to government year on year on year
20 proved to be very accurate. So the advice that we were
21 giving to government about our expectation about the scale
22 of deficit or demand I think year on year on year actually
23 proved to be pretty close to the actuals when we looked
24 back on the year that was.

25
26 Q. Yes, you may have seen the part of Mr O'Brien's
27 evidence when I took him to the forecast deficits and the
28 last of the budget proposals that I took him to which
29 predicted deficits in the previous financial year at around
30 the billion dollar mark, and that's what's happened.

31 A. Yes, it's a matter of pride for the finance folk under
32 Mr Short that they get it right, and of course not a sense
33 of pride at all as the Director-General that you are
34 running that kind of deficit.

35
36 Q. One thing that both Mr Short and Mr O'Brien said about
37 the PBFM is that it had the capacity to generate a forecast
38 that was aspirational but also to generate a baseline
39 forecast that was based in reality or in the actuals.

40 A. Actuals, yes.

41
42 Q. Do you know why that - why it wasn't used in that way,
43 if it had that capacity?

44 A. No, I don't.

45

46 Q. You don't?

47 A. I don't. But it does seem to me - I read that in the

1 KPMG review. That seems to me a very sensible position.

2

3 Q. You pre-empted my last question on that topic, so
4 thank you. I've got two short topics, but I just wanted to
5 mention one thing. Yesterday Mr O'Brien said - and
6 I should have corrected him - that the KPMG report
7 indicates a 10 per cent differential between IPS and OSD
8 residential places, and that figure's now taking on a life
9 of its own. But the actual differential --

10

11 COMMISSIONER: I think I contributed to that.

12

13 MR FORREST: The first mistake was mine not to pick him
14 up. But the actual differential is 30 to 40 per cent
15 between IPS and OSD.

16

17 COMMISSIONER: Thank you, Mr Forrest.

18

19 MR FORREST: The second to last topic is the issue of
20 financial delegation.

20

21 A. M'hmm.

22

23 Q. And in the first part of your evidence I took you to a
24 part of the financial performance management standard which
25 indicated that one of your responsibilities extended to
26 organisation structure and delegations that support the
27 objectives and operations of the department. One thing
28 that we've heard a lot about, and it seems to have been on
29 the department's radar since at least March 2020 when it
30 was mentioned in the QTC phase 1 report, is the perverse
31 incentive that was created by the fact that under the
32 department's financial delegations an official at the
33 coalface without budgeted funds couldn't enter into a
34 better value OSD arrangement but could enter into a worse
35 value IPS arrangement without funds. Do you agree that
36 that issue was something that you were alive to --

37

38 A. Yes, yes.

38

39 Q. The evidence of Mr Short and Mr O'Brien was that,
40 despite some efforts, that problem wasn't ultimately
41 resolved until very recently through a form of words that's
42 been agreed between various government stakeholders. Can
43 you explain why it is that in your time as DG that problem
44 was unable to be resolved?

45

46 A. So I'm going to be cautious in how I respond to this
47 because of course I don't know what the current
Director-General has agreed to or the agreements with

47

1 minister or government. I'm not privy --
2
3 Q. I'm not asking you to comment on that.
4 A. I'm not privy to any of that. But the solution --
5
6 COMMISSIONER: Can I just get it clear. Do you understand
7 the predicate of the question --
8 A. Yes, I do; yes, I do.
9
10 COMMISSIONER: -- that there's a form of words now --
11 A. Yes.
12
13 COMMISSIONER: -- which is a sort of unlegislated defence
14 to not complying with the relevant statute which seems to
15 be the present "workaround" of this constraint?
16 A. Yes, and my kind of preamble was by way of saying
17 I actually don't understand how that is possible.
18
19 MR FORREST: I see. Despite your efforts --
20 A. No, no, what you have proposed - what you have
21 indicated has been agreed currently. You asked me why did
22 that not happen earlier.
23
24 Q. Yes. Let me ask the question in another way. Is what
25 you're saying that, despite searching for a solution over
26 your time as DG, you were never able in consultation with
27 Treasury or CBRC to locate a solution?
28 A. No, not one that explicitly went against the financial
29 obligations of the CEO as laid out in the Acts and
30 documents that you took me to at the beginning.
31
32 Q. You were, in any event, alive to the issue. It
33 presumably troubled you?
34 A. Yes, yes.
35
36 Q. Because it was encouraging a sort of economically
37 irrational outcome.
38 A. It was - it can also be expressed as following the
39 legislation as passed by parliament.
40
41 COMMISSIONER: Yes, that's a different question, isn't it?
42 You query whether what is now being, it seems, implemented
43 is effective as an answer to the obligations established by
44 the statute.
45 A. Yes.
46
47 COMMISSIONER: I've just forgotten the name of the

1 statute.

2

3 MR FORREST: The Financial Accountability Act.

4

5 COMMISSIONER: The Financial Accountability Act.

6 A. Yes, at the end of the financial year the CEO must
7 attest that such policies, practices, standards have all
8 been met in the work of the department to the best of your
9 ability, and in order for a CEO to attest you ask for other
10 decision-makers to attest that to the best of their
11 knowledge that that has happened. And so you see everyone
12 else's attestation and, on that basis, the CEO is then
13 making that statement.

14

15 COMMISSIONER: Ms Mulkerin, I think the gravamen of the
16 questions that are being asked of you perhaps can be
17 restated this way. You were aware of the constraints that
18 the statute imposed on OSD funding --

19 A. Yes.

20

21 COMMISSIONER: -- a commitment to an OSD contract?

22 A. Yes.

23

24 COMMISSIONER: Where the OSD funding was inadequate the
25 only choice for decision-makers on the ground was to enter
26 into IPS contracts, or IPS-funded contracts to be precise.

27 A. Yes.

28

29 COMMISSIONER: And I take it that it became apparent to
30 you that there was an increasing reliance on that IPS
31 funding discretion during the course of your time as the
32 Director-General?

33 A. Yes.

34

35 COMMISSIONER: And did it also become apparent to you and,
36 if so, at what time that proportionately there was an
37 increasing reliance on IPS funding?

38 A. The reliance on IPS was evident year on year on year
39 that I was - that I was there.

40

41 COMMISSIONER: So there's two solutions or at least two,
42 perhaps more, solutions to that problem. One was to
43 increase the OSD recurrent funding to a realistic level to
44 meet the known and forecast demand that the department was
45 subject to?

46 A. Yes.

47

1 COMMISSIONER: One alternative might have been some
2 legislative change to allow for some discretionary element
3 or authority on the part of the Chief Executive to be
4 delegated down to appropriate levels such that there was
5 some margin for discretion to use the OSD model even though
6 the anterior appropriation had been spent?

7 A. Yes.

8

9 COMMISSIONER: Exhausted?

10 A. Yes.

11

12 COMMISSIONER: That would be another solution potentially?

13 A. Yes, a legislative --

14

15 COMMISSIONER: Change.

16 A. -- change; yes.

17

18 COMMISSIONER: Yes. What I'm wondering is whether, given
19 that it was a known problem throughout your time as the
20 Director-General and given the significant cost
21 consequences of using the IPS model rather than the OSD
22 model, was this problem one which you raised for
23 consideration by the government, presumably via whomever
24 was the relevant minister?

25 A. Not a legislative carve-out, if you like, for this
26 particular work. No, that was never canvassed. It
27 is helpful, I think, to understand when I first took up the
28 role of Director-General there had been an external audit
29 that had been conducted by the Auditor-General on a whole
30 range of the processes, decision-making, financial
31 delegations of contracts, and there had been some high-risk
32 abnormalities found and, as a result of that, a lot of work
33 went into clarifying financial delegations and limits, for
34 example, and we had to - I had to report formally back to
35 the Auditor-General about the actions that I took as a
36 result of that external audit. So it was exactly this
37 issue about ensuring that the financial delegations were
38 rigorously and robustly enforced within the agency.

39

40 COMMISSIONER: What were the high-risk abnormalities?

41 What was the expression you used, I'm sorry?

42 A. Yes, in essence a senior executive officer did not
43 understand that their financial delegation over contracts
44 was a cumulative amount for the entire year, not each
45 discrete kind of update or contract, and so they had
46 exceeded their delegations several times over.

47

1 COMMISSIONER: Yes. The IPS model is not so constrained
2 in an incongruous way --
3 A. Yes, agreed.
4
5 COMMISSIONER: -- because you can enter into, as it were,
6 rolling IPS-funded contracts, I heard evidence I think it
7 was yesterday, even for a contract at or above \$5 million.
8 And because it's episodic rather than a long-term contract
9 that has to be backed by an appropriation or within the
10 appropriation limit you can enter into these ongoing IPS
11 contracts.
12 A. Subject to your individual financial delegation.
13
14 COMMISSIONER: Yes.
15 A. So for frontline staff, frontline managers, they may
16 have a delegation to approve up to 50,000, for example.
17
18 COMMISSIONER: Yes.
19 A. If it goes above 50,000 then it would go up to a more
20 senior officer and so on. So for those very, very
21 high-cost arrangements the only person in the department
22 who could actually approve them was the Director-General
23 because the financial limits on delegations still runs
24 alongside standing up IPS arrangements.
25
26 COMMISSIONER: So that meant, I assume, that from time to
27 time during your term as the Director-General you would be
28 asked to give approval --
29 A. Yes.
30
31 COMMISSIONER: -- to an IPS-funded arrangement above
32 \$5 million?
33 A. I don't recall any above 5 million.
34
35 COMMISSIONER: Well, above - the 5 million figure --
36 A. Whatever the limit of the person below me.
37
38 COMMISSIONER: Whatever the limit was. I do understand
39 the escalation in terms of delegation --
40 A. Yes.
41
42 COMMISSIONER: -- because that was also explained in
43 evidence perhaps on Monday and yesterday in fact. So here
44 you have a manifest problem where, because of the funding
45 characterisation, the department is driven to enter into
46 materially more costly contracts.
47 A. Yes, yes.

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COMMISSIONER: Was that a matter that was raised by you with the minister or was it a matter that was addressed in a sort of mature way to consider how this might be resolved?

A. Yes, it was the same subject as I've been asked about about how to change the mix, what was driving the mix, the constraints of ongoing funding against flexible funding. So, yes, it was all part of the same discussions.

COMMISSIONER: So the solution was really improve the budget. Make the budget more realistic and deploy the more sophisticated model that had been created or at least shared by the Treasury with the department?

A. M'hmm.

COMMISSIONER: And ultimately that failed to achieve the objective - I put this to you just for your comment - because the values that were included in that funding model were out of line with the actual experience that the department was needing to deal with?

A. Yes, yes, all of that is true.

MR FORREST: Just tying off the financial delegation issue, you accepted in the first part of your evidence that you had an upstream advisory role to report up to the minister and advise him or her on significant issues affecting the department. Presumably you would have regarded this as a significant issue affecting the department?

A. Sorry, which issue?

Q. The financial delegation inability of delegates at the frontline to enter into better value OSD?

A. I actually don't recall whether I briefed the minister on that specific issue or not.

Q. Yes. You've seen I think the former minister's witness statement --

A. No, I have not.

Q. -- that came in overnight. I'll just give you an opportunity to comment. There's a suggestion in there that the issue was not raised with her and that, if it had been raised, steps would have been taken immediately to address it. Do you have --

1 COMMISSIONER: Well, Mr Forrest, if there is any direct
2 conflict in the statement of the former minister then
3 presumably Mr O'Brien will put that to the witness in
4 specific terms.
5
6 MR FORREST: Indeed.
7
8 COMMISSIONER: So perhaps we ought wait for that.
9 Mr O'Brien, are you content with that course?
10
11 MR O'BRIEN: If required, Commissioner, yes.
12
13 COMMISSIONER: Well, all right. Let's open the topic.
14 Instead of precisising the statement could you just perhaps
15 put the part of the statement that you're referring to
16 directly to the Ms Mulkerin?
17
18 MR FORREST: Yes. I'll read out the sentence. So it's
19 talking about - the topic is this financial delegation
20 issue.
21 A. M'hmm.
22
23 Q. And the statement is:
24
25 *If that circumstance was an issue, which*
26 *I do not recall it being raised with me as*
27 *an issue, then I would have expected the*
28 *Director-General to raise it with me and*
29 *I would have immediately sought to address*
30 *it."*
31 A. I completely trust that that is Minister Linard's
32 recollection.
33
34 Q. I see.
35
36 COMMISSIONER: Is it different from yours, is the
37 question.
38 A. No, I don't - I think I answered the question saying
39 I don't recall raising it with Minister Linard.
40
41 COMMISSIONER: Yes.
42
43 MR FORREST: Yes. The final thing I wanted to ask you
44 about, which you may have caught if you were watching
45 Mr O'Brien yesterday, was that there was a number of
46 exchanges to do with whether or not the department had ever
47 given serious consideration to the possibility of entering

1 the residential care market at least to some extent.
2 I wanted to invite you to comment on that. Mr O'Brien's
3 evidence was that in his time of being Deputy
4 Director-General, which includes your time as
5 Director-General, that was a matter that was never
6 seriously considered. Is that correct?

7 A. That's correct. That's correct.

8

9 Q. He also ultimately suggested that that was a matter
10 that probably ought to be assessed. Do you have a view
11 about that?

12 A. In my time as Director-General it was not an area that
13 we explored. I don't hold a view that one side or the
14 other side is better or worse than the other. I think
15 there are great services in that non-government sector.
16 There are great people who work inside the department. The
17 question is - I think the more pressing question is about
18 what is the right model of residential care and does the
19 funding follow to deliver it, and then the who should do it
20 flows from there, I think.

21

22 COMMISSIONER: Ms Mulkerin, just to give it some context,
23 the question that I'm interested in anyway is not to sort
24 of have a preference one way or the other as to the
25 supplier, whether it's from services supplied directly by
26 government via the department or by a third party provider.
27 It's an issue that arises in the context of certain
28 geographical markets where there is serious supply side
29 constraint where, for example, the department might at best
30 be able to elicit interest in terms of a proposal to
31 provide the service from perhaps only one or two potential
32 suppliers; so very thin participation on the supply side of
33 the market. It's in that context that I have asked whether
34 the department itself entering the market, so to speak, to
35 provide the services of non-residential care has been
36 considered in order to address supply side constraints.

37 A. So thank you for clarifying the question. It is
38 absolutely true that in some locations despite going out to
39 market several times it would be our experience that we
40 would have little or no interest from non-government
41 partners and, you know, for a whole range of reasons, often
42 about the inability to attract workforce, which would be
43 the same constraints on the department's side.

44

45 COMMISSIONER: Potentially but not necessarily. I mean,
46 the government may have at its disposal --

47 A. Maybe. Maybe.

1
2 COMMISSIONER: -- a means to address the constraints in
3 relation to employment that a small enterprise would not.
4 A. Yes. Yes, you are right in that. And, despite that,
5 in some of those regional locations we have forever had
6 difficulty recruiting and keeping our base staff in some of
7 those locations, even with the advantage of being
8 government and a government employee. I think that it is -
9 there's no - there's no real reason why the department or
10 the government couldn't do it. I think it is - what I was
11 trying to say before, my view is that it should really be
12 driven about what is the purpose, you know, what is the
13 intent.

14
15 COMMISSIONER: Well, one purpose might be if you have a
16 very thinly - well, if the supply side provides no
17 competitive tension then the basic economic law of supply
18 and demand would suggest that price will be higher than it
19 would be in a competitive market.

20 A. Yes. Yes.

21
22 COMMISSIONER: So that would be a reason --

23 A. Yes.

24
25 COMMISSIONER: -- to consider entering the market given,
26 as you of course know, the department is the single buyer.

27 A. Yes, yes. And in the circumstances as you've
28 described of market failure then government is still
29 required to deliver the service. There's a statutory
30 obligation to deliver a service regardless of market
31 failure.

32
33 COMMISSIONER: That's right, which leads the inelasticity
34 of demand.

35 A. Yes, yes. Yes.

36
37 COMMISSIONER: Which, combined with a lack of competition
38 on the supply side, is more likely to, one would have
39 thought, increase price.

40 A. Yes. Yes, exactly. And that's exactly what we saw.
41 Yes.

42
43 COMMISSIONER: Yes.

44
45 MR FORREST: That's all from me, thank you, Ms Mulkerin.

46 A. Thank you.

47

1 COMMISSIONER: Now, before any of the other counsel ask
2 questions of you, Ms Mulkerin, I'd like to give you the
3 opportunity to talk about the things that you think are
4 important that you haven't been given an opportunity to
5 address or would like to address further.

6 A. Thank you. That's very kind of you. You know,
7 there's been a lot of questions and discussion this morning
8 about family-based care, and I know that this particular
9 hearing is about the cost of residential care. But, as
10 I flippantly also said, everything is connected to
11 everything, and without capacity in the family-based care
12 system it drives a lot of other things.

13
14 I would like to put to the Commission that it is a good
15 time to rethink how we think about family-based care,
16 particularly foster care. In my time working in this
17 sector more than 40 years year on year on year it is
18 increasingly harder and harder and harder to recruit foster
19 carers for a whole range of reasons which I know evidence
20 has already been led about, and it is increasingly
21 difficult for families to survive and thrive, if they're
22 two-parent households, without both parents working.

23
24 Foster care has been predicated on a volunteer workforce.
25 Of course they get allowances and we reimburse them for
26 costs. And carers take great pride in their contribution
27 to the community based on that volunteerism. And I think
28 that, unless we seriously rethink that fundamental
29 assumption, in five years' time, 10 years' time there will
30 be another inquiry about the demise of family-based care.
31 Queensland has --

32
33 COMMISSIONER: That's a pessimistic assumption.

34 A. Queensland has held its foster care numbers through
35 greater effort year on year on year. My colleagues
36 interstate have seen the degradation of their numbers of
37 foster care and numbers in decline; different for kin care
38 for the reasons that we've spoken about, but foster care is
39 also the backbone of the system. I do wonder whether it is
40 time to ask the question about whether or not to recognise
41 the care and contribution that carers make that they should
42 be funded a living wage rather than an allowance. That
43 may - may - create more interest in being a carer if in
44 fact it's attached to a wage.

45
46 I do not for one minute want to pretend that that is an
47 easy question to solve because, as I said, the culture of

1 carers is being volunteers and they hold that very dear,
2 and I hold them in incredibly high regard. And of course
3 there would be the interplay with Centrelink benefits and
4 tax and superannuation. But I do think that, unless some
5 radical rethinking happens about the nature of family-based
6 care, then more and more children will inevitably be placed
7 in non-family-based care.

8
9 COMMISSIONER: Ms Mulkerin, since we're on the topic of
10 foster care - a topic you want to speak about, and I can
11 understand why - other constraints that have been
12 identified may be even more difficult to address and they
13 are broadly demographic constraints.

14 A. Yes, yes.

15
16 COMMISSIONER: And that has been the subject of some
17 considerable analysis which I've had the benefit of in
18 various submissions.

19 A. Yes

20
21 COMMISSIONER: So that is also a recognised constraint.

22 A. Yes, it is.

23
24 COMMISSIONER: Which may be not addressed - well, in
25 theory won't be addressed by simply paying foster carers a
26 living wage. It may have an impact.

27 A. It may.

28
29 COMMISSIONER: But it won't necessarily overcome the
30 demographic constraints that have been identified.

31 A. That is true; except my thinking is that, if in fact
32 we attach a living wage to it, it could be seen as a career
33 choice as opposed to an altruistic --

34
35 COMMISSIONER: And I think you're right to identify the
36 tension, as I perceive your answer, between the value, the
37 intrinsic value, that very worthy foster carers who are
38 highly committed to their role attach themselves to that
39 voluntary contribution to the community.

40 A. Yes. Yes, it's --

41
42 COMMISSIONER: And a problem in paying foster carers on
43 some model might be to further disincentivise volunteers.

44 A. Yes. Yes, you're absolutely right. There's a lot to
45 be explored, and I would think it would require a QTC
46 style, you know, big review of costs/benefits in order for
47 that to be put to government in order to make an informed

1 decision.

2

3 COMMISSIONER: A sort of sensitivity analysis?

4 A. Yes, yes.

5

6 COMMISSIONER: That would tell you about the numbers not
7 the motivation, wouldn't it?

8 A. Yes, of course

9

10 COMMISSIONER: And the more difficult issue is what impact
11 paying a wage would have on the preparedness of volunteers
12 to transition from being volunteers to, in effect, paid
13 employees of some character.

14 A. Yes. And in fact we may be in a sense robbing Peter
15 to pay Paul because it may well tap into people who are
16 currently doing family daycare, for example, where they
17 have a different funding arrangement. But I did want to
18 call out that I think without some big radical thinking it
19 is unlikely that foster care will continue to grow and
20 thrive.

21

22 COMMISSIONER: Well, can I ask if you've had any occasion
23 to observe the hearings of this Inquiry. We've heard from
24 a lot of foster carers.

25 A. M'hmm.

26

27 COMMISSIONER: And there is a chorus of dissatisfaction
28 expressed by them in relation to their treatment by the
29 department. And that treatment, as exposed by the evidence
30 given by various foster carers, is undoubtedly a direct
31 disincentive --

32 A. Yes.

33

34 COMMISSIONER: -- to their preparedness to continue to act
35 as foster carers and also to encouraging others to becoming
36 foster carers.

37 A. Yes.

38

39 COMMISSIONER: If you have any familiarity with those
40 criticisms that were voiced in the course of this Inquiry,
41 can you tell me what was your knowledge of those criticisms
42 at the time that you were the Director-General? If you
43 want, I can summarise some of the criticisms.

44 A. That is all right. I have spoken with foster carers
45 for the last 40 years so am well aware of the issues carers
46 can raise. I think I would say that there are two key
47 issues that impact on satisfaction for carers. The first

1 is that there's a feeling of lack of regard and respect for
2 them if they raise issues with their worker and they're not
3 dealt with promptly.

4
5 COMMISSIONER: Well, they're studiously not consulted
6 about important decisions.

7 A. And the second thing I was going to talk about was
8 decision-making. So I think the first thing is that it is
9 entirely right that for a foster carer, if they're raising
10 an issue about reimbursement or seeking approval, it is
11 critically important for them and the child they're caring
12 for, they want a resolution, they want it now. They
13 wouldn't be ringing asking for it if they didn't actually
14 need it. And, on the reverse, for a CSO it is one of
15 literally 50, 60, 70 matters that they are juggling at the
16 same time.

17
18 I have never thought that there was ill-intent or
19 motivation on either side. One is about pressing priority.
20 One is about workload. And I think about that. If I can
21 just continue the theme about living wage. I think also
22 there are some opportunities about thinking differently
23 about some of the ways in which support services are
24 provided for children in care, for example, healthcare.
25 I have often wondered what would be the outcome if we
26 modelled buying private healthcare for every child in care
27 and healthcare for every carer household. They could
28 access private health services.

29
30 COMMISSIONER: To avoid this, can I call it, runaround
31 between in seeking approval --

32 A. Yes, yes.

33
34 COMMISSIONER: -- for the child to have access to a
35 privately funded specialist, for example?

36 A. Yes. Yes. Take out some of the friction points and
37 actually provide a better service for the child and show
38 respect for carers. So I think there are some
39 opportunities to think creatively about some of those.

40
41 COMMISSIONER: And what about decision-making when it
42 comes to placement, because there has been some rather
43 alarming stories I've heard of children being removed -
44 perfunctorily, I would say - from a stable foster caring
45 arrangement because somebody in the department has decided
46 it's now appropriate that the child be reunified or placed
47 elsewhere. You see, there seems to be a tension --

1 A. Yes, there's a tension.

2

3 COMMISSIONER: -- between, on the one hand, wanting to
4 encourage a loving and nurturing relationship between child
5 and the foster carer and a further objective of returning
6 the child to family or kin where that is appropriate. But
7 it has to be evaluated --

8 A. Agreed.

9

10 COMMISSIONER: -- obviously on a case-by-case basis.

11 A. Agreed.

12

13 COMMISSIONER: And the views of the foster carer, even if
14 one allows for a sort of degree of lack of objectivity, are
15 nonetheless valuable, aren't they?

16 A. Agree. Agree. And you're right that the other key
17 area of tension is often around key decisions where carers
18 can often say that they weren't consulted or their views
19 weren't respected or heard. So some of that is about the
20 interpersonal relationship, and I would be the first to say
21 that of course the department doesn't always get it right.
22 We are humans in a human system. We are working in complex
23 areas. And the same would be true for carers. Nobody gets
24 everything 100 per cent right all of the time.

25

26 COMMISSIONER: What I found a little surprising is that
27 the department does not itself conduct surveys as to the
28 satisfaction of carers. It may have some surveys available
29 to it that are provided by the foster care agencies.

30 A. M'hmm.

31

32 COMMISSIONER: But that's not quite the same, is it,
33 because the foster care agency is in an awkward position
34 vis-à-vis the department as its customer in providing the
35 department with feedback as to the satisfaction of those
36 foster carers vis-à-vis the department that the agency is
37 contracted to provide and support? So I'm not aware - and
38 you can correct me, please, if I'm wrong - that the
39 department independently in a robust process where
40 confidentiality is assured itself conducts surveys of the
41 satisfaction of foster carers.

42 A. You are quite right. The department depends upon the
43 survey run by the peak.

44

45 COMMISSIONER: You don't see a problem with that?

46 A. I have always taken my cue from the peak and carers,
47 and their advice back to me has always been that in fact

1 they felt more comfortable with the peak running the
2 survey.

3

4 COMMISSIONER: Has it not occurred to you, well, they
5 would say that, wouldn't they?

6 A. Carers?

7

8 COMMISSIONER: No, the --

9 A. My view is that carers have always been very, very
10 frank with me, good, bad and ugly.

11

12 COMMISSIONER: Yes, but if your survey is conducted via
13 the agency or peak body then you are introducing at the
14 very least, I'm suggesting, a filter that may result in the
15 feedback not being as direct or candid as it could
16 otherwise be.

17 A. I can assure you, Commissioner, the feedback has
18 always been very frank, very frank from the peak.

19

20 COMMISSIONER: Well, if that were so that means that if
21 the complaints from foster carers that I've heard so much
22 about and you've heard so much about have been consistent,
23 then the failure is more the failure of the department to
24 address those concerns, known concerns, over many years
25 rather than not being aware of them.

26 A. I think that it is absolutely fair to say that the
27 feedback from the care survey has been consistent and the
28 issues raised have been consistent. I think some of them,
29 as I said, cut to the issues about reimbursement and
30 interrelationships with their CSOs and some of them --

31

32 COMMISSIONER: Conduct of reviews?

33 A. And some of them - yes, definitely rub, for sure. And
34 some of them relate to the decision-making. And it's a
35 vexed issue because there are some decisions that carers
36 absolutely do want to be involved in and, at the same time,
37 CSOs and their supervisors are weighing up information that
38 they may have received independently from the child. They
39 also are seeking information from parents, from schools.
40 And so there are many sources of information. And, yes, of
41 course carers have a very unique view because they're with
42 that child the most, of course, but it is not the only
43 source of information.

44

45 COMMISSIONER: Of course. I don't suggest that. But the
46 problems that you've identified - volunteered, really -
47 which have been ongoing issues raised by foster carers, the

1 fact that they continue to be expressed and not in an
2 isolated way --
3 A. M'hmm.

4

5 COMMISSIONER: -- really more a chorus of complaint
6 along - well, in relation to the themes that you've
7 identified, does it not suggest that, that being the case,
8 the department has not over a long period of time taken
9 steps to address those complaints?

10 A. I would say in fact that we have taken many steps to
11 address - there's been many times in which there has been
12 agreements about communication protocols or intermediaries
13 or, like, lots and lots and lots of different ways to
14 address the issue and, despite that, it remains an ongoing
15 issue.

16

17 COMMISSIONER: So, whatever has been done to address these
18 concerns, have not been wholly effective?

19 A. Not wholly effective, yes. Improvements, and they're
20 not; and then more effort, and they're not. Fair to say.

21

22 COMMISSIONER: All right. We've been going for quite a
23 while. If over lunch you think of other things that you
24 would like to raise, other topics, especially given your
25 long experience and your seniority in the department and
26 understanding of the system, I'd be assisted by anything
27 you may wish to raise.

28 A. Thank you.

29

30 COMMISSIONER: And then we'll allow counsel to ask any
31 questions that might arise. And I am conscious that we're
32 going off piste, but that doesn't matter.

33 A. Thank you. I am taking this as my last chance to have
34 my last say at all, full stop, ever.

35

36 COMMISSIONER: Can I say yes and no, that's not quite
37 right, because if there are matters that you wish to
38 further expand then you can put in a submission. I'll
39 extend the date for submissions in your case for let's say
40 a week --

41 A. Thank you, Commissioner.

42

43 COMMISSIONER: -- to allow you to further ventilate any
44 views that you have. I'm interested in your perspective as
45 I am in everybody's.

46 A. Thank you.

47

1 COMMISSIONER: But yours comes with the weight of
2 experience and seniority.

3 A. Thank you.

4

5 COMMISSIONER: So I'd like to hear from you.

6 A. Thank you.

7

8 COMMISSIONER: We might adjourn to 2.15.

9

10 **LUNCHEON ADJOURNMENT**

[1.06 pm]

11

12 COMMISSIONER: Ms Mulkerin, have you thought of things
13 that you would like to say further over lunch?

14 A. Thank you, Commissioner. I would like to say some
15 things about Our Way, the Our Way reforms, if I might.

16

17 COMMISSIONER: Yes.

18 A. I was of the view and I remain of the view that it is
19 probably one of the most important reforms that we have
20 undertaken, and I hope the department and the community
21 sector will continue to undertake. There are way too many
22 First Nations children and families involved in the child
23 protection system, and my strong view is that their
24 interests and care and protection and support, the
25 families', is best provided by First Nations community
26 organisations and guided by the wisdom of Elders. I think
27 that we made good progress in my time, and it is a long
28 reform that will take years to fully realise.

29

30 COMMISSIONER: Could you tell me which areas of
31 decision-making in the continuum of the child protection
32 system does that reform - is that reform most relevant and
33 likely to be effective?

34 A. So I think that we began the work with decisions about
35 connection to culture and placement decisions, for example.
36 But there isn't a reason why it can't expand to all
37 decisions --

38

39 COMMISSIONER: Set up a whole new bureaucracy?

40 A. Yes. There is no reason why that couldn't be the
41 case.

42

43 COMMISSIONER: Except for the cost?

44 A. Except for cost, and growth --

45

46 COMMISSIONER: And capacity?

47 A. And growth of the sector. Yes. Yes, yes.

1 I absolutely want to be clear that when I say capacity that
2 is not in any way about capability; that is absolutely
3 about capacity, about scale. And so that requires
4 investment and time, and it is a different mode of
5 implementation than we would normally do with
6 non-Aboriginal and Torres Strait Islander community
7 organisations. We - I agreed with my First Nations
8 colleagues that they would determine where - what kind of
9 decisions they might want to start with as they stepped
10 into delegated authority. So I'll explain what I mean by
11 that, is it's --

12
13 COMMISSIONER: I know what you mean, I think.
14 A. So some wanted to start with placement decisions
15 because that was what their community and their Elders and
16 their boards were - you know, held very strong views about
17 and were very confident that they could hold the delegation
18 about that. Other community-controlled organisations in
19 concert with their board and their Elders wanted to start
20 with decisions about connection, connection to culture.

21
22 So for a big organisation like Child Safety it definitely
23 adds to the complexity of the implementation that, you
24 know, you might be running at different speeds with
25 different types of scale, different types of decisions by
26 location and by organisation, but I think I held the view
27 that that was a complexity and a responsibility that we
28 should hold and that we should absolutely reflect the
29 preferences of the community-controlled organisations and
30 the Elders, because a lot of what had to be navigated about
31 changing the process and the relationship was all
32 predicated on trust, trust that we on our side would do as
33 we said we would do in the timeframe we said we would do
34 it, and that should things become difficult that we - I -
35 would stand alongside the community-controlled
36 organisations. They were very worried that inevitably
37 something would happen, you know, there'd be a speed bump,
38 and worried that that would then jeopardise the entire
39 reform, and a lot of that was about my statements to them
40 about - that we would stand together and we would solve any
41 issues together. I think the road to --

42
43 COMMISSIONER: Do you suggest that the decision to remove
44 a child should be - should rest with a community-controlled
45 organisation?

46 A. They could be. They could be.

47

1 COMMISSIONER: So rather than a --
2 A. Not now, but they could be.
3
4 COMMISSIONER: -- judicial decision?
5 A. Oh, no. No, no. Of course within the legal
6 framework.
7
8 COMMISSIONER: Well, do you accept that a decision as
9 consequential as removing a child from the care of their
10 family, his or her family, should be the result of the
11 exercise of judicial power?
12 A. Absolutely. Absolutely.
13
14 COMMISSIONER: Right. So there's a constraint?
15 A. Yeah, absolutely.
16
17 COMMISSIONER: All right. Well, let me put a proposition
18 to you for your comment. At present the removal is the
19 result of a judicial act, but the return of the child is
20 left in most cases to the discretion of an administrator?
21 A. M'hmm.
22
23 COMMISSIONER: That, to my mind, needs serious review as
24 we have an asymmetric situation where a decision as
25 potentially consequential as removal, namely return, is not
26 evaluated, right, and that is not subject to any judicial
27 oversight, notwithstanding that the judicial system is
28 invoked at the outset to remove the child, and bearing in
29 mind that the whole predicate of this system is that the
30 child was removed because the child was at risk of harm.
31 So how do you create public confidence, confidence amongst
32 the families who are affected by removal when you have an
33 open and transparent process at the point of removal but
34 opaque decision-making unreviewed and not subject to
35 judicial discretion or judicial oversight when an equally
36 consequential decision is made to return the child?
37 A. I don't disagree. I think many of the decisions
38 undertaken administratively within the department of course
39 have lifelong outcomes and implications for children and
40 their families. It is true there is absolutely a power
41 imbalance between the department and parents, carers that
42 we talked about earlier, children, and I think any effort
43 that gives agency and voice to those who don't have a voice
44 and particularly about lifelong decisions is an incredibly
45 important consideration.
46
47 COMMISSIONER: And if that authority, let's say the

1 authority to decide whether a child should be placed in a
2 particular location or reunified in the case of their
3 family and extended family, any entity to which such power
4 was delegated would equally be in a position of power
5 imbalance?

6 A. Correct. Correct.

7

8 COMMISSIONER: So the power imbalance wouldn't be solved
9 by delegation, would it?

10 A. No. No. No. That wouldn't be, but other issues
11 would be.

12

13 COMMISSIONER: What are the other issues that --

14 A. I think that I - as I'm sure that you have picked up,
15 I am - you know, I'm very proud of the work that the
16 department does and the people that they are. But
17 predominantly it is a white organisation. You know, it's
18 predominantly staffed by non-Aboriginal and Torres Strait
19 Islander people. And I think that even on our best day
20 that is the best that we can be, and I don't think that
21 that necessarily serves the interests of First Nations
22 children.

23

24 COMMISSIONER: And do you perceive there to be the
25 prospect for effective participation and decision-making by
26 First Nations people, presumably through ACCOs of one kind
27 or another, at the anterior stage, that is to say at the
28 early intervention stage, and including at early stages or
29 as early as possible stages where a child is removed?

30 A. I can't see any impediment to that at some point. It
31 needs - there's a lot of work that needs to happen to grow
32 the community-controlled sector. But I don't think that -
33 to me, it doesn't make any sense to put any constraints on
34 the points at which, you know, they might be involved or
35 might have decision-making --

36

37 COMMISSIONER: But isn't there a practical constraint?
38 About half - approximately 50 --

39 A. Yes.

40

41 COMMISSIONER: -- per cent of the children and young
42 people in the child protection system are from Indigenous
43 backgrounds?

44 A. Yes.

45

46 COMMISSIONER: If in theory everything that is now done by
47 the department were to be done by a delegate or delegates

1 of the department you'd need another department at least
2 half the size, wouldn't you, and you'd need the capability
3 within those organisations to be present in order to give
4 effect to all of the work that is presently done by the
5 department, broadly speaking?

6 A. I think, Commissioner, my answer to that is that is
7 assuming that the system needs to look the same as it
8 currently does.

9

10 COMMISSIONER: All right. In what ways does it need to
11 look different?

12 A. So I think that - so I don't know that I - I don't
13 know that I'm the right person to answer that. I think
14 First Nations leaders are best placed to lead and answer
15 that. I think it's hard when you can see an existing
16 arrangement, the existing system. I always thought that
17 three, four, five, six years into delegated authority, with
18 the growth of the community-controlled sector, the growth
19 of more First Nations children placed with kin carers, it
20 would start to reshape the system in ways in which we
21 couldn't see today, and we saw little kind of - I saw
22 little glimpses of that in the way in which the lens of or
23 the perspective of being culturally irresponsible to the
24 needs of children meant that First Nations community
25 organisations would draw upon the expertise within their
26 community in a way that for us would - you know, we would
27 make a referral. You know, you'd ring, you'd make a
28 written referral, you'd ask to get on the waitlist, you
29 know, you'd agitate to try and get your child up the
30 waitlist.

31

32 But the way in which their community-controlled
33 organisations were reaching out and working alongside
34 Elders and respected people in the community was a much
35 more organic sort of way of wrapping support around parents
36 and children in a way a bureaucracy couldn't possibly do.

37

38 COMMISSIONER: I've heard what you've just said expressed
39 broadly in similar terms in numerous submissions and
40 statements made by various witnesses, and at a certain
41 level it is hard to argue with. But I wonder what that
42 looks like in practice. Let me give you this example.
43 Let's focus on the question of motivation. If I'm a parent
44 whose child has been removed from me and I want that child
45 back and I'm prepared to do stuff to make sure that that
46 child comes back to me, does it matter who makes the
47 decision about placement? My motivation would presumably

1 be the same?

2 A. It may matter to me as the parent. It may matter who
3 is the person that I am talking to about my issues. It may
4 matter that I trust, you know, another First Nations person
5 more than a government, you know, white worker --
6

7 COMMISSIONER: So I might be more cooperative if I'm the
8 hypothetical parent?

9 A. Might just - you might just have more trust about -
10 under - that a First Nations worker might understand your
11 experience at a deeper level than a non-Aboriginal worker.
12

13 COMMISSIONER: I can appreciate that. But if my primary
14 motivation is to have the child returned - bearing in mind
15 that the assumption is that the child was removed for the
16 child's own protection from my care - then surely my
17 motivation to have the child back with me would override
18 any apprehensions I might have about who the decision-maker
19 happens to be; but does that not follow?

20 A. So, Commissioner, I would say that we are - people are
21 strange, aren't they? You know, things that make
22 perfect --
23

24 COMMISSIONER: I think stranger than folk.

25 A. I think things that make perfect sense to you may not
26 make any sense to me and may be completely confounding to
27 somebody else. I think the only reason that I wanted to
28 raise Our Way is that I think it is a promise and a hope
29 about what could be. Are there a million problems that
30 could arise, are there many issues to resolve? Yes. But
31 none of that is a reason not to persevere and see what
32 unfolds and be open to the possibility that in five, six
33 years times it may look dramatically different than today.
34

35 COMMISSIONER: And if the system was smaller in terms of
36 the aggregate numbers of children that are required to be
37 looked after, then at a practical level the range of
38 options available to address a smaller problem might be far
39 greater and one would think more flexible than the range of
40 options that are practically available as the problem in
41 numerical terms becomes larger, in the same way as we were
42 discussing before lunch that the bigger the problem the
43 harder it is to solve. If that is a reasonable analysis,
44 then I'm wondering whether the deployment of programs that
45 engage in a meaningful way Aboriginal-controlled
46 organisations are most likely to be effective at the
47 preventative stage, at the early intervention stage, to try

1 and head off the growth in demand for care in the tertiary
2 system, and that, I'm wondering, is where the efforts
3 should commence and be directed?
4 A. I would say and.
5
6 COMMISSIONER: And?
7 A. And. It's not an either/or.
8
9 COMMISSIONER: No.
10 A. I'd say it's an and.
11
12 COMMISSIONER: And what else?
13 A. As you said, earlier intervention, early support, and
14 the involvement and decision-making along the statutory
15 work. I think both can happen at the same time, and
16 I think both bring a unique perspective that only First
17 Nations-led work can bring to it.
18
19 COMMISSIONER: And not a perspective that you would invite
20 from parents of non-First Nations backgrounds?
21 A. Yes, yes, in the same way as we would say, "Who do you
22 feel comfortable with? Who do you already know? Is there
23 a service that you already access?" You know, so in the
24 same way that we would canvass who's already in their
25 circle of support. So --
26
27 COMMISSIONER: But you don't advocate for these measures
28 for persons other than - just to be clear, for people from
29 backgrounds other than Indigenous backgrounds?
30 A. I am advocating for it because of the large number of
31 First Nations children in care.
32
33 COMMISSIONER: And for other reasons that you have
34 explained?
35 A. Yes, but it - so biggest investment, biggest impact,
36 biggest benefit.
37
38 COMMISSIONER: Yes.
39 A. In the spirit of the hearings about cost and benefit.
40
41 COMMISSIONER: Yes. All right. Is there anything you
42 want to say further on that?
43 A. No.
44
45 COMMISSIONER: Any other subject?
46 A. No, thank you.
47

1 COMMISSIONER: All right. Thank you very much. Now,
2 Ms Freeman, do you wish --
3
4 MS FREEMAN: I don't have anything, thank you,
5 Commissioner.
6
7 COMMISSIONER: All right. Ms McMillan, do you have --
8
9 MS McMILLAN: No, thank you.
10
11 COMMISSIONER: Mr O'Brien?
12
13 MR O'BRIEN: No questions, Commissioner.
14
15 COMMISSIONER: Mr Creamer?
16
17 MR CREAMER: Ms Greenwood's back, Commissioner. I think
18 given the evidence - it's cut across some of the issues
19 that I have, but I still will be about 30, 40 minutes in
20 terms of cross-examination on First Nations experience in
21 the child protection system.
22
23 COMMISSIONER: All right. Fine. Ms Greenwood.
24
25 MS GREENWOOD: Thank you, Commissioner. I have about
26 three questions.
27
28 **<EXAMINATION BY MS GREENWOOD** [2.39 pm]
29
30 MS GREENWOOD: Ms Mulkerin, in your time, 2020 to November
31 24, is it right that the What Would It Take project was
32 prepared?
33 A. Yes, is that the - I'm just trying to make sure that
34 I know the title. Is this the piece of work that we did in
35 concert with QATSICPP to review all First Nations children
36 in residential care?
37
38 Q. Yes.
39 A. Thank you.
40
41 Q. And specifically looking at what it would take to get
42 them out into kinship care?
43 A. Yes. Yes. Yes.
44
45 Q. And you're familiar with that project?
46 A. Yes.
47

1 Q. In fact, I believe you sponsored it?
2 A. Yes. It was my personal commitment to a circle of
3 Elder women that they looked me in the eye and made me
4 promise from my deepest heart that we would make it happen
5 together. So, yes.
6
7 Q. And - so, Commissioner, I don't believe that - that
8 document is a government document, and I might seek later
9 to find ways --
10
11 COMMISSIONER: You're welcome to tender it or provide a
12 copy of it later, whatever you wish.
13
14 MS GREENWOOD: It's not my document to tender,
15 Commissioner.
16
17 COMMISSIONER: Well, if you have it you can tender it,
18 even though it may have emanated from a government source,
19 as most of the documents in this Inquiry have.
20
21 MS GREENWOOD: As much as I'm a fan of it's better to seek
22 forgiveness than permission, I don't think I will on this
23 occasion. But I will --
24
25 COMMISSIONER: Are you going to ask questions about the
26 document?
27
28 MS GREENWOOD: Yes, I am going to ask questions about it.
29
30 COMMISSIONER: Then I think Ms Mulkerin should have the
31 document in front of her and others. Is the problem you
32 only have one copy; is that the problem?
33
34 MS GREENWOOD: The problem is it's not my document to
35 tender, Commissioner. It's a government document.
36
37 COMMISSIONER: Well, to be strict about it, if you ask
38 questions on it, somebody else can call for its tender if
39 this was in a courtroom. But we're not relying on those
40 rules. I'll allow you to tender it and we'll just see if
41 there's any objection from the government.
42
43 MS GREENWOOD: Well, maybe, Commissioner, if we can do it
44 around the other way. I will ask some questions, and it
45 may be that if it is fairer to the witness, although
46 I suspect she knows this, that we could follow up with
47 written --

1
2 COMMISSIONER: Let's not make a meal out of this. The
3 document is a government document?
4
5 MS GREENWOOD: Yes.
6
7 COMMISSIONER: It's a policy document or a document that
8 relates to a particular program?
9
10 MS GREENWOOD: Commissioner, I'm aware of it because
11 I work in closely with QATSICPP, who were working on the
12 project at the same time. I do not by my own right have
13 possession of that document.
14
15 COMMISSIONER: You stole it?
16
17 MS GREENWOOD: No, I had extensive conversations with
18 QATSICPP --
19
20 COMMISSIONER: I was being flippant. Of course you
21 didn't.
22
23 MS GREENWOOD: Yes.
24
25 COMMISSIONER: You have the document.
26
27 MS GREENWOOD: Although I thought I should put that on the
28 record straightaway.
29
30 COMMISSIONER: Ms Freeman, is there an issue about this
31 document?
32
33 MS FREEMAN: I don't know what it is, Commissioner.
34 I haven't seen it. We haven't - it hasn't been produced to
35 the Commission in the hundreds of notices that have been
36 issued to the department, so I don't know.
37
38 COMMISSIONER: I detect a complaint in that.
39
40 MS FREEMAN: Yes. I --
41
42 COMMISSIONER: This is an iterative process.
43
44 MS FREEMAN: Indeed. Indeed. Yes, so I can't make any
45 submissions about it because I don't know what it is or
46 what it looks like.
47

1 COMMISSIONER: All right. Describe what the document is,
2 if you wouldn't mind.

3

4 MS GREENWOOD: So between - so following - let me just
5 check that my understanding is correct, and I'll seek your
6 confirmation, that there was a review of the residential
7 care especially of First Nations children that ended about
8 2023, there was a subsequent project called What Would It
9 Take that was conducted between late 2023 to late 2024
10 which was looking specifically at what it would take to
11 achieve family-based outcomes for First Nations children;
12 is that a correct description?

13 A. So this piece of work, the review of the First Nations
14 children in residential care, was one of the actions out of
15 the residential care review that led to the roadmap. So in
16 the roadmap - so the review of residential care was a piece
17 of work we undertook in concert with QATSICPP, QFCC and
18 PeakCare. Went on for several months. At the end there
19 was an agreed document with a set of actions that I then
20 submitted to Minister Crawford at the time.

21

22 One of the actions that I agreed to through the review
23 process itself with First Nations colleagues was to
24 prioritise the review of the kind of care arrangement for
25 First Nations children, particularly younger children who
26 are currently placed in residential care. So the
27 department stood up a specific First Nations team, our own
28 staff of First Nations, and QATSICPP created an in-house
29 team, and those two teams together reviewed the
30 circumstances of hundreds and hundreds of First Nations
31 children in residential care across the state.

32

33 Out of that then there were specific actions about specific
34 children, follow-up about family options or - you know, a
35 whole range of outcomes as a result. So review, the
36 roadmap, and then this was one of the prioritised actions
37 that I made a personal commitment to First Nations Elders
38 to do.

39

40 COMMISSIONER: And it concerned the particular group of
41 children?

42

43 A. Yes. Yes.

44

45 MS GREENWOOD: And as I understand it - so that review
46 that looked at what children were able to go back into some
47 sort of family-based arrangement, over the space of that
year about 36 transitions from resi into kinship care had

1 been identified?

2 A. I can't recall the exact number, but I think it was
3 higher than that number.

4

5 Q. Okay. But if we do just stick with that number, and
6 we've heard earlier in evidence here that the cost of a
7 child being in either foster or kinship care is 50 grand
8 per year currently as it sits and for a child being in resi
9 costs half a million dollars a year --

10 A. M'hmm.

11

12 Q. -- so that 36 leaving resi and going into kinship care
13 would ballpark represent about a \$16.2 million per annum
14 saving?

15 A. I can't --

16

17 Q. I won't ask you to do --

18

19 COMMISSIONER: Assume the arithmetic, I think is what
20 you're being --

21

22 MS GREENWOOD: Yes. A lot of money. So there were some
23 constraints on that project which were identified by
24 QATSICPP, one of which was the lack of additional funding
25 or advice on procurement services to be able to keep this
26 project to remove kids into kinship care going. Are you
27 able to comment on any structural issues around that?

28 A. All of the actions out of that roadmap had to be
29 funded within existing resources.

30

31 Q. So, even though, in Public Service speak, there's a
32 lot of robbing Peter to pay Paul to find money for
33 projects, it wasn't possible to free up some funds to move
34 the children to make the savings to free up more funds?

35 A. No, no, my apologies if I wasn't clear. Those
36 children did move. So children did move out of residential
37 care to kinship care placements. That did happen.

38

39 Q. But, in terms of identifying more children that could
40 be removed, where would the funding for that come from?

41 A. So we undertook the complete set. We reviewed the
42 complete cohort. So there was no further funding required
43 to do that. It was completed. The complete review
44 happened. And then any actions in relation to individual
45 children were actioned by their caseworker in concert with
46 the community-controlled organisation.

47

1 COMMISSIONER: Can I ask you this: does this project have
2 a particular name, just for the sake of identifying what
3 we're - well, what you are talking about?
4

5 MS GREENWOOD: Commissioner, I believe the acronym is
6 WWIT.
7

8 WITNESS: What Would It Take.
9

10 MS GREENWOOD: But wasn't the purpose of this project and
11 other reviews to have a prospective action where children
12 could continue to be brought out of resi and put into some
13 sort of family-centred care, preferably kinship care?
14 A. Yes. So that was a particular commitment that we made
15 to First Nations Elders about reviewing the existing
16 cohort, and completed and action undertaken. And, as
17 you're asking, was there an ongoing - I think you're asking
18 was there an ongoing review process for children in
19 residential care. Yes, there was, and that was an
20 ongoing - that was ongoing action.
21

22 COMMISSIONER: And did that have a name, that program?
23 A. That was just normal - so a lot of that work happened
24 through the placement panels in regions and the kinship
25 care teams that were created in regions. So their first
26 priority cohort when the kinship care teams were created
27 was to review younger children in residential care
28 regardless of background, and so that work was underway and
29 was a continuous piece of work. Some of the regional
30 teams, for example the team in South East region, seconded
31 into the departmental team First Nations staff from their
32 local community-controlled organisation and they all sat
33 together in the departmental office to do that work.
34

35 MS GREENWOOD: Finally, just coming back to - you spoke of
36 having experience in New South Wales?
37

38 A. M'hmm.
39

40 Q. And, as I understand the system in New South Wales,
41 there's far greater gatekeeping to prevent Aboriginal and
42 Torres Strait Islander children going into the child safety
43 system in the first place?
44

45 A. I would say it was pretty comparable, the two.
46 Different names, different acts, but similar processes.
47

48 COMMISSIONER: What do you mean by preventing children
49 from going into the care system? Isn't that a matter of

1 assessment of the child?

2 A. Yes. Yes.

3

4 COMMISSIONER: You have to establish - it should have to
5 be established that the child has either been harmed or at
6 substantial risk of harm --

7 A. Yes.

8

9 COMMISSIONER: -- or serious risk of harm, and there is no
10 parent willing and able to care for the child; that's the
11 criteria of section 10, I'm sure you're aware?

12 A. Yes. Yes. I think the question was what is the
13 difference in New South Wales and a question about how
14 different it is.

15

16 COMMISSIONER: Well, it was framed by reference to the
17 metaphor of gatekeeping, so perhaps you could just explain
18 what you mean by that?

19

20 MS GREENWOOD: Yes, Commissioner, and I may have been a
21 bit too inexact in that question, that there is greater
22 gatekeeping around conclusions that there are no suitable
23 family who could take the child and do a review of that
24 situation before a child is put into resi care or otherwise
25 taken out of culture. Are you aware of those processes in
26 New South Wales?

27 A. As I answered, I think that the processes are actually
28 pretty similar. They get called different things, they
29 might have slightly different names, but the practice is
30 fairly similar between the two states.

31

32 MS GREENWOOD: Okay. Thank you, Commissioner, that
33 concludes my questions.

34

35 COMMISSIONER: Thank you very much. Mr Creamer.

36

37 MR CREAMER: Thank you, Commissioner.

38

39 <EXAMINATION BY MR CREAMER

[2.53 pm]

40

41 MR CREAMER: Ms Mulkerin, I want to ask you about a
42 document. If we can go to volume 2, tab 61, page 1192.
43 I'll put it up on the screen. You don't need to see it;
44 sorry.

45 A. Thank you.

46

47 Q. That was more a direction to the --

1 A. As you can tell, I've struggled with the folders.

2

3 Q. No, and I'm not proposing to take you to --

4 A. I am out of practice with the folders.

5

6 Q. But that document is a significant procurement policy,
7 and on page 1192 it sets out those broad objectives, the
8 three objectives: the first being halve the number of
9 children and young people in residential care; the second
10 one doubling the proportion of children placed in care
11 arrangements with kin by 30 June 2026; and the final one -
12 and you've touched on it a bit in your evidence after
13 lunch - all children in protection services for Aboriginal
14 and Torres Strait Islander children and young people be
15 delivered by ACCOs by all Indigenous businesses by 30 June
16 2031. And in your evidence to the Commissioner you've
17 talked a little bit about the role that ACCOs could play
18 more broadly.

19

20 Now, I wanted to ask you whether, firstly, in respect of
21 that issue number 3, whether or not there is an important
22 focus to ensure a long-term project like Our Way to ensure
23 really significant change in the way Aboriginal and Torres
24 Strait Islander families interact with the department.
25 Now, taking that third point, why is it that ACCOs are best
26 placed - and I know you've touched on some of these issues,
27 but why are they best placed to deliver the services
28 overall?

29 A. So, as I indicated in my evidence to the Commissioner,
30 a lot of the child protection work is - there is a power
31 imbalance between the child protection worker and families.
32 And, rightly and understandably, families are often guarded
33 and they're worried about what they might say or what their
34 actions - how their actions might be viewed. And so good
35 practice is about building trust and relationships so that
36 there can be an honest discussion about, "These are the
37 harms and the risks, and this is what you as a parent might
38 need to do, and who do you need around you to help support
39 you." In an environment where parents might not trust the
40 child protection system it is very hard to get off first
41 base about what the concerns are. So that's the first
42 thing. You know, like, there is inherently a power
43 imbalance.

44

45 Secondly, as I said, you know, predominantly our workers
46 are non-Aboriginal workers. And whilst, you know, we can't
47 understand issues that may impact on First Nations parents

1 and families, we don't have that lived experience. And
2 I think that we can see in other systems such as health the
3 Aboriginal medical centres and how successful their
4 contribution has been to First Nations people's health in
5 the same way I think that ACCOs could play a similar role
6 in providing First Nations-led support for families and
7 support for children. They have a capability that a white,
8 mainstream, non-Aboriginal, you know, government agency
9 just can never have.

10
11 And of course, you know, the best outcome is often a
12 respectful partnering between the department with its
13 statutory powers and a community-controlled organisation,
14 until the statutory power is not required and/or that
15 management of risk could be done in a different way with a
16 community-controlled organisation.

17
18 Q. Two issues there, and when you refer to trust and in
19 particular when you're talking about First Nations families
20 they have some unique historical experiences with
21 government which impacts that.

22 A. Of course.

23
24 Q. And involvement of ACCOs is one way to alleviate that
25 issue?

26 A. That is correct.

27
28 Q. And perhaps the best way to alleviate that issue?

29 A. Correct. That would be my view, yes.

30
31 Q. And the second issue, and you talked about staff, and
32 really that's an issue around cultural capability, cultural
33 knowledge, cultural understanding?

34 A. Yes.

35
36 Q. And, again, Aboriginal community-controlled
37 organisations, that bridge doesn't have to be crossed
38 because there's a sameness and perhaps - and that is one of
39 the reasons they're in a better position to deliver that
40 service?

41 A. Yes, correct.

42
43 Q. And you mentioned Aboriginal medical services, and
44 they do in a way provide a blueprint for the type of
45 services that could be delivered in child protection, don't
46 they?

47 A. Correct. And we did look at the growth of Aboriginal

1 medical centres and how that growth was managed, what were
2 the lessons learned. So, absolutely, yes, it is a
3 blueprint.
4

5 Q. And when I think about Aboriginal medical centres
6 that's a system that's been built up over many decades to
7 what it is today.

8 A. Correct.
9

10 Q. So it's very much a long-term investment.

11 A. Indeed, which is why the intention was expressed over
12 a 10-year horizon.
13

14 Q. If I could just turn over to the next page of that
15 document. 6.1 deals with the issue of the Aboriginal child
16 placement principle.

17 A. M'hmm.
18

19 Q. I'll only pose this question. The data says in 2020
20 54.9 per cent of Aboriginal children were placed in
21 accordance with the principle. What are some of the
22 obstacles or challenges that the department faced in terms
23 of meeting those requirements under the placement
24 principle?

25 A. So it's really the key that we've been talking about
26 this morning, and that is the growth particularly of
27 kinship care arrangements ultimately placing First Nations
28 children with First Nations family or carers and/or First
29 Nations residential care, for example, starting from a very
30 low base and, understandably, a lot of community-controlled
31 organisations were absolutely not keen just to provide
32 services in that space. I respect that decision. But
33 really a reflection of both the low use of kinship care and
34 a lack of funded First Nations residential when you look at
35 the complete kind of picture of where children are placed.
36

37 Q. And I wanted to ask you that because at a executive
38 level we have really significant objectives which would
39 make major changes to the participation or experience of
40 First Nations children in the child protection system, but
41 there are operational barriers.

42 A. M'hmm.
43

44 Q. And those objectives don't translate through. What
45 are some of those barriers? Because no doubt the
46 recommendations that will be made from this Inquiry will
47 also face operational barriers, and I'm particularly

1 interested in understanding what they might be.
2 A. So perhaps I can best answer it this way. One of
3 the - I was concerned as DG that one of the barriers to
4 success for Our Way would be us; you know, the internal
5 staff of the department. I think I've already said I think
6 they're extraordinary people. I have nothing but high
7 regard for them. But potentially the out-workings and what
8 the system could look like in five years' time, 10 years'
9 time in fact I hope will look dramatically different from
10 what it is today. Also true for mainstream NGOs as well;
11 you know, radically changes their service mix and delivery
12 as well.

13
14 My experience is to change big systems you have to actively
15 and deliberately and intentionally remove any friction
16 point, like, anything that could stand in the way. They
17 are really hard reforms to land. So any policy, practice,
18 staffing, resources, like, everything, everything has to
19 push in the same direction. Any friction slows it down or
20 potentially can derail it. And I wanted to make sure that
21 particularly since trust with First Nations organisations
22 is so important and so key to the reform that I wanted to
23 make sure that we weren't going to be part of the derailing
24 by our unconscious biases or our, you know, lack of
25 understanding about how important this reform was.

26
27 So we did embark upon a big exercise of listening to our
28 own First Nations staff and asked them what was their
29 experience of working inside the department, because they
30 had made a decision to work for government as opposed to a
31 community organisation. So that said something about
32 intention. And I also suspected that we would hear very
33 profound messages from them about their lived experience
34 inside the department. And if there were attitudes,
35 practices that they could see that I could then reach in
36 and change or modify or call out, then that was a really
37 important part of the process.

38
39 I think the things that are easier to change - easier, not
40 easy - legislation, policy documents, practice document,
41 but people's intention and attitudes and culture is
42 incredibly difficult to change. So I wanted to make sure
43 that every message that went that said, "This is our
44 direction of travel and we will conduct ourselves, you
45 know, and I will hold us, I will hold me to higher
46 standards, and if there are any examples of barriers or
47 racism or process that, you know, inadvertently gets in the

1 way let's flush all that out and let's try and step into
2 that." So I hope that answers your question.

3
4 Q. That's very helpful. And on that consultation with
5 First Nations staff within the department were there then
6 key themes or key issues that you thought you could assist
7 in reducing that friction?

8 A. Yes. Yeah, I mean, there were - there were the
9 obvious kind of rethinking some of the ways in which we
10 wrote policy documents and sharing that much more with our
11 First Nations ACCO partners - so some of those things that
12 were relatively easy to amend and change - right through to
13 casual racism borne out of people's lack of understanding,
14 particularly about cultural responsibility for our First
15 Nations staff with their family and community. So it did
16 give us insight into the work that needed to happen in
17 order to keep lifting and building the cultural capability
18 of our staff. It was deeply humbling that our First
19 Nations staff trusted us to say what they really thought
20 and at the same time heartbreaking.

21
22 Q. And you mentioned in response to Ms Greenwood that New
23 South Wales had some similarities, and I presume you're
24 familiar with the Family is Culture report?

25 A. Yes.

26
27 Q. And it's very significant in the fact that it's really
28 the only review that specifically looked at First Nations
29 experience in the child protection system.

30 A. Yes.

31
32 Q. Were there similarities with what you had read in the
33 experience in Family is Culture with Queensland's
34 experience?

35 A. Yes, there would be. There's no reason to think that
36 it would be that different. They're very similar systems.

37
38 Q. If we could just slide down the page to 6.2, I just
39 want to ask you some questions because we've heard a little
40 bit about the increasing complexity of children coming into
41 care and how that's placed a significant burden on the
42 system. You'll see at 6.2, I'll read some paragraphs out,
43 but in 2019/2020 we see, for example, 51 per cent of
44 families had experienced domestic and family violence.
45 That had increased from 35 per cent in 2016. We also see
46 43 per cent at that time had a parent who was abused as a
47 child, an increase from 25 per cent in the decades earlier.

1 56 per cent of parents had a parent diagnosed with a mental
2 illness, a significant increase from 19 per cent in
3 2006/2007. And the last line, 75 per cent had more than
4 one of these factors whereas previously in 2006/2007 that's
5 44 per cent. I wanted to ask you, particularly in the
6 context of First Nations children, how do we go about
7 dealing with those complexities to reduce the number of
8 children coming into care, firstly, and then reunification
9 or at least removal out of residential care?

10 A. It's sort of really the \$1 billion question, isn't it?

11
12 Q. This is probably - it's a critical question. And if
13 you look at the data, particularly when it comes to stuff
14 like methamphetamine use, it is an ongoing issue.

15 A. Yes.

16
17 Q. So it's going to be one that any department has to
18 grapple with.

19 A. Yes. I think, as we discussed earlier, we can point
20 to the example of the Aboriginal medical centres. I think
21 there has to be - there is investment in First Nations
22 specific family support programs. But, again, much as the
23 same theme as, you know, a lot of the evidence today, it's
24 the question about scale and impact. I would say that we
25 need a First Nations-led specific whole of system, whole of
26 state response to these risk factors from a perspective of
27 supporting families early.

28
29 I also think that there is - that we often don't talk a lot
30 or enough about the connection with schools. Like,
31 education, as we all know, is a protective factor for all
32 children, not just children in care but all children, and
33 education is the pathway out of poverty. So I think
34 questions about what else can schools do to wrap support
35 around and can we outpost - rather than asking teachers to
36 do more, can we outpost family support services in schools
37 so that they are mainstreamed, they are seen as a help in
38 the community, and particularly for First Nations and
39 families asking the same question about, "Where would you
40 access that service that would be - that you would find
41 welcoming and supportive?" But it's a serious injection in
42 effort of these kind of early intervention factors.

43
44 Q. And it sounds as though a better collaboration between
45 Health, Education, Child Safety delivered through an
46 Aboriginal community-controlled model --

47 A. Correct.

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Q. -- is the solution, at least one of the solutions you're framing.

A. Yes, yes.

Q. I'll just go to another document and, again, I don't need for you to see it, but I will get it up on the record. It's volume 1, tab 48, page 623, and it's the OSD service agreement. So I can ask you questions about it while it gets on the stage. But what I really wanted to ask you was within that agreement there's obligations to ensure children are being delivered services consistent with the charter, consistent with the Human Rights Act. And we've heard some evidence - at least one of the themes emerge in evidence earlier in this Inquiry around the lack of cultural connection that First Nations children experience, or the disconnect, and that really goes to compliance with particularly those obligations. As an immediate issue how do we go about addressing better compliance, better cultural connection, better connection of kin, community, and family, and country?

A. I think it's the same answer.

Q. So ACCOs are the solution?

A. I think so. And, you know, there are quite a number of First Nations staff employed inside the department and they fulfil the same role. So I think it's partnership between the First Nations staff employed inside government with community-controlled organisations. It has to be a perspective about what is cultural connection from the perspective of a First Nations person, not what I think it is.

Q. That would then require a very significant investment in that model, a real shift from where we've been in the child protection system for decades?

A. Yes, agree. My view, as I said to the Commissioner, unless - I think unless you take the Our Way reforms and intention through to its logical end then there are lots of ways in which improvement can happen, but really transformative change to make a significant difference at scale for a generation it's the investment and perseverance to see it through and keep problem-solving together.

Q. And earlier on when we were talking about the budget, the exponential growth, the curve, in a lot of ways the model that you're advocating for might be the one that

1 breaks the cycle --

2 A. I hope so.

3

4 Q. -- for First Nations families?

5 A. I hope so.

6

7 Q. If I could just turn up the residential care review in
8 2023. That's volume 2, tab 56. And if we could just take
9 you to page 856. Again, Ms Mulkerin, I'll ask you a
10 question about it. In that document, page 856, there's a
11 heading "Children under 12 years old". So this was the
12 residential care review that was commissioned or completed
13 in 2023.

14 A. Yes.

15

16 Q. And you referred to it in your affidavit.

17 A. Yes.

18

19 Q. That paragraph says this at page 856:

20

21 *Nearly one-third, 31 per cent, of children*
22 *in care under 12 years old. This suggests*
23 *a disconnect between the intended and*
24 *actual use of residential care and the need*
25 *to clarify the purpose of residential care*
26 *for children under 12 years old.*

27

28 And if I could just go to the page before that, the
29 preceding page, we'll see that 42 per cent of children in
30 care were First Nations. That would be difficult for you
31 read, Ms Mulkerin. So you're probably best listening to
32 what I'm suggesting, but this is really to assist everybody
33 who's watching. But 47 per cent of First Nations children
34 under the age of 12. And we heard evidence previously from
35 PeakCare in particular that no children under the age of 12
36 should be in residential care in limited circumstances and,
37 secondly, certainly no children under the age of four
38 should be in residential care, and those were the two years
39 we were given. What is the challenge in terms of why are
40 First Nations children under 12 coming into the residential
41 care system when it's not suited to them and it shouldn't
42 be used?

43 A. Lack of other options.

44

45 Q. And that is the importance of prioritising kinship
46 care?

47 A. Yeah, it's absolutely not preferenced, that's for

1 sure.

2

3 Q. The next question I wanted to ask you about again was
4 in respect of that document. If we could go to page 886.
5 I'll just read you the proposition. It's page 886 up the
6 top of that page of the same document:

7

8 *Jurisdictional challenges relating to*
9 *families who live across borders means that*
10 *sometimes children and young people placed*
11 *in Queensland cannot maintain connection or*
12 *be returned to their families in the*
13 *Northern Territory.*

14

15 Now, that's at the top of that page. That paragraph
16 suggests that children who are removed interstate or with
17 family in the Northern Territory in particular are brought
18 to Queensland - and I'm assuming First Nations children
19 fall into this category - and reunification then becomes
20 impractical or almost impossible. Are you familiar with
21 that issue?

22 A. Yes. It's true of every other state and territory
23 with each other. It's not unique to Northern Territory.

24

25 Q. So once a child's removed from another jurisdiction
26 and brought to Queensland reunification is almost
27 impossible?

28 A. So it's a process about the order and having the order
29 transferred to another state so then that state can then
30 exercise appropriate jurisdiction. So often what happens
31 is, for example, a young person who usually lives in the
32 Northern Territory is on a child protection order in the
33 Northern Territory. They might be placed with an aunt in
34 Mount Isa, for example. Then there's a lot of kind of work
35 between the two states about whether the order can actually
36 be transferred. And so then they will be supported by the
37 Queensland department or whether the Northern Territory
38 wants to hold on to the case and work any return to
39 Northern Territory from Northern Territory. So it's a kind
40 of case-by-case basis about if it's a long-term placement
41 then likely the state - the sending state - will try and
42 transfer the order. If it's intended to be a short-term
43 placement then they'll likely hold on to it and just do the
44 casework from interstate. So we have workers flying across
45 the country working.

46

47 COMMISSIONER: Is there a mechanism for this transfer of

1 the order?

2 A. Yes. Yes. Yes, there is. So there's agreements
3 between the states. And some of it is about whether
4 there's a - sort of technical, whether there's a
5 like-for-like type order, you know, in the sending state
6 and the receiving state. But, yes, there are agreements
7 and national agreements and protocols.

8

9 MR CREAMER: And in that instance or those instances
10 reunification then is almost impossible or unlikely if
11 the --

12 A. Distance definitely makes it harder, for sure.

13

14 Q. And was there, from your recollection, only ever a
15 small cohort of children in that category?

16 A. Yes, it's a small proportion of the numbers of
17 children in care. There is movement between states. Often
18 it's also foster carers or carers might move into state for
19 work, and so - and they want to continue caring for the
20 children in their care. And so then we would negotiate
21 that with their parents about whether they're comfortable
22 and the receiving state about whether they're willing to
23 offer support.

24

25 Q. On page 883 of the same document there's a paragraph
26 that says - the second paragraph:

27

28 *Research from the University of Chicago*
29 *suggests early intervention provides the*
30 *best and most cost-effective approach to*
31 *secure the long-term wellbeing of children*
32 *and young people.*

33

34 It goes on to say:

35

36 *They suggested a rebalancing of the child*
37 *protection system to place greater emphasis*
38 *on addressing children's needs earlier and*
39 *keeping family together.*

40

41 I wanted to just ask you about that concept and what could
42 be done to rebalance?

43

44 A. So, yes, it's a well-understood concept. The
45 challenge for governments is that it means that they have
46 to fund both things at the same time. They have to
47 significantly scale up early intervention and support at
the same time as maintaining the current investment in the

1 sort of placement end or the statutory end, because the
2 benefit of early intervention family support is unlikely to
3 be realised in a short time. It's much more likely 10-plus
4 years. So governments have to accept that in order to do
5 it they have to fund both at the same time, and that is a
6 difficult message for governments to receive. "Keep doing
7 this at a high rate and also take on this new thing at a
8 high rate."

9
10 Q. And have you seen that done effectively in any
11 jurisdictions in your --

12 A. Not at scale, no.

13
14 Q. On the next, page 886, again I'll just read the
15 proposition to you, but what it says effectively under
16 "Reunification" is that reunification of Aboriginal and
17 Torres Strait Islander children is much lower than
18 non-Indigenous children, and it gives some statistics. Why
19 is that? Why is reunification generally lower for
20 Aboriginal and Torres Strait Islander children?

21 A. I think that it all relates to the same issues we were
22 talking about before. I think that for reunification to
23 occur parents have to have a deep relationship with
24 the person that they're working with, because in order for
25 issues to be resolved they have to be willing to say, "Yes,
26 I have an addiction issue. Yes, there is violence in our
27 relationship. Yes, I have a mental health issue that I am
28 afraid to go seek support for." That takes both courage
29 but it also takes trust that, if you disclose that, that it
30 will be treated in a way that says, "How can I help you?
31 How can I walk alongside you?" And even though I'm
32 confident that many child protection workers will do that,
33 there is definitely a fear because of history that the
34 disclosure of that information will be used against them.
35 So it can be hard to sort of get going on the kind of
36 remediating the risks that were in place that predicated
37 the removal in order to change the family dynamics, which
38 is what's required for reunification.

39
40 Q. At page 890 of that document there's - what this part
41 deals with, it says:

42
43 *What we have heard. Overrepresentation of*
44 *Aboriginal and Torres Strait Islander*
45 *children.*

46
47 And it refers to a submission by QATSICPP, and that says:

1
2 *As at 30 June 2023 Aboriginal and Torres*
3 *Strait Islander children made up*
4 *40 per cent of all children in residential*
5 *care under 12, and 69 per cent of all*
6 *children under the age of 4 [which we've*
7 *already discussed]. This can be attributed*
8 *to the legacy of past practices,*
9 *intergenerational trauma, family and*
10 *cultural disconnection, structural*
11 *inequity, and cultural differences in*
12 *child-rearing practices.*

13
14 It then goes to say at the bottom of the page:

15
16 *Colonisation, the Stolen Generation and*
17 *other traumatic experiences have broken*
18 *down cultural norms.*

19
20 I wanted to raise those issues in the context of your
21 advocacy for Aboriginal community-controlled organisations
22 that, when you take some of those structural issues or
23 those issues that have been identified by QATSICPP, the
24 delivery of services via Aboriginal community-controlled
25 organisations can often alleviate many of those concerns,
26 if not all of them?

27 A. That's correct. That's my experience.

28
29 Q. The only other point I wanted to ask you about was a
30 point raised by again QATSICPP in their submission which
31 was part of this review, and that was at page 892, the
32 general proposition is under the heading, "Ongoing
33 connection to family and culture ":

34
35 *A clear theme from the review raised by*
36 *many stakeholders is that residential care*
37 *is an unsuitable option for Aboriginal and*
38 *Torres Strait Islander children and young*
39 *people.*

40
41 I wanted to ask you your views about that proposition and
42 whether you agree that it was unsuitable, and - I'll let
43 you answer that first. You looked like you were ready to
44 answer.

45 A. So I think - as the evidence has been led, I think it
46 is not the most ideal care arrangement for many of the
47 children in residential care. For some older young people

1 it is their best option. They say that that's where they
2 want to be. But is it for all of the children that are
3 currently in residential care? No, of course not,
4 otherwise we wouldn't be working so hard to find other
5 options. We would say this was the right place for them.
6

7 Q. And are there specific issues that affect First
8 Nations potential kinship carers more? We've heard about
9 the blue card, for example. And we see in this report
10 there's some evidence to suggest that Aboriginal and Torres
11 Strait Islander applicants are 29 per cent of refusals at
12 the first instance in respect of blue cards. But are there
13 key issues that could better address the lack of kinship
14 carers or the deficiency in kinship carers for First
15 Nations children?

16 A. Yeah, I think - so I think sort of all roads lead back
17 to the same place. Often we start a discussion with
18 parents about, "Who is in your family? Who do you already
19 have connections with? Who do you already rely upon to
20 provide care and support?" And some First Nations parents
21 are reluctant to share that with us because they are
22 worried that that might mean that they are placing their
23 aunt, their cousin, like, on our radar, in a sense. So
24 they don't want to do that to their extended family.
25 And/or they may have - part of the reason that they may be
26 experiencing difficulty is that they will have experienced
27 a breakdown in the relationship with their extended family,
28 which of course happens with non-Aboriginal families as
29 well.
30

31 So it's a combination of factors about historical worries
32 about exposing their relatives to the child protection
33 agency, breakdown in relationships, and then there are some
34 inevitably - which is true for all parents, not just for
35 First Nations - worried about if they nominate their
36 mother, for example, so grandma, whilst they might have
37 complete confidence that grandma might provide excellent
38 care for their child, it also means that in some ways
39 grandma will be able to offer them less support because
40 sometimes it might mean that grandma has to make a decision
41 between supporting the child and supporting their own
42 child, which is an incredibly difficult thing for us to ask
43 anybody to do.
44

45 Q. And largely is inconsistent with the cultural
46 experience of First Nations people?

47 A. Of course. Yeah, of course.

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MR CREAMER: Commissioner, I don't have any further questions.

COMMISSIONER: Thank you, Mr Creamer. Well, thank you, Ms Mulkerin, for sharing your insights with the Commission. As I said before lunch, your experience, seniority and deep understanding of the system and its challenges is undoubtable and it's been of great assistance to hear from you directly.

A. Thank you.

COMMISSIONER: As I said to you earlier, if there is anything when you leave here today you think, "Oh, I would have liked to have said more about that particular topic," please feel free to write to the Commission and expand on your views.

A. Thank you.

COMMISSIONER: So, again, thank you very much for coming along and cooperating in this process.

A. Thank you, Commissioner.

COMMISSIONER: All right. We'll adjourn until - we're not sitting tomorrow. We are on schedule to have a lay day. So we'll be recommencing on Thursday at 10 o'clock. And so we'll proceed then.

**THE HEARING WAS ADJOURNED AT 3.30PM UNTIL THURSDAY,
16 APRIL 2026**

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