# STANDING COMMITTEE ON LEGISLATION

**CHILDREN AND COMMUNITY SERVICES AMENDMENT BILL 2019**

**TRANSCRIPT OF EVIDENCE**
**TAKEN AT PERTH**
**THURSDAY, 6 AUGUST 2020**

**SESSION THREE**

**Members**

**Hon Dr Sally Talbot (Chair)**
**Hon Nick Goiran (Deputy Chair)**
**Hon Jacqui Boydell**
**Hon Simon O'Brien**
**Hon Pierre Yang**

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**Hearing commenced at 1.50 pm**

**Mr ROSS WORTHAM**
**Chief Executive Officer, Youth Affairs Council of Western Australia, sworn and examined:**

**Mr STEFAAN BRUCE-TRUGLIO**
**Policy and Advocacy Officer, Youth Affairs Council of Western Australia, sworn and examined:**

**Ms TRICIA MURRAY**
**Chief Executive Officer, Wanslea, sworn and examined:**

**Ms ROBYN COLLARD**
**Practice Leader Aboriginal Programs, Wanslea, sworn and examined:**

**Mr CHRIS TWOMEY**
**Leader, Policy and Research, Western Australian Council of Social Service, sworn and examined:**

**The CHAIR**: I would like to formally welcome you on behalf of the committee. Today's hearing will be broadcast. Before we go live, I would just like to remind you all that if you have any private documents with you, keep them flat on the desk to avoid the cameras.

I now require you to take either the oath or the affirmation.

[Witnesses took the oath or affirmation.]

**The CHAIR**: Thank you. You will have signed a document entitled "Information for Witnesses". Have you all read and understood that document?

**The WITNESSES**: Yes.

**The CHAIR**: These proceedings are being recorded by Hansard and broadcast on the internet. Please note that this broadcast will also be available for viewing online after this hearing. Advise the committee if you object to the broadcast being made available in this way. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones. Try and talk into them and try not to rustle papers near them—otherwise we deafen Hansard and a few listeners as well, probably.

I remind you that your transcript will be made public. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in private session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Until such time as a transcript of your public evidence is finalised, it should not be made public. I advise you that the publication will disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege; and that, of course, is to protect you not us.

So before we launch into our questions, does anybody want to make an opening statement?

**Mr WORTHAM**: We would, Sally. Firstly, thank you to the committee for inviting us here today to speak on behalf of the review of the CCSA. Before I begin, I would like to acknowledge the traditional caretakers and custodians of this beautiful Whadjuk boodja that we are on today, the Noongar

people of the Whadjuk nation, and pay my respects to elders past and present and to our Aboriginal leaders and community here with us today and to our Aboriginal young people and community, our rising leaders. Again, thank you to the committee.

The Youth Affairs Council, for those who do not know who we are, is WA's peak body for young people and all those that support young people. We have been around since 1978, founded by a group of social workers and young people and youth activists and advocates that want to see fairness and equity and justice for young people in Western Australia.

It is worth noting our membership comprises of young people, of youth workers, of hundreds of organisations across this great state, academics and public officials that believe in the welfare and the rights of young people. We are here today representing those views.

At our core is human rights. We believe that young people have the right to have a say in matters that affect them, and that directly impacts our point of view with the current act and the bill and the way that we see this legislation influencing the welfare of young people.

I am proud to say that over the last few years, but, more broadly, over the last 40 years, child protection and the affairs of children and young people has been at the forefront of our work. The Department of Communities—and prior to that, we have had significant involvement in the reviews of this sort of legislation. In particular, I myself sat on the legislative review committee that reviewed the initial submissions from this act. So, with context, we do bring some of that expertise to the discussion.

We want to acknowledge and thank the department and you, the committee, for reviewing and progressing the act and where we have landed; however, we do, as you would see from our submission, have additional recommendations for improvement. Furthermore, I want to acknowledge the committee for opening up this review again, based on feedback from the community, and want to appreciate the fact that we do have a chance to have the secondary review.

I want to broadly say that we are supportive of the principles that underpin this review and the bill and therefore the act, and I feel that we have seen significant efforts for improvement from the 2004 version. Further to that, we hope today from our submission and from our oral testimony that we can enhance that even more.

I will not go through our submission in detail, but I will say the four areas in which we see areas for improvement for this bill—for those that have not been able to see it in detail—are critically improving leaving-care processes and standards and the voice of young people in the leaving-care process and accountability in leaving care; legislating an opportunity to extend the leaving-care age for young people in Western Australia; adhering to the Aboriginal child placement principle and family-led decision-making, which we will talk more about today; and improving oversight of the child protection system in Western Australia.

With that I will conclude my opening statement.

**The CHAIR**: Thank you. Mr Twomey?

**Mr TWOMEY**: Thank you. WACOSS concurs and works closely with YACWA and others around our work in this space, and in doing that I would also like to acknowledge the members of our Children's Policy Advisory Council and also the Noongar Family Safety and Wellbeing Council who have worked closely with us over a number of years. I would also like to start by saying —

[*Words spoken in Noongar —*

*Ngala kaaditj Noongar moort keyen kaadak nidja boodja*.]

I strongly support my colleague's comments about the leaving-care age and about the child placement principles and Aboriginal family-led decision-making. I suppose the other high-level issue that I would like to add there is really the balance around prevention and early intervention in this space. Of the four objects of the act, we have primarily seen a focus on the fourth object, which is the statutory child protection system, and my concern has been we have seen less resources directed towards prevention and early intervention—that Western Australia as a state invests less per capita and per child in intensive family support and as a consequence of that we have had a bit of a vicious circle where, as the rises of statutory care and out-of-home care costs keep going up, that is costing us more across the system and we have been putting progressively less action into prevention and early intervention.

The other thing that I would say that I believe is a priority and a balance that we need to get—both within the act and then in the implementation and resourcing of the act—is really how we shift more to prevention and early intervention. I would say community-based services, local services and, particularly, Aboriginal community–controlled services are critical in making that happen and happen effectively. I think we have got opportunities to look to other jurisdictions like Victoria, New South Wales and the legislation in Queensland around ways that that has been implemented in recent years. Certainly, as far as the changes to the act go, at a higher level I would say they are improvements over where the act previously was, but I would also say that there is a disappointment that they have not gone as far as the changes that we have seen in other jurisdictions. There is a balance there between how much you lead with the changes and how much you lead with the services and the practices, but at the moment I feel like we have not really been progressing effectively enough on either and there is a lot more we could learn in that space. I will conclude there.

[2.00 pm]

**Ms MURRAY**: Thank you, too, for enabling us to come and speak with you this afternoon. I do support exactly what Ross has said in terms of young people leaving care and fully reiterate what he said, so I will not say it again, and, also, the comment that Chris made about early intervention. Wanslea is a practice organisation; we are not a peak body, as my two colleagues' organisations are. We do work in the out-of-home care space and we also work in the early childhood space. Some of these areas really do coalesce in this piece of work. The other area that we are really passionate about is grandparents who have the full-time care of their grandchildren. That is an area that is overlooked both in legislation and in practice by the department. I think that is another area that needs to be considered. Whether it is in legislation or whether it is in policy, we need to bring that group of children who are living full-time with their grandparents to the fore because they just miss out on every level. We support the implementation of the child placement principle and its full application. I think we have probably got a little bit of difference in terms of the Aboriginal-led family decision-making model. That might be a point of discussion at some point during today.

**The CHAIR**: Okay. Thanks very much. They were very comprehensive opening statements that set the scene well. We have got some specific questions about the Victorian and Queensland legislation that you have all mentioned. Can I start by asking—were you all involved in the statutory review of the act? I know WACOSS was, and YACWA. Wanslea was not?

**Ms MURRAY**: Not directly.

**The CHAIR**: Those two groups who were involved in the statutory review—to what degree does the bill reflect your feedback arising from the statutory review?

**Mr TWOMEY**: Ross, you have probably got more detail on that than me.

**Mr WORTHAM**: Sure, Chris. I am happy to open on that one. As I said in my opening statements, I personally was involved on the legislative review committee for the nine months, I believe, that we met. It was quite a comprehensive process. Just speaking briefly on that process, it was comprehensive in the sense of consideration from the department. I can speak pretty openly about the fact that submissions that were put forward were reviewed and recommendations from that were synthesised in a way that I was quite satisfied with as a representative on behalf of young people and the sector that supports young people in those meetings. That said, the translation of those recommendations into the final bill was not full. There were certain areas from that translation—granted, it took two years to get to the point where we have seen it—did see some weakening of the language of the recommendations. We have not done a full analysis of a comparison between the bill and the recommendations put forward from that committee. That opportunity has not been presented. I do recommend doing that and understanding the difference that has occurred there. Broadly speaking, there were a number of those recommendations put forward that we have seen come forward in the bill. Areas where we would like to see improvements we have included further in our submission. Strengthening a lot of the language from a "should" to a "must" for the department would help—in particular, in areas of gaining the views of young people, supporting young people in their needs post-care. There have been editions of language within the bill that include things like "a child must seek support" rather than "the department must provide that support". Some of that language, we feel, as it has been added, no doubt for reasons, weakened the bill. There are areas, a lot of them small, that we could see improvements.

**Mr TWOMEY**: I do not have a lot to add to that. Certainly, I agree with those issues. There are also the issues around the consistency of the implementation and interpretation of the act in practice at a district level. A lot of the feedback that we hear is that we see quite different approaches depending on individual practices and leadership there. The other thing, from the discussions we have had, was the stuff around the support for young people leaving care and the changes that have gone through. We had heard there had been a lot more discussed and we were expecting to see more come through.

**Mr WORTHAM**: Can I back that up? I neglected to mention, specifically, raising the age of leaving care option within the bill. Thank you, Chris. That was definitely discussed at committee level and put forward as a recommendation within the review of the submissions into the first revision of the act, which did not come through in the bill. We have seen the Western Australian government and the Department of Communities actively invest in extending the leaving-care age options in trials in the "Home Stretch" trial, so there is a proactive approach from this government in wanting to provide options for those young people needing additional supports. I know when I was 18, I was not ready to leave my parents' home. I certainly was not able to fend for myself in the big bad world, yet every child in care we make do that. I do think there are some sensible solutions that we can include within the act. I want to back up Chris's other point. Observations from the sector—we have hundreds of organisations that work with very vulnerable young people in Western Australia that work with the department very closely. The adherence to good practice and the guidance that this legislation provides people is fundamental in how we deliver services for those vulnerable children and young people. Over the years, we have not seen the expected goodwill of policy and practice aligned to the broad statements that exist within the act. Therefore, we believe firmly that we need to be more direct within the act about policy and procedure—not less detailed procedure, but, in particular policy the department should follow, such as mandating leaving-care plans, such as ensuring young people have an active participation and voice in those plans—and there are other examples.

**Mr TWOMEY**: If I could add one more general comment, when we have had community consultations, going back to when the act was being reviewed. We have often felt that there has been a gap. Particularly when we are talking to people with an experience of the child protection system, the issues that they always raise with us first are about more support for families and communities in the first place, and often our concern is when the inquiries around the act come, the way it gets written up and interpreted, there is very much a focus around: what are the limitations of the act? Often that strong message—every time we have a consultation, that is the stuff that comes up first. People want to talk about that before they get to any of the specific questions around the act or the system. There is always a concern when we come back and read the final report, that that stuff does not seem to get the same priority. I just thought I would mention that.

**The CHAIR**: Ms Murray, did you want to add anything there?

**Mr TWOMEY**: I just wanted to add something to Ross's comment about young people leaving care. We are a provider of leaving-care services. We have a contract with the state government to work in the Rockingham area and we have been doing that for 17 years. We also have been running a trial that is funded by the commonwealth government, "Towards Independent Adulthood". That was a three-year pilot that has now been extended to March next year. What we are seeing is that the work that is in the commonwealth project, which is a much more intensive relationship-building process with the young people, is producing results for those young people who are leaving care. We have been able to track them through a research and evaluation project that we are working with Curtin University on and those results will be coming up before the end of March next year. We know that the young people who get intensive support are doing better than those that are not getting it. We are seeing, as Ross said, too many young people who do not have leaving-care plans who turn 18 on 3 September and are out of their placement on 4 September.

We know that in this current year the government has extended payments to foster carers till the end of the year for those young people who do turn 18, to ensure that they leave school, but this act has not kept up with any of that. I just believe, as Ross said—even though I did leave home when I was 18—that most people are too young and they cannot financially support themselves. If we are talking about young people from the regions, it is even more dire.

[2.10 pm]

**The CHAIR**: Perhaps we can keep this topic going. This is a good place to dive into the bill.

**Hon NICK GOIRAN**: Just one further question before you do that. What is the proportion of children in care that leave care and are not eligible to participate in Wanslea's leaving care program?

**Ms MURRAY**: I am not sure I can quite answer that question. In our leaving care program, in the state government one, we are funded to provide care for up to 30 young people at any one time. We have probably got about 45 to 50 on our books, because they leave and come back. In the commonwealth one, we were funded to work with 80 young people over the three years. We have retained 70 of those young people for the three years and we will be working with 60 of those up until the end of March. About 250 young people leave care every year. I think that is about the right number.

**Mr WORTHAM**: That is right.

**Ms MURRAY**: So we are one provider, Mission provides a program down in the Bunbury–south west region across to Albany —

**Hon NICK GOIRAN**: Navigate.

**Ms MURRAY**: —and the Salvation Army does the rest, so not all those young people are connected into leaving care programs. I would guess maybe a third.

**Hon NICK GOIRAN**: So there would be potentially in Western Australia a third of children who are missing out on getting assistance with leaving care. Is that then a different issue to a child not having a leaving care plan, or are they one and the same?

**Ms MURRAY**: They are linked. Every child is meant to have a leaving care plan. Not every child does. A leaving care plan does not ensure that you will be referred to a leaving care provider, and being referred does not mean that you will connect with a leaving care provider, because young people choose to walk with their feet and they may or may not connect.

**Mr TWOMEY**: I guess I would add to that that having a leaving care plan does not necessitate that that is a leaving care program where the young person has been fully consulted and that it actually reflects their strengths and aspirations for life.

Just going back to the project that Tricia was talking about, both Ross and I have been involved on the advisory committee for that. It is called Navigating through Life and is led by Professor Donna Chung from Curtin social work. When that report comes out, that will be a very useful source of information.

**Ms MURRAY**: A preliminary report has just come out that was completed at UWA. Dr Stephan Lund did that, and he worked for us for 15 years, so it is all sort of connected.

**Mr WORTHAM**: Stephan is a resident Western Australian expert in leaving care.

**Ms MURRAY**: Resident Australian expert in leaving care.

**Mr WORTHAM**: Yes, absolutely.

Can I just add, Nick, to your question? We know from the recent Department of Communities' annual report that only 84 per cent of kids leaving care had a leaving care plan. That is the official number. I do not know what happened to the 16 per cent, which is a little scary, because they know where the kids are. But the other challenge, to Chris's point, is that we know the genuineness of those plans and the meaningful engagement and what they mean for a young person to adopt those plans in such way that it helps aid their life path post-care is extremely low. We will find more information out from Donna Chung's research as it is progressing, because that has not happened yet—historically and/or contemporarily—but anecdotally, we can confidently say that there are many areas of practice improvement in how those plans are developed in a way that is with the young person. We do know in the legislation that we can put stronger provisions in for when those plans are required to begin, say at the age of 15 or 16, which is a scary age to talk about becoming independent, but we know it needs several years of thinking and planning to get to a stage—and you only have two if you start at 16—and then how the young person is involved in that. One of our big challenges around ensuring young people in care know their rights, which the department does try and do and the executive tries to do, but we know that there are challenges around onboarding information—understanding those rights and what their responsibilities and their options are—and so we do think the act could be stronger in ways that mandate that the department take multimedia approaches to communicating those rights to children and young people. If it is just from a caseworker that they might have met only a few times that changes frequently or from a carer that has gone from one house to another, those are not the best mediums to communicate quite complex information about children's lives. So there are areas for improvement in the act in that area.

**Mr TWOMEY**: Can I add one thing to that, because actually through that and hearing some of the stories of young people who have had experience with the child protection system, for many of

them when they are actually genuinely asked that question, it is the first time they have ever been asked about what is going on with them and had any idea that they could have some say in what they want to do in life. They have been used to having decisions imposed on them from the outside. So, some of them simply lack the capacity to do that and actually need support and assistance to overcome that learnt helplessness from being in a situation where their lives have been externally controlled and they have been removed from situations time after time. It is very important. It is very hard for a case manager to do that when they are just coming to that for the first time, but it is an absolutely critical thing for their development—the insistence for them to be able to live independent lives—because they have been so much less independent, I suppose, than even our children would be.

**Ms MURRAY**: Our real push is to push the option to 21 years for young people to be able to stay in care if that is what they choose, and maybe they go out and come back in within that period of time as well, for the government—our community—to support them in being able to stay in a foster care arrangement or some other kind of supported family arrangement that comes with a payment, because a lot of placements do cease because the payments dry up. For some families, that is their reality; they cannot afford to keep the young person with them or the young person senses that they are not wanted anymore. I just think if we can provide that security to young people till they are 21, we will have a much better trajectory for their future lives. If you talk to people in prison, a lot of them have had care experiences, there is still a high rate of young pregnancies amongst the young women who leave early, and their opportunities for employment and education are just narrowed a lot more than what they are for children who grow up in families.

**Mr WORTHAM**: We know that a significant proportion of young people who are either sleeping or couch surfing—Western Australia's homeless young people—a significant proportion, more than 50 per cent, have a care experience. I am sure you have seen those statistics. That says we have a lot of room for improvement and opportunities, and the act is one of those opportunities for us to make this stronger.

**The CHAIR**: Okay, so we have covered the subject of children living in care in quite some detail. That is one of our specific questions. Is there anything you would like to add in relation to children leaving care and ways in which that you believe the bill needs to be strengthened before we move off that subject?

**Mr WORTHAM**: There are a couple of brief things that have not been mentioned yet. One is the importance of agency and the importance of choice for young people. At the age of 18, yes, we do have a milestone and we should respect that milestone. Every person's developmental stages are different. We should also acknowledge that. Choice is a very important thing. Whether that is choice to go into a leaving care support service at the age of 17, 18, 19 or up to 25, which is a service that is currently provided—not sufficiently—in Western Australia, and it is a critical component, or whether it is a choice to stay in care to 21, which we know that may be the best option for those young people, and/or a choice to move to independence at that age, that is really important for us and we can enshrine some of that agency and option for choice within the legislation. So that is one area that I think we just need to respect the views of individual young people and how they make that successful journey to independent, strong Western Australians out of the care system.

[2.20 pm]

**Mr BRUCE-TRUGLIO**: Just to follow that up in terms of the actual act itself. In the stating of what is a leaving-care plan, the act is not explicit. You mention that the young person will be involved in the development. It said that their wishes and views will be considered in the plan and upon review, but to really reinforce that in the agency, it needs to be a lot stronger in the way that is mentioned.

Additionally, in terms of leaving care in terms of the disconnect between the mandate of the legislation and practice, I feel like there is a disconnect between legislation and the policy frameworks that guide the implementation of that, particularly leaving-care plans, because they are not actually references to how this principle will be reinforced and what is the role of things like the rapid response framework in terms of guiding the departments to implement leaving care and actually enforce those leaving-care plans to be implemented. I think a third part of that is also when we talk to the lack of, I guess, capacity of some support services, such as Wanslea, to deliver leaving care for a subsection of their young people; it is about resourcing those social services to meet the capacity required in leaving-care plans as there will be a number of services in those plans that are designated for those young people, so those services need to be resourced adequately to meet the needs of every young person that they are tasked with as part of a leaving-care plan.

**Mr WORTHAM**: It is challenging, is it not, to think that we have to have a formal written plan for someone to exit a stage from age 18 to 19; like, that is kind of a daunting thing. Normally, it is a conversation with your parents where you say, "All right, you are going off to uni or are you going to stay here?" You are going to talk about that and build that process. Most young people in care do not have that level of stability, and it is kind of difficult and it is sad that we have to have a formal written plan for that. But what it does provide is a sense of assurance. If it is done with the young person, it provides a sense of ownership; and, if it is done is a good way, in a meaningful way, it gives that young person a really good start in life. I would challenge the fact that we do any good leaving-care plans at the moment. We have a lot of improvement for that, but if the act says it has to happen, it will happen. It is a really important chance for us to improve kids' lives now by making a couple of small amendments within those provisions.

**Hon NICK GOIRAN**: You say "a couple of small amendments within the provisions". I notice that the explanatory memorandum set out by the government says that the bill aligns with recommendation 12.22 of the royal commission for "strengthen supports" to assist care leavers to safely and successfully transition to independent living. It is a very broad recommendation, and it is easy to do a few things under that broad umbrella and then say, "Well, we are doing things consistent with that recommendation." Clearly I am hearing from the witnesses that, notwithstanding what has been done in the bill, there are opportunities to further strengthen. Can you take us to the clauses of the bill that you particularly think need strengthening? That can be taken on notice.

**Mr WORTHAM**: We would like to take that on notice. We do not have that prepared. Yes, it is a good question.

**The CHAIR**: That is question on notice 1. The other two areas that we are keen to talk to you about are the Aboriginal child placement principle and specifically section 14(3), which is about family and community participation not applying to decisions about placement and cultural support plans. Before I do that, can I ask you to outline to us the Queensland and Victorian legislation and what it is about those two statutes that you think works better in practice than what we are proposing here? Just while you are mulling over that answer, I will tell you the three points to that question. How do these models work in practice? The second point is: the Department of Communities has submitted that legislative entrenchment of Aboriginal family–led decision-making may be premature in WA but that the act already enables it to occur. That is according to the department. How would you respond to that submission? The third part of that question is: would amending proposed section 81 to require consultation with more than one family member progress towards the implementation of Aboriginal family–led decision-making? It is a long question, but if you could take those on, particularly with references to the two other acts.

**Mr TWOMEY**: I will give some first comments and then pass over to my colleagues.

**The CHAIR**: Thank you, Mr Twomey.

**Mr TWOMEY**: Comparing the Victorian and Queensland legislation and talking to interstate colleagues, there is a sense to which the Queensland legislation is kind of held up as being the best practice as far as legislation goes at the moment. Victoria has had a lot more experience and practise in terms of the community-led sector capacity with ACCOs to actually do the work—that is Aboriginal community–controlled organisations. Coming to the Department of Communities' comments, I feel like this is a bit of a sort of chicken-and-egg argument in terms of, yes, the act as it is does not prevent them from doing it—it has not prevented them from doing it for the last decade—and yet they have not been doing it in any substantive way. I understand there is a bit of a trial that they have been discussing undertaking with Anglicare. I do not know the details on how far that has got so far. But, I guess, our concern is that—certainly I would agree on the face of it—there is not necessarily the capacity to entrench it in legislation now and be able to do it successfully, simply because we have not invested in the capability, and the systems, the support and the training that would need to happen.

In particular, where it works and works well in other justifications, it is both about the capability that is in the community organisation supporting it and it is the knowledge and engagement with the families and the community there, but it is also the relationship between the department and the organisations that are kind of facilitating, supporting and guiding that, and their relationship there is substantially different. I would say Western Australia is still in the circumstances where 80 per cent of our system is government-run and government-led and there is only a comparatively small capacity and resources in community-based services and the relationship, when it comes to how decisions are made within child protection, is very much held strong within the department at the moment. So you are actually talking about a fundamental cultural change to be able to get to the circumstances where you have got Aboriginal family-led decision-making or where there is even more collaboration and communication in how you are implementing the Aboriginal–Torres Strait Islander placement principles. Fundamentally, that is the challenge.

I guess the concern is how do we actually get to that point. At the moment our concern is, certainly putting it in the legislation we would not be able to do that, but, similarly, if it is not in the legislation if there is not something that is marked down clearly that sets this is a target and something that the department needs to be achieving over time, we do not know that it is going to get there. There either needs to be political leadership and a push to make it happen, or there needs to be a legislated time line saying "in five or 10 years' time, we will be in this situation where this is how the decision-making is going." I guess that is kind of my real concern. This has been a very fraught discussion within the community around what the changes are within the act and how a lot of Aboriginal community organisations have felt about it, because certainly while the changes that are currently proposed improve on what was existing under the act, I think there was also a hope and an expectation based on where discussions had got in 2015, 2016 and beyond that we would be progressing further than this at this point in time. I think that is the real challenge, but the issue is how you implement it, what is the model and how does it work really well in practice, and only part of that is about the rules; a big part about that is about capacity and relationships. I will hand over to my colleagues on that.

**Mr WORTHAM**: I think it is important for us to acknowledge, in response to this question regarding Aboriginal family and community–led decision-making, that the Youth Affairs Council—my colleague Stefaan and myself—moreover default to recommendations from the Aboriginal community and recommendations put forward through SNAICC and other Aboriginal-led submissions subsequently and to this current review, and then WACOSS. And, Chris, you would agree.

[2.30 pm]

Reflecting on some of those recommendations and submissions, I can make a few comments. In regards to the second and third points of this question, more than the Queensland and Victoria models, I think it is worth the department and your committee reviewing those in detail rather than hearing from me. I do not end there as there are, as Chris has outlined, extremely well evidenced and sound models of how we support Aboriginal children in care better and prevent them from entering care. We have got that in Australia and these other states, but we have that internationally in New Zealand, Canada and in other countries. It is neglectful of us not to ensure that we make those clear in this process and in the review of this act. Is it the right time to put the mandate of the entrenchment of this in the act in the instance that the department is not ready? It is the chicken or the egg—I think that is what I heard you saying, Chris. I agree; which comes first? I think the political leadership that we have a chance to show now about the requirements to ensure Aboriginal communities and families are involved in that process—it is time. The capacity to deliver on that will follow, and that is the position we have taken. To the third question, I reiterate we would like to see it in the act. With the third question about should more than one family member be involved and/or an Aboriginal organisation be involved in the decision-making, in the review committee we defaulted to the consultations at the time. I will be honest that it was not my opinion that was put forward in that review committee. The consultations at the time did say that was sufficient; however, based on this additional review and submissions from the Aboriginal community, it is clear that there is desire for more than one family member to be involved, and we would back up that sentiment.

**Ms MURRAY**: Part of what I want to talk about is coming from one of our board members who has worked in this space quite extensively in the Northern Territory and also here. She is a previous member of the department. Her view is that we need a model that needs to be trialled here in Western Australia. So if we look at the models that were trialled in Queensland, we can see that they were trialled over the different parts of the continuum of child protection, from early-intervention family support through to the investigation assessment process and then family group meetings. What the department, as I understand it, says is that the Signs of Safety model that it currently uses is essentially a family-led decision-making model, because the family is in the room. I did send a little mud map around this for the committee. The problem with the current model is that it is led by the department, it is run by the department, it is pulled together by the department and there is a power imbalance, and particularly for Aboriginal people, and Robyn can attest to this. The power imbalance makes such a difference to what the outcome will be. At the end of it, what is agreed does not have to be enacted, because there is nothing legally binding either party. There is no evidence base to the Signs of Safety model, no matter what you might hear from someone else.

If we move to an Aboriginal family–led decision-making model, it has an independent facilitator, but that facilitator could come from any part of the community. It could come from an Aboriginal organisation, it could be a legal person, it could be a departmental person. It can happen across the whole continuum of child protection, but it is much more effective if any of these interventions happen early in the family's problem journey. It does allow for some family time within that process, but the person who is leading it does not have to be trained in mediation, and essentially these processes are mediation processes. If any of you have ever gone to a mediation process, you will know that it is a highly skilled piece of work that the person leads. It has a particular kind of process that they follow that ensures there is a power balance within the room, and at the end of the day there is an agreement that is reached. With Aboriginal family–led decision-making models that agreement, again, is not binding—it is not legally binding. It might be agreed, but it is not legally binding. If we go to family group conferencing, the independent facilitator is a trained and skilled

mediator. Each of the parties will be in the room. At the end of the day there will be a signed agreement that is legally binding and it has a review process built-in, and there is a strong evidence base for that piece of work.

For the department to bring in anything beyond what it is doing at the moment is going to require significant resourcing, and we as a community and the state government will need to put a whole lot more resources into this. At the moment there is a real reluctance from the government department to put any additional money into any kind of work that is new and that has a bit of an unlimited kind of dollar amount to it. Often these processes are held too late in the family's journey, and it is inevitable that the children will then be placed in care. Once children are placed in care, particularly for Aboriginal families, they feel so disempowered that they give up, and that is seen as being disinterest. I think we need to be really careful about how we interpret that. I might hand over to Robyn.

**Hon NICK GOIRAN**: Just before you do, when you say they give up, who gives up?

**Ms MURRAY**: The Aboriginal family gives up trying to get their child back, because it is too hard and they have been so disempowered they do not feel they have got any hope left in getting their children back. If it happens too late down the process, that decision has already been made.

**Ms COLLARD**: With the consultation process with families, whether that be the Signs of Safety or the family group conferencing or the Aboriginal family–led decision-making, it is extremely important that whatever process happens the communication is clear for the Aboriginal families involved. I will make some assumptions here. We are dealing with the most vulnerable in our community. The most vulnerable may have a very low education system and knowledge and capacity to actually be in that mediation process, so there could be possibilities where people actually agree to an agreement that they do not fully understand. That is why more than one family member is imperative in any group consultation, because it is the family member who knows the skill level of the person that is involved in the process with their children and is able to clearly communicate the process, what is happening and what they are agreeing to. This is something that we have got to keep in our mind at all times. Whether it be through family situations, whether it be through justice or whether it be through education, people need to understand clearly what they are being involved in and what they are agreeing to. I just want to make that clear for our people.

**Mr TWOMEY**: Can I add one final comment to that, because I feel what has been said there about the timeliness of the engagement and consultation is absolutely critical, and the problem is if we are just talking about the Aboriginal child placement principle, and that is where family-led decision-making happens, it is too late. The family will be saying, "You have not consulted and engaged with us and supported us all the way up to the point where you are taking the child away. Why are you consulting with this now about what would happen?" So certainly that earlier engagement and support is really critical. I just wanted to highlight one other thing about why I think it is particularly important. Western Australia has the highest over-representation rate of First Nation children in child protection in the world. Our rate is 18 to one. You are 18 times more likely to end up in out-of-home care if you are an Aboriginal child. That is twice the national rate, which is the highest rate in the world. The second thing is that one in three of the parents or carers of those children who are being removed were brought up in institutional settings. We had the highest rate of children in the stolen generations, and so one of the biggest problems that we have is that a lot of the Aboriginal children had been removed, their parents and carers were never brought up in the family. They never saw good parenting practice in action, they do not know how to be parents, but we have not redressed that problem. We have not been working with the community to actually provide skills and support help to those families up to that point, so to my mind that is the biggest kind of

challenge and justice that we have got there, and simply coming in with family-led decision-making at the point where it has got to the child being removed is far too late and missing the opportunity to engage with the family earlier.

[2.40 pm]

**Mr WORTHAM**: We would support those comments.

**Ms MURRAY**: The other thing we need to take into account is that we are looking at communities. We are not talking about nuclear families in the way that we might think of families. That is why it is really important that whoever is involved in these groups are people who are acceptable to the Aboriginal families that are in the room. It is not just someone that we can pluck in from anywhere. We need to make sure they are trusted people so that there is confidence that the decision that is being made will include everybody's voice.

**Hon NICK GOIRAN**: My question that arises out of this, and the context of it, is that much of what you have said this afternoon is consistent with what we heard in our first hearing this morning. I certainly hear you loudly and clearly that there is a desire that there be more than one family member consulted. The challenge for us as legislators, dealing with a government bill, is to determine how to put that into practice. My concern is that whatever we put in as legislators, it will lead to a minimalist approach. If we say that there must be more than one, that is simply going to be code for there needs to be two. I guess my question then to you is: is that what you mean? When you say there should be more than one family member consulted, do you actually mean two, or do you mean something different? What you would like, we will then need to translate into a form of words that will be meaningful in practice. I just ask you to comment on that.

**Mr TWOMEY**: My comment would be—this comes back to what Robyn and Trish were saying—that the key thing is to identify who are the critical people in the wider family and support network for that child. Often it is the granny or the aunt is actually the key or primary carer, or there are a couple of key people within the family who kind of hold that trust and decision-making. It is not simply one or two people. There needs to be the work to say, "This is the child's circumstances and network, these are the key support people that love and care for that child and look after and oversee them, and they are the people who need to be involved in the decision." I know that is not easily translated into is it one or is it two. I mean, my take would be that you would want an independent, qualified person or organisation or role who is just doing an assessment of, "This is the child's family circumstance, and these are who the key carers and decision-makers are that need to be involved."

**Hon SIMON O'BRIEN**: Is it not the case, Chris, that you and your associates are all working in the sector, you get it, you are conveying that to us, and we appreciate it. I would have thought that a good caseworker or decision-maker would be doing all this sort of thing anyway, and, indeed, some no doubt are, I would hope. Therefore—this is to get to the question—is this more, do you think, perhaps a cultural or even procedural or general orders statement thing within the culture of those who are involved or the government agencies that employ those people, and that perhaps that is where this needs to be addressed, rather than in the black letter of law, which of course sometimes acts as much as a shackle as an enabler? Would you give us your views on that?

**Mr TWOMEY**: I guess, in a sense, the risk is that you kind of need both to be working together. In fact, there is some interesting research out of Canada that was showing that one of the problems they were having with overrepresentation of First Nation children in their child protection system was that the more experienced caseworkers tended to be in the richer and better resourced areas, and in the areas where there were more First Nation children, they actually had more junior caseworkers who had less experience and less capacity to engage with and understand the family circumstances. I guess the problem or challenge is, yes, you need that kind of cultural training and

experience within the department for child protection and the Department of Communities for those caseworkers, but our challenge is if it is not legislated, or if there is not a hard kind of political push around it, how do we make sure that happens? That is the tricky balancing act.

**Hon JACQUI BOYDELL**: I am a regional member, so in a regional sense, the further you get away from the metro area, where there are less resources, not for want of people on the ground trying, they have less time. The less resources they have, therefore, the less people they engage with, because they are time poor and they have to make some really crucial decisions. So unless it is legislated that they have to take those steps, where you get further away where there is less resource, potentially it may not happen.

**Mr WORTHAM**: Unfortunately, I can corroborate everything you are saying, Jacqui. It is an unfortunate by-product of an under-resourced child protection system.

**Hon JACQUI BOYDELL**: Agreed.

**Mr WORTHAM**: Fundamentally, the solution of the challenge that we are seeing today, whether it is the commonsense of a worker who will give us a response that just says, "Why wouldn't they be doing that anyway?", is a better resourced child protection system. The Department of Communities is resourced to what it is resourced from Treasury. We have been advocating for a very long time that we have a more resourced child protection system that can do this work better, that can outsource to regional areas, that can hire longer term and more well paid staff that can ensure that Aboriginal communities are employed within the right areas to ensure that those relationships are built. That is one of our fundamental challenges in the implementation of sound legislation. I think the kind of elephant in the room of the conversation is that we do have an under-resourced child protection system.

**Mr TWOMEY**: If I could add to that, particularly when it comes to the regions, we know that 55 per cent of the children in the child protection system are Aboriginal. There is an incredible opportunity for building capacity within local and regional Aboriginal organisations to train up local staff to do that. You would then have the people who had the knowledge and the insights into both what was happening within the family and community and the culture and the circumstances of the child. That is a longer term project, but it is something that would make an incredible difference. At the moment we spend a huge amount of resources on flying people in and out and trying to manage things remotely. We are missing the opportunity within the wider care economy to actually build services at a local level that then contribute to local communities. We could do a huge amount in regional development if more of our care services were local and regional.

**Ms MURRAY**: A lot of children are removed from country regions to come to Perth to be taken into care. That is really quite disturbing. Those families, back wherever they might be, are even more disempowered.

**Mr WORTHAM**: If you talk about timing, there is a conflict between wanting to support a stable situation for a child as soon as possible, with making the best decision for the long-term welfare of that child. There is an overburden of time on child protection staff as a result of being under-resourced, so they need to go to expediency more often than efficiency, or effectiveness, rather. We should spend considerably more time making sure that those right people are in the room to help make that decision and that the right care placement is set up for that child and that it is going to be a long-term option for them. We do not have that time at the moment. There is the black letter of the law challenge—I hear your point—about what we choose now, and Chris's point about what is the right person. We cannot write that in legislation, but you need to balance it.

**Hon SIMON O'BRIEN**: Chair, I know you are keen to move on, but this is the right time to ask this next question, if I may, to try to add more value. I think you would all agree that we have some very, very dedicated people employed by the state, and doing in many cases some extraordinarily difficult and sometimes heartbreaking work, and doing it with every ounce of empathy and dedication that they can.

**Hon Simon O'Brien** continues —

[2.50 pm]

There is no question of that. I am not motivated by any sentiments to the contrary but I sometimes wonder—again, this is to contrast the black letter rigidity of law in its prescription—is there a capacity that could be exploited that does draw on more local knowledge, local impact and perhaps more inherited cultural awareness by relying a bit more on non-government organisations to provide some of these sort of convening and facilitating services? Now, I have probably opened a big can of worms, but if there is any brief feedback that you could give us, that might help.

**Mr TWOMEY**: The short feedback is that that is the model in other jurisdictions in Australia. Victoria has been doing that probably for 15 years or more. Queensland has moved to that over recent years. New South Wales has been doing it probably for a decade on and off. They have had a pile of very different changes there. One of the things that that has demonstrated is that it does take time to build that capacity, but having that local capability makes sure that you are making better decisions. There is certainly, as the department says, an issue about it is important to make timely decisions, because it costs us more if we delay in making a decision, but it is more costly if we are making the wrong decision, particularly if that decision is then seeing children end up in care when we could have supported them much cheaper and much more effectively not to be in care and to be supported in the families. There is that balance. I guess the other thing is that we do not want to create a situation where it creates an excuse for decisions being delayed where we are not actually actively working towards those decisions. Certainly, that is that balance. We do not want kids to be in limbo but we do not want to be pushed into making quick decisions that are the wrong ones.

**Ms MURRAY**: If you use these models early in the family's problem life, you will save money in the long run. I think your point of using non-government agencies, including ACCOs, very much in this piece of work is where we need to go. I think most of us have been making those kinds of bleating sounds now for the 25 years that I have been here anyway. I think that is where we would need to go. Holding it within government does not do us any good, because if we are talking about Aboriginal people, they often do not work well with government because of the past history, where government has taken children away, and there are so many more staff and workers out there that are employed in the non-government sector, and we are highly skilled and very effective workers.

**The CHAIR**: I am keen to get your comments about 14(3). In particular, how would you respond to the department's submission that the number of people involved in these processes must be manageable to ensure timely decision-making? Why is it important for family and community to be involved in the development of cultural support plans rather than just Aboriginal and Torres Strait Islander representative organisations? This is specifically in relation to section 14(3).

**Mr TWOMEY**: I feel like, in a way, I just responded to those questions in my previous comments.

**The CHAIR**: Yes, I think we have covered a lot of this ground. I just want to make sure that we have not missed out on anything in relation to particular sections.

**Ms MURRAY**: The main point in that one is the dot point around family and community involved in the development rather than just a representative organisation, because a representative organisation, whilst is might be an Aboriginal organisation, may not be the appropriate Aboriginal

organisation. We know across Western Australia there are many groups of Aboriginal people. You know, the Whadjuk Noongar people cannot represent the Wongi people, for example. Robyn knows more about all of this than me, but that is my understanding.

**Ms COLLARD**: That is right. For each Aboriginal group—as we know there are many languages across not only WA but Australia—it is about having credibility within your local community as to who you can represent. In terms of being here in Whadjuk country, there may be things that we are unable to do for those that are Menang people from the Albany area, and yet we are still all Noongar people as against Yamatji. It is really important to have that local representation of Aboriginal people who truly know the cultural knowledge information, the family networks, the connection to country and information that makes us all unique from each other, and that will come out in terms of who those representatives are. It is important to have that understanding for all.

**Mr WORTHAM**: Can I just echo Robyn's sentiments. Responding to the first point around the time management of the process, it seems that that needs to be secondary to the correctness of the process. That is the department's view due to the fact that, reiterating our previous comments, their staff are likely overburdened with a lot of competing demands. As Simon just said, they are doing some of our community's most difficult work. We acknowledge and celebrate them for their ability to do that, but their limitations are real. To get it right, though, we need to do what you were saying, Robyn, and make sure we engage with the right family and the right community with the right culture. I will close my comments on this question by simply saying that we fully support the recommendations put forward by SNAICC and the Noongar Family Safety and Wellbeing Council around family engagement in this decision-making process and encourage you to make sure you familiarise yourself with that.

**Mr BRUCE-TRUGLIO**: Can I just add one quick point, particularly to the second question. I think the key point to make in this is that the importance of having family and community that have direct knowledge and involvement with the child is that it all comes back to the heart of the question—what is in the best interests of the young person, not in terms of the process or the management of time, but what is best for that young person? That is best answered by those, as Chris identified before, through an independent process or whatever, who have the knowledge of the child and have that kind of connection and know what is the best interests for the child. Therein lies the value of connecting and making sure that family and community are involved in the process rather than an ACCO, who may be well placed but may not have that same knowledge of the child to be able to contribute.

**Mr WORTHAM**: I think it is a really good point, Stefaan; the best interests of the child, not the process. It is profound.

**Mr TWOMEY**: I think that goes to the issue when you are saying an Aboriginal representative organisation. It depends on what are they representing. Part of the issue there comes down very much to why you have family and community involved, and what role an organisation would play comes to the knowledge and experience and insight that they bring to the key issues in the decision. You are very clearly wanting people who know the family and community and cultural circumstances of the individual child and then you are wanting to have people who have knowledge and expertise around Aboriginal children and families and the child protection system. You would hope and expect to get those between having family and community representatives and people who are employed and working in a local Aboriginal organisation to do stuff with families. I guess the intent and the representation is around who do you need to best inform those decisions and to bring the knowledge and the insight that you need for the decision.

**The CHAIR**: Perhaps we could now come to the questions about the Aboriginal child placement principle. Again, I suspect that we have probably canvassed most of these issues, but can I ask you to respond specifically about whether the bill makes progress towards fuller implementation of the Aboriginal child placement principle.

**Ms MURRAY**: Up until now, I think there has been tokenism around adherence to the child placement principle. Some years ago, there was a requirement that before a child was placed in care, the placement plan needed the authority of an Aboriginal organisation; at the time it was Yorganop. My understanding is that that has fallen away and that decisions—I am not quite sure how the decision is actually made to place with a non-Aboriginal family, but certainly as a provider of foster care, 55 per cent of children in our care are Aboriginal and probably only two or three are placed with an Aboriginal foster carer.

You would have to wonder about whether that is the best placement. There certainly are not enough Aboriginal foster carers for the number of Aboriginal children who are in care. Yorganop, as the lead provider, has non-Aboriginal carers. I think this does go some way, but again it comes back to the previous statement that we were making in response to the previous question. It is around it still needs to be the right family, and that matching process is really, really important, that we make sure that the placement is the right placement for that child and that processes are followed accordingly. Children need to remain in their own country as much as possible and with their own extended family. We need to put a lot more resources into that family-finding process to make sure that we have covered every single possibility for family members to come forward to look after children who belong to them. There is a little bit of that happening, but there is not enough. I think if we could resource that a lot more—and, again, it comes back to Chris's earlier point: if we intervene in the problem early enough, we do not get to this point. At the moment, the tertiary end of child protection takes up all the money. There is insufficient funding at the early intervention end and we have got to fund both streams at the same time because at some point the early intervention will take over the tertiary costs and we will end up with a much healthier society and a much healthier group of Aboriginal children and young people.

[3.00 pm]

**Mr WORTHAM**: I am happy to respond as well. Just briefly, agreeing with the panel's comments so far, I guess our point of view is that whilst the bill contains further provisions that align with Aboriginal placement principles as they have been recommended, the requirement to comply with all of them is insufficient, so there is an opportunity to strengthen the adherence to all five elements of the Aboriginal placement principle within the legislation, simply put. With that said, the first principle is about prevention, so I want to reiterate what Tricia was saying in that if the Aboriginal placement principle is adhered to at a point where we are looking less about placement and looking more about prevention, we would have a much more successful protection-of-children process in Western Australia. I think that the application of the Aboriginal child placement principle needs to be broadened into how we prevent children being taken into care, not just placed well in care.

**Ms COLLARD**: In terms of Aboriginal foster carers, there is a reluctance through a lack of trust in terms of the process for becoming a foster carer from the Aboriginal perspective. We have had many discussions on: how do we work with Aboriginal people so that they can become foster carers and encourage them to go through that process? There is a whole lot of resourcing and skilling around that because Aboriginal people have this assumption, "Oh no, I have done something wrong. I will not be able to become a qualified carer." There are all these barriers that are put up. We do need to be proactive in encouraging Aboriginal people to become carers because there are many out

there who are reluctant to go through a very rigid process and who think they are not good enough to be a part of that role.

**Mr TWOMEY**: What Robyn has raised there is a really important point, and I would like to add two things to that. One is that often when we have spoken with Aboriginal families, the story actually is that there have been those informal arrangements in place that have fallen over because they have not been able to access the support. So you will have aunties or grannies who have been caring for the kids, living in poverty, struggling to get by, and it gets to the point at which they cannot cope anymore. Often there is then a resentment when there is talk about the placement principle and them being put into foster care, saying, "Well, you are prepared to pay somebody else, but when the family was looking after the child, we could not get resources."

The second thing that I wanted to report on is that one of our member organisations who is part of the Noongar Family Safety and Wellbeing Council did an exercise six or nine months ago where they ran a training system for a whole pile of Aboriginal families about what is involved in becoming a foster carer. The majority of the families participating in that were families that were already informally caring for kids. When they got to the other end of it and they had actually learnt about the system and what was involved, the majority of them pulled out because they said, "We would rather live in poverty than have the department controlling all of our funds and the decision-making and making minute decisions about the child and telling us what we could or could not do all the way along." I am reporting on that second-hand. I can go and talk to the people I have heard that from, but that seemed a real and concerning story. The concern was around what is the process that sits around the management and decision-making for children in foster care and how can we get in earlier in a more practical and helpful way to support those informal arrangements so that when it is a grandmother or aunty who is already caring for the child, they can go and get the support and advice and the respite, or whatever else they need from the local community organisation, so that we do not need to step in and so the child does not have to end up in a strange family being cared for.

**Ms MURRAY**: Certainly the research that we had done with Curtin University and ECU, where we had 23 per cent of the respondents were Aboriginal families where there was no formal court order, that was their story; that they do not want to have the department involved because as soon as the department gets involved, the children are removed. They would rather struggle on with limited supports than get involved in the department, and that is why we need support for informal grandparent and kinship carers in our system as well.

**Mr TWOMEY**: I guess going back and reflecting, there is also a certain level, because again for a lot of them it is their personal experience or their experience of the family that the previous engagement with the department and with the authorities was around former child removal policies. There is a good deal of community trauma and mistrust there. Some of it may be based around how the system and decision-making works now. Some of it may just be based on those historic stories and the fears out there in the community, so there needs to be a lot of work done to build those relationships and trust if we are going to be able to better support families to be able to care for children rather than have to go into the formal system.

**The CHAIR**: We have just a few more minutes before we have to move on. I think I have heard you give qualified support in general for the direction the bill is going in. Can we now formalise those responses? Overall, to what extent do you think the bill in its current form realises its stated purpose of improving the operation and effectiveness of the act in achieving its objectives?

**Mr WORTHAM**: I am happy to start, if that is all right with the panel. Thank you, Sally, for your reflections. We have stated overall that we are pleased with the amendments to the —

**The CHAIR**: "Qualified support", I think I said.

**Mr WORTHAM**: Yes, qualified support—I will take it. We are supportive of a lot of the positive amendments to the act within the bill, strengthening things like mandatory reporting laws and requirements for cultural support plans and separating leaving-care plans from a child's care plan. Those are very constructive and very positive amendments that will have significant impacts on the lives of children in care and preventing children from being taken into care. However, as we have stated, there are elements of the bill that we believe need to be strengthened. We have significant concerns around the efficacy of leaving-care plans as they are implemented within the department still. As we have said in our testimony today, there are constructive opportunities to strengthen those additional to that. In our submission we have put forward a few constructive recommendations across additional oversights required within the child protection system and in a variety of other areas. Without repeating our submission, I believe this process makes me feel more confident about the direction of the act and I again commend the Western Australian government and the department and this committee for going through the process to ensure that the community is satisfied with where it is at.

It is a daunting fact to think that we only do this every 10 to 14 years in how we improve legislation for our most vulnerable children, so the work that you are doing now and our testimony and the submissions we put forward are serious. I know you understand that, but it is an opportunity to do something significant for Western Australian children, and we look forward to seeing the second revision of the bill and the changes to the act.

[3.10 pm]

**Ms MURRAY**: I think my comment would be ditto to what Ross said, but I think the devil is in the detail, and it is how the policy is then taken and enacted in practice. What we find is that there is often not consistency in the implementation of policy across this area. Whilst it is good to have every t crossed and every i dotted, there is still always that wriggle room when it becomes policy and practice, so I just think how we can tighten it without constraining too much is probably the challenge that I would be looking for. But, yes, certainly qualified support.

**Mr TWOMEY**: Yes, I would say qualified support. I guess there are kind of three key points I would probably make. One is that while the proposed changes are definitely a step improvement, I think there was expectation and hope that we would be progressing further at this point, and concern if we are waiting another 15 years to see the next changes, that we potentially may have missed an opportunity there. I guess I would also reiterate what I said at the start around the objectives of the act and the gap between where the detail sits. At the moment, the detail and the focus of the act is—you know, a lot of it needs to be around the statutory child protection system and the rules that govern it, and it is about risk management and making some very difficult decisions, but the challenge still is around what we do earlier in the system. That sort of stuff is not necessarily easily captured or directed by legislation, but it needs to have some sort of impetus there. It certainly comes down to the issues around implementation and practice, but then also comes down to resources and culture as well. Certainly we would like to see the act much stronger in how it requires or obliges the state to be trying to do more to support families before they are intervening, to be more inclusive in the decision-making process, and for that to very much be building some of that community capacity around support and family engagement, hoping that that would then drive the opportunity to be engaging and supporting families earlier and sooner and more effectively, and, similarly, to then be supporting children and young people at the other end of the system. We know that the children who come through our child protection system have the worst life outcomes of any group when it comes to their health, their mental health, suicide rates, their likelihood of teen

pregnancy or ending up in prison. Those outcomes are really shocking. Part of that is very much about, yes, they have had very difficult lives, they have had very traumatic events when they have been very young that are obviously going to contribute to that, but I guess the point is that we really need to be able to get back to those objectives about prevention, early intervention and better supporting families and communities, and more of actually enabling young people who have been in difficult circumstances to actually achieve their aspirations to excel and lead really good lives. I guess there is the challenge. There is only so much of that that you can do in legislation, but certainly the legislation has got to put some real pushers or triggers there that require the state, the minister, the department to actually be measuring and reporting what they are doing to shift the dial, what they are doing to make a difference, what they are doing to shift the overrepresentation rate, the number of kids going into care, and the outcomes for those who are leaving care.

**Mr BRUCE-TRUGLIO**: Just to quickly add to that, and ditto what Chris said, I think this process—the legislative review and the legislation itself—the critical impact of that is that it gives a mandate and enforcement powers to make sure that these processes ongoing are actually implemented. Whilst these are only done every 10 to 14 years, as Ross said, we cannot just leave it at this review. We need to take a multipronged approach and continue in the next few years on addressing the issues that we have talked about in detail today across the different policy frameworks and regulations and resourcing that sit underneath this bill that allow it to be implemented. We need to be making sure that the current review to the rapid response framework is in line to Aboriginal child placement principles and proper leaving care and care planning.

We need to be providing more resources into areas where there are clearly shortages and gaps in regional locations, and building up local capacity to develop community frameworks around, I guess, a whole-of-community approach to supporting these young people. It is not only the responsibility of a department rep flying down from metropolitan Perth, but it is the community that comes together, and that needs to be resourced. These are all things that we do not have to do within this legislative review. We need to use the legislation and the mandate it gives us and the evidence based on the issues we have talked about to make these changes ongoing, so that by the time we get to the next legislative review, we have already got—the chicken and the egg, as you said—that groundwork of grassroots resourcing to meet these issues so that the legislative review becomes less critical in 10 years' time.

**Mr WORTHAM**: Can I add one last remark?

**The CHAIR**: I was just going to ask Ms Collard whether she had anything to add.

**Mr WORTHAM**: Of course, yes.

**The CHAIR**: Because we have heard from everybody else about the general thrust of the bill.

**Ms COLLARD**: Look, I understand that there have been some queries from the Aboriginal community around the bill, thinking that it was not strong enough in particular areas. It is about taking some steps at a time. It is also really important, and I reiterate what has been said, about the community focus, because building the skill within the community and extended regions is what will make this work. It is pointless about the fly in, fly out model. We have been doing it for years and years, not only in this sector, but in other sectors, and we find that the local capacity building works far better because the knowledge stays in the region, and that is where people will connect to country. So it is important to build that.

**The CHAIR**: Thank you. That is a very important point. Sorry, Mr Wortham; I did not mean to cut you off.

**Mr WORTHAM**: No, not at all. Thank you for ensuring Robyn made that statement. I think summarising in my mind, hearing the rest of the panel speak, and the intentions and the nods from the committee across the way, we know that society really should be judged by how we treat our most vulnerable. I am sure you have heard that before. That is why you have joined the roles that you have joined in life. Legislation like this sits at the top of leadership and how we do that work well. To the point that has been made about community engagement and listening to families and intervening early—I will not repeat the full testimony—it is about being bold and being a bit courageous in that leadership. This point of the journey about how we treat our most vulnerable is critical. I just compel and hope the committee hears this testimony and reviews our submissions with that in light. Fourteen years is a very long time for us to make change. The number of children who will be taken into care and how we support them is a daunting number. The best way we can improve their lives we need to endeavour to achieve, so I commend you guys on that endeavour.

**The CHAIR**: Thank you. I am just going to ask you one further, final, very quick question—you have referred to it, Mr Wortham, already—about the mandatory reporting provisions of the bill. I am just wondering whether we could just very quickly ask you whether there is anything you want to add in relation to those proposed amendments.

**Mr WORTHAM**: We are very pleased to see the addition of the religious components of community within the amendments to the bill, and support the changes as they have been proposed.

**The CHAIR**: And WACOSS?

**Mr TWOMEY**: Yes, I would agree with my colleague on that.

**The CHAIR**: Wanslea, have you got a view on that?

**Ms COLLARD**: I will agree.

**Hon NICK GOIRAN**: Are the witnesses aware that the Royal Commission into Institutional Responses to Child Sexual Abuse recommended five groups or five classes of people be included, one of whom is people in religious ministry?

**Mr WORTHAM**: Yes.

**Hon NICK GOIRAN**: For the purposes of Hansard, I am getting a lot of nods from the witnesses. Do you see any good reason why the other four groups should not also be included at this time?

[3.20 pm]

**Mr TWOMEY**: There is not a short, simple answer to that. I would put this in a wider context. Coming back to where this legislation sits in its social and political context, our child protection system in Australia and the similar ones in other countries like the US, the UK and Canada and so on have all been driven over the years by a crisis management and risk management sort of model that has been focusing on the worst possible outcomes; hence, it has been driven by things like royal commissions and inquiries into child deaths. Certainly we focus around how we manage those things and mandatory reporting is part of that. Mandatory reporting in a way is a substitute for the moral responsibility that people should have if they know someone is in bad circumstances to do something to rectify that, to support the child and to work out what is best. I suppose stepping back from that in context, if you compare our child protection systems to the family support systems that you see in, for instance, Scandinavian countries, they have much lower levels of child harm, child death and child abuse because the focus of their system is not around the crisis and statutory end in child removal, it is a fundamental universal support for families and children. It goes down to early childhood education, support given for families, more parental leave and more advice and parental support systems. It is a fundamentally different system. Certainly mandatory reporting is important,

but it is also tricky, because one of the problems often is: how does that actually operate when you are in an advisory capacity where you are trying to help and assist a child, where you are trying to encourage them to deal with issues, and it suddenly puts you in an obligation to be reporting on things, which can cut down that process?

**Hon SIMON O'BRIEN**: Doesn't that apply to priests that are giving counsel to vulnerable people that come to them for advice because they feel there is nowhere else they can go to?

**Mr TWOMEY**: It depends on who you are counselling. If you are counselling someone who is confessing to you that they have abused a child, certainly they themselves may have been vulnerable in the past and they may be part of a cycle of abuse—the abused becoming the abuser—but if children are being harmed, if there is a risk more children will be harmed, if you are not in a position to actually be actively intervening and stopping that harm, then for anyone who is in those circumstances, they have a moral obligation, I feel, to actually be intervening to the best of their capacity to stop and prevent and rectify that abuse. I would think mandatory reporting for anyone who is in the circumstances of helping, supporting and advising children is really important as a tool and there should be obligations on people to do stuff, but we need to be careful about how we make those systems work so that the outcome that we are getting is that we are actually rectifying the abuse rather than either stopping children from reporting or putting people in impossible positions where they are struggling to actually deliver the outcome they are meant to. I realise that is not quite a clear answer —

**Hon JACQUI BOYDELL**: Does that mean that you do support the other four groups being included as mandatory reporters?

**Mr WORTHAM**: Can you remind me of the other four groups?

**Hon NICK GOIRAN**: One is out-of-home care workers. Every other state, with the exception of Western Australia, has them as mandatory reporters. It was recommended by the royal commission and it is not included in this bill.

**The CHAIR**: Have you got the list there, Nick?

**Hon NICK GOIRAN**: The second group is youth justice workers, which every jurisdiction, with the exception of Queensland, Tasmania and Western Australia, has included; early childhood workers, where everybody except Western Australia has it; and then we have a group called registered psychologists and school counsellors. It gets slightly more complicated there because in some states they just deal with psychologists, some deal with registered psychologists and some deal with the school counsellors. But the only jurisdiction that does nothing with respect to all five groups is Western Australia. In this particular bill, the one group that gets brought in or captured is people in religious ministry.

**Ms MURRAY**: That relates directly to the royal commission.

**Hon NICK GOIRAN**: All five relate directly to the royal commission.

**Ms MURRAY**: Is that the additional one?

**The CHAIR**: It is recommendation 7.3.

**Ms MURRAY**: Yes. As an organisation that is involved in a number of those areas, we have a policy that we will report. That is a way of treating it, but obviously that does not mean every organisation that is in the business will have those kinds of responses. I think having that group of people become reporters is a good move, because they are people who know the young people who will be disclosing to them.

**Hon NICK GOIRAN**: When you say "that group" who are you speaking of?

**Ms MURRAY**: The whole five. I am opposed to mandatory reporting as a general principle, because I think that then just diverts resources that could be better spent elsewhere into investigating claims that may not be able to substantiated. But if you are working with children and young people and they disclose to you that they have been abused—any kind of abuse, whether it is sexual abuse or any other abuse—you have a responsibility as a caring person and as a moral person to report that, and that is certainly how our organisation works. We have a process and a pathway for staff to alert someone and then to take it into the department as a referral. I just think that that is a no-brainer.

**Mr WORTHAM**: Nick, I want to first of all thank you for the prompt. We did not have a prepared response to that, but in quickly conferring with my colleague, based on our knowledge and position, we fully support the recommendations of the royal commission; therefore, we would want to see the additional groups mentioned within the royal commission's recommendations within legislation. I am not clear on why they were not initially put in the amendments to this act.

**Hon NICK GOIRAN**: If it is any comfort, I do not think anybody is clear on that, but we do have the department coming to go see us soon. Maybe they might shed some light on that.

**Mr WORTHAM**: We would support them being added.

**Mr TWOMEY**: We would support that as well. I guess the point I was trying to make is that mandatory reporting is one tool, but what is sitting behind that in terms of the culture and the systems and the support is what actually becomes more critical.

**Ms MURRAY**: There was a very major piece of work done a few years ago that Maria Harries led that gives a very good basis for not having broad-range mandatory reporting. I think that was a very well done piece of work that puts these kinds of issues into a good context.

**Mr WORTHAM**: There is a lot of value in understanding cumulative harm for children. If we do not have a sense of not widespread mandatory reporting, but reporting from a variety of avenues where children interface with, whether that is justice officers or school professionals or further afield as put forward by the royal commission, we do not capture that cumulative harm—the small concerns that build up to a much bigger picture of a child's life. By adding those, the context is not just that you might capture one thing more, but you might get a better understanding for some serious deep-seated concerns that only eke out every once in a while. There is a lot of value in doing that. Again, Nick, I appreciate you prompting that.

**The CHAIR**: In the absence of any other questions from my colleagues, we might call a halt there. Thank you very much for coming in today. I will just now formally close the hearing. We can end the broadcast now. A transcript of this hearing will be forwarded to you for correction. If you believe that any corrections should be made because of typographical or transcription errors, please indicate these corrections on the transcript. Errors of fact or substance must be corrected in a formal letter to the committee. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee's consideration when you return your corrected transcript of evidence. Thank you for coming in. I am sorry about the overrun of time but we have managed to get through all our questions.

**Hearing concluded at 3.29 pm**

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