C O R R E C T E D V E R S I O N

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into the Children, Youth and Families Amendment (Restrictions on the Making of Protection Orders) Bill 2015

Melbourne — 19 June 2015

Members

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Ms Kirsty McIntyre, general counsel and chief legal officer, and

Ms Gwendolyn Ellemor, manager, service development and design, child protection unit, Department of Health and Human Services.

The CHAIR — I declare open this public hearing of the Legislative Council's Standing Committee on Legal and Social Issues. This hearing is in relation to the inquiry into the children, youth and families amendment bill 2015. I welcome from the Department of Health and Human Services Ms Beth Allen, assistant director, child protection; Ms Kirsty McIntyre, general counsel and chief legal officer; and Ms Gwendolyn Ellemor, manager, service development and design, child protection unit. Thank you very much for making yourselves available and making yourselves available at relatively short notice.

I caution that all evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Therefore the information you give today is protected by law. However, any comment repeated outside this hearing may not be so protected. All evidence is being recorded, and you will be provided with proof versions of the transcript within the next couple of days.

We have allowed an hour for this session to ensure there is sufficient time for questions. The committee asks that any opening comments be kept to about 5 or 10 minutes. Finally, I remind you that this inquiry is to obtain evidence in relation to the children, youth and families amendment bill 2015 that is currently before the Parliament.

Thank you again for making yourselves available. We look forward to hearing your presentation and then there will be questions.

Ms ALLEN — Thank you for the opportunity to talk to the committee. With the approval of the chair, I would like to begin by giving a brief outline of the amendments in the Children, Youth and Families Amendment (Restrictions on the Making of Protection Orders) Bill 2015. The bill under consideration by the committee concerns an amendment to section 276 of the Children, Youth and Families Act passed in the Parliament in September 2014. The bill seeks to retain section 276 of the Children, Youth and Families Act, which principally concerns vulnerable children and families and those children in need of protection. Specifically the act provides for community services to support children and families, provides for the protection of children and continues the Children's Court as a specialist court dealing with matters concerning children.

Significant elements of the act provide that the court, the secretary and community services must have regard to the best interest principles when making decisions in relation to children or taking any action. The act requires that the best interests of the child must always be paramount, and in determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, protect their rights and promote their development must always be considered. There are also numerous additional matters set out that must be considered where relevant to the decision or action. The secretary and community services are also required to consider several decision-making principles, with additional decision-making principles for Aboriginal children.

While the Children, Youth and Families Act provides the legislative framework to protect children, it is important to understand the context in which the legislative framework operates. It is of potential interest to the committee to know the context within which the legislation operates. Specifically, in 2013–14 the child protection program received just over 82 000 reports concerning Victorian children where professionals or members of the community felt children were subject to abuse or neglect. Of those 82 000 reports, approximately 25 per cent are directly investigated, meaning that child protection actually goes to the home generally and interviews the parents and the child, where that is possible. The remaining 75 per cent often receive further inquiries, where the child protection program will ring relevant professionals to garner further information, and they may refer the child and family for further services, specifically to family services or parenting advisory services.

Of all those reports that are directly investigated, approximately 60 per cent are substantiated, so the concerns regarding abuse or neglect are found to be evident in the investigation. Approximately 7 per cent of all reports — of the 82 000 reports — are taken to the Children's Court with the issuing of a protection application. My point here is that only 7 per cent of those 82 000 — so just over 5000 — are applications made to the Children's Court, being a very, very small number in the overall scheme of reports. Of those children who are subject to protection applications, an even smaller number are placed in out-of-home care and removed from their parents' care and custody. In Victoria there are approximately 7000 children in out-of-home care, by which I mean placed either with kinship, foster, residential or permanent care, and on 30 June 2014 there were just over 9000 children on interim, protection or permanent care orders in the state of Victoria.

You would be aware that the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act, which was passed in September 2014, included amendments to promote permanency of care for children. The amendment act amended section 276 of the Children, Youth and Families Act concerning the restrictions of the making of protection orders. These parts of the amendment act concerning permanency changes and section 276 are to commence on 1 March 2016, if not proclaimed earlier. So it is important to note that they are not yet in force.

Currently section 276(1)(b) of the Children, Youth and Families Act provides that the court must not make a protection order unless it is satisfied that all reasonable steps have been taken by the secretary to provide the services necessary in the best interests of the child. Section 276(2)(b) includes a similar restriction on the making of an order that prevents the removal of a child from parental care or custody unless such reasonable steps have also been undertaken. The amendment act passed in September 2014, as it stands currently, will amend section 276 (1)(b) to provide that the court must not make a protection order unless it is satisfied that the child cannot be sufficiently protected without a protection order.

Going to the bill that is currently before Parliament, the Children, Youth and Families Amendment (Restrictions on the Making of Protection Orders) Bill, this bill proposes to amend the 2014 amendment act. It will have the effect, once the amendment act commences on 1 March 2016, of retaining the current section 276 restriction on the making of protection orders — that is, that the court will continue to be prohibited from making a protection order unless it is satisfied that all reasonable steps have been taken by the secretary to provide the services necessary in the best interests of the child.

As the amendment act places time lines on achieving reunification, this bill, if passed, will ensure that adequate services are provided and that the court has oversight of the service provision when considering the making of a protection order for a child. Because of changes to terminology elsewhere in the act arising from the permanent care amendment act in 2014, the bill also makes a minor technical change to section 276 to ensure consistency of language by replacing the term 'custody' with the term 'care'.

On the next page of the slide presentation we have attempted to set out the current state. In the far left-hand column section 276 of the Children, Youth and Families Act, as is the current provision, is set out for your review. The middle column outlines what the permanent care and other matters act of 2014 would have the effect of retaining and substituting if those amendments were to come into place on 1 March 2016, and finally, in the right-hand column, is what this bill before the Parliament seeks to do in terms of reinstating or retaining the current provisions that are outlined in section 276 of the current Children, Youth and Families Act 2005.

Finally, on the last page, to support your deliberations, there is a marked-up copy of what both section 17 of the permanent care and other matters act will have the effect of when implemented in March and then what the proposed bill seeks to do in terms of the restrictions on the making of protection orders bill 2015.

The CHAIR — Thank you, Ms Allen, for that concise presentation and some of the historical background to the bill that is currently before the house. Just in that context, can I ask you please to explain what section 17 of the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014 originally sought to achieve, and why was this change proposed in 2014?

Ms ALLEN — The change in relation to the restriction on the making of the protection orders sought to amend section 276 and did so in substituting those provisions to require that the court was to be satisfied that the child could not be sufficiently protected without a protection order.

The CHAIR — I suppose I am seeking: what was the policy rationale for that? Why was this change proposed in the first place in 2014?

Ms ALLEN — I am not at liberty to talk about the policy that went to the specific reforms but can only address the committee in relation to the specific amendments that are being considered in relation to this particular bill.

Ms SPRINGLE — Thank you. Also referring to the 2014 amendments, can you explain a little bit more about how permanency is affected simply by putting a time limit on how quickly permanency can be achieved?

Ms ALLEN — The bill before the Parliament is not related to the two-year time line. The bill before the Parliament seeks to retain the Children's Court oversight of the making of protection orders and the provision of services provided to children and families. The time frame in relation to reunification is set out elsewhere in the amendment act, and the bill that is under consideration does not affect those sections.

Ms SPRINGLE — I do understand that, but I suppose what I am getting at is that there has been a lot of feedback from the sector that there was no consultation around the initial amendments, so I am trying to understand a little bit more about how time limits per se — because I do not think you can look at things in isolation — are a means to an end, I suppose.

Ms ALLEN — Given that the specific question is not connected to the bill that is before the Parliament at the moment in relation to 276, I respectfully request clarification from the chair of the committee as to whether or not elements beyond 276 contained in the permanent care amendment act from 2014 are in scope for this review.

The CHAIR — Thank you, Ms Allen. Yes, they are. What has given rise to this inquiry is clearly the bill that is before the house at the moment, but of course that cannot be looked at in isolation of the legislative change that took place last year or indeed of the 2005 act, so I request that you answer the question.

Ms ALLEN — Thank you. To go to the question, the permanent care amendment act of 2014 will have the effect of introducing a two-year time line for achieving reunification of children to their families when the act commences in March 2016. Because of the introduction of the two-year time frame, the relationship of those amendments with section 276 is important in that it allows the court to retain oversight of the services provided to children and families in the pursuit of reunification.

Ms PATTEN — Thank you, Ms Allen. In relation to this, I am interested if you can give me a breakdown of the children currently in out-of-home care. When you say kinship, foster, residential and permanent, can you give me some idea of what percentage are in kinship compared to permanent care?

Ms ALLEN — I would need to take that on notice, other than to say in very broad terms that the vast majority of children who are placed in out-of-home care are placed in kinship care.

It is approximately 60 per cent. I can provide detailed data if that is required, but approximately 60 per cent are placed in kinship care, with relatives or close family friends, excluding children placed on permanent care orders. The vast remaining number of those children are then placed in foster care, with very, very small numbers placed in residential care at any point in time.

The CHAIR — Do you require further information?

Ms PATTEN — No, that is fine, thank you.

Ms SYMES — I am just interested in the review that the minister announced in relation to the permanency provisions, that I understand will be within six months of the March 2016 date. I am just after some information on what you think that review will cover.

Ms ALLEN — It is correct that the minister has announced a review six months following the introduction of the permanent care amendment act and is very keen to understand the implications and impact of implementation, including any unintended consequences, of the act. While we have not yet scoped the detail of that review, what is very likely to be in the scope is a review of data around the types of applications being brought, the outcomes for children and whether or not the objectives of the amendments have been met, à la that permanency outcomes for children have been improved.

Mrs PEULICH — I have a couple of questions if I may. If you could perhaps very briefly outline the differences between the different types of care. Obviously kinship is self-evident but foster, residential and permanent care and the types of family structures and the contexts in which those children are placed. Secondly, by replacing section 17 in the 2014 act with a new 17, what will occur instead and what are the implications for children as a result of that change?

Ms ALLEN — Going to the first part of your question in terms of the description of the types of care, kinship care, as you indicated, is self-evident and means that the child, when a court makes a decision that the

child is to be removed from parental care, is placed with extended family and/or significant persons known to the family. We generally refer to that as a kith or kin placement. The amendment act in 2014 makes that explicitly the preferred choice of placement for children, which has been previously in place through practice.

Foster carers are specially recruited, selected and trained members of the community not formerly known to the child, who have been recruited to care for unknown children for certain periods of time. Typically foster carers are approved to care for perhaps certain ages of children or for certain lengths of time, and they could be caring for children for anywhere from overnight up to several years at a time or indeed until they attain 18 years of age. Permanent care in the — —

Mrs PEULICH — You will deal with the family structure across those — the family contexts?

Ms ALLEN — The types of families — —

Mrs PEULICH — The family structure of foster carers.

Ms ALLEN — of foster carers? Foster carers come in all shapes and forms. They can be two-parent families, they can be single parents, they can be married or unmarried. Gender is not a barrier, nor is age. We recruit foster carers from all socio-economic groups and across all spectrums of life.

Mrs PEULICH — But the interests of the child are paramount in the placement?

Ms ALLEN — That is right. Careful matching goes into ensuring that the child's needs in terms of what they require from their care arrangement are factored in in terms of who they are ultimately placed with. Potentially, as an example, we may not place a newborn infant with an elderly foster carer who may not have the energy to care for such a child. That is one such example.

You asked also about residential care. Residential care is provided in literally homes in the community but staffed with residential carers who are recruited for the purposes of professional employment. Residential carers do not require a formal qualification at the current time, but many will have children, youth and family certificates or diplomas while others may not. Typically, residential care would consist of three or four children within a home in the community. It is provided primarily for adolescent children.

In terms of permanent care, permanent care is generally supported by permanent care orders in which the court will make an order for the child to be placed with specifically nominated, approved and screened carers in a way that they care for the child until the child reaches 18 and/or beyond, but the order lasts until the child is 18, and the permanent carers become the child's parents to the exclusion of all others. When a permanent care order is made the department closes the case, so the secretary no longer has a role in that child's life.

Mrs PEULICH — My second question?

Ms ALLEN — The second question I think was the implications of section 17 — —

Mrs PEULICH — The implications for children, yes.

Ms ALLEN — For children. The retention of section 276 will ensure that families receive the necessary supports before a final order is made. Retaining the court's oversight of service provision is considered necessary given the new time lines prescribed in the amendment act for achieving reunification. Section 276 will allow the Children's Court to make an interim accommodation order rather than a protection order if it is not satisfied that all reasonable steps have been taken by the secretary to provide services in the best interests of the child. However, that is a matter for the Children's Court, and in doing so they must consider that that is in the child's best interest. Keeping a child on an interim accommodation order rather than placing them on a final order must be carefully considered by the court in terms of the child's best interests. In cases where the secretary disagrees with the court's decision, it is open to the secretary to appeal that decision.

The CHAIR — The department has completed a stability, planning and permanent care project. What did that project say about the role of the courts in contributing to permanency decisions regarding children in care?

Ms ALLEN — That report is currently in draft, and I would need to take the question on notice.

The CHAIR — Could you please provide the committee with a copy of that report?

Ms ALLEN — The report is in draft, and I would need to take that question on notice.

The CHAIR — I appreciate that you will take that on notice, and the committee would appreciate a copy of that report.

Ms ALLEN — Thank you.

Ms SPRINGLE — Coming back to the issue of permanency, which appears to be the main objective of the 2014 amendments, how does a time limit ensure permanency, particularly when we know that even the best placements can break down, and what evidence is that proposed vehicle to permanency based on?

Ms ALLEN — The permanent care amendment act places a greater emphasis on the importance of permanency for children, noting that one of the critical findings of the Protecting Victoria's Vulnerable Children Inquiry in 2012 was that it took on average five years from the time a child was first reported to child protection to achieve a permanent care order for that child where it was determined they were not able to return home.

The inquiry noted that the legislative reforms that were undertaken back in 2005 and now are embedded in the Children, Youth and Families Act that referred to the desirability of pursuing stability for children had been largely unsuccessful in terms of achieving greater permanency for children in terms of those children unable to return home.

Essentially what we know is that children who are subject to drift in their care arrangements, and particularly those who have suffered trauma as a result of abuse or neglect, are adversely impacted throughout their childhood and later in life as a result of instability and uncertainty about their care arrangements. That is acknowledged in the best interest principles contained in the Children, Youth and Families Act that acknowledge that delays in decision-making can be harmful for children.

The amendment act acknowledges that it is very important that enduring care arrangements for vulnerable children are settled as quickly as possible and that ideally permanency, wherever possible, is provided by the child's own parents. Family preservation is noted in the amendment act to be given the utmost priority. Where it cannot be achieved and we are unable to reunify a child with their parents within a reasonable time frame, it is critical for the child's developmental needs that an enduring alternate permanent care arrangement is made for the child to take them into adulthood while maintaining the child's relationship and connection with their birth family and culture.

The amendment act establishes a reasonable time frame to be 12 months or, where based on evidence that progress is being made by parents to seek and pursue reunification within that first 12 months, that a further 12-month period up to a total of two years be provided to achieve reunification.

The permanent care amendment act allows that in exceptional circumstances even after that two-year period the secretary may pursue a permanency objective of family reunification, so may in fact reunify the child with their parents even though a child may have been in out-of-home care for longer than two years. The court is required to consider a disposition report, and the secretary is required to include the case plan in the disposition report. Under any circumstances where the secretary is seeking to change the permanency objective for a child, the court will be informed and an application seeking the most appropriate, relevant and aligned order to the case plan will be sought.

Ms SPRINGLE — Further to that, you have mentioned the report from the Protecting Victoria's Vulnerable Children Inquiry and the 2014 amendments to adopt some of those recommendations but not all of them, so I am curious to know how it came about that you took some recommendations and did not take them all.

Ms ALLEN — The recommendations arising from the Cummins inquiry were critically examined over the course of the following years. They were further informed and considered in light of the permanent care and stability project that was undertaken in 2012–13. One considered the inquiry recommendations as a starting point and then consulted far more broadly with a range of stakeholders — including permanent carers, foster carers, academics, community service organisations and legal stakeholders — about the merits of those particular recommendations.

As you rightly point out, some of those recommendations were implemented as part of the amendment act while others were slightly modified, one such example being the recommendations in relation to the inquiry recommending that the suite of Children's Court orders be simplified. That has been achieved through the permanency amendments; however, the ultimate suite of orders varies slightly to that recommended by the inquiry.

Ms PATTEN — You mention that you are looking at progress being made by parents within that 12-month or in some cases 24-month period. Who makes the decision about progress? Is it the department or is it the courts that decide on that?

Ms ALLEN — The court will need to determine that. At the end of the 12-month period of a child being in out-of-home care the court will be required to consider the progress that has been made. The court will be assisted in its inquiries by disposition reports provided by the department about the progress being made, but the court is ultimately at liberty to make inquiries of any persons or parties about the services that have been provided and will seek evidence to that effect to determine whether progress has been made and whether it is appropriate to allow a further 12 months to pursue reunification, therefore making a further reunification order.

Ms PATTEN — Some of the concerns people have raised with me about this are about the lack of services out there for parents, particularly around alcohol and drug issues. Do you think this concern is warranted? We are hoping that parents make progress, but we do not actually have the services to assist them in that progress. Is this a concern the department would also have?

Ms ALLEN — There are many funded services that the department funds to assist families in terms of addressing concerns that would bring them to the attention of child protection, including drug and alcohol services and parenting services.

Ms PATTEN — So the waiting times would not concern you?

Ms ALLEN — The current wait times may vary across services. If in fact a waiting list meant that families could not receive the services that were required, the court could utilise section 276 and it would be prohibited from making a final order because of the lack of services. It would be unusual, however, that a service could not be provided within 12 months or 24 months.

The CHAIR — Do you have a database of current wait times for access to services that you can provide to the committee?

Ms ALLEN — No, the department does not hold a database that measures wait times.

Ms SYMES — Just following on from what Ms Patten has asked, I am interested in a clearer understanding of the effect of the proposed amendment, particularly on vulnerable children and families, and in that answer if could you provide examples of how the court might actually use the proposed new section 276.

Ms ALLEN — In terms of the impact of the bill on vulnerable children and families, the retention of section 276 will ensure that all reasonable steps have been taken by the secretary to provide the services necessary in the best interests of the child before the court can make a protection application. In addition it will ensure that before an order has the effect of removing a child from their parents' care that the secretary has taken all reasonable steps to provide the services necessary to enable the child to remain in their parents' care. The effect of the bill therefore on vulnerable children would be that the court would be restricted from making a protection order or a protection order removing a child from parental care without being satisfied that those reasonable steps had been taken.

Ms SYMES — Are there practical examples? Ms Patten referred to drug and alcohol services. I understand there are additional funds in the recent budget that might allow us to look at that issue holistically.

Ms ALLEN — An example might be that if the court determined that the parents required mental health treatment services or drug and alcohol services and those services had not been made available, perhaps for 12 months, at the return to the court at the 12-month mark the court may determine that it is not going to make a protection order and it would place the child — assuming the child needed to stay in home care — on an interim accommodation order in that circumstance and it would be prohibited from making a final order.

Mrs PEULICH — I have a couple of questions if I may. On a point of clarification, you said that when children are placed into permanent care it is to the exclusion of all others. Does that mean total exclusion?

Ms ALLEN — Parental responsibility is provided to the permanent carers to the exclusion of all others. I should add that in the permanent care amendment act there is a new condition being added to all permanent care orders that requires that the permanent carer must maintain the child's relationship with their birth family, their connections to their birth family, their identity and culture unless it is not deemed to be in the child's best interests. So it is correct that the permanent care order gives parental responsibility to the new permanent carers to the exclusion of all others, but it does not allow for the child's identity or their family connections to be eroded over time, unless that was determined to be in the child's best interest.

Mrs PEULICH — And the decision would be made by the court?

Ms ALLEN — That is right. The court in very rare circumstances may state on a permanent care order that the child is to have no contact with their parents. That is extremely rare and is only used in the most severe cases where a parent may pose a severely unacceptable risk to a child.

Mrs PEULICH — My other question is: how many of the children who are removed from their parents are returned within 6, 12, 18 or 24 months time frames and how many are returned after two years?

Ms ELLEMOR — The majority of children are returned within six months and the vast majority within two years now. That has been true for quite a long period of time. We do not see any reason why that would change. It might improve as a result of the focused efforts at reunification.

The CHAIR — Are you able to provide perhaps particular numbers on that to the committee?

Ms ELLEMOR — I would have to take that question on notice. I am not sure how much of that is public, so I will take the question on notice.

The CHAIR — Information can also be provided to the committee on a confidential basis.

Mrs PEULICH — Lastly, of those 7000 children in out-of-home care, how many of them may be subjected to abuse in the settings in which they have been placed?

Ms ALLEN — The number — how many? That would be something that we would need to take on notice in terms of a number, noting that the department has a very, very clear regime for responding to allegations of abuse or neglect with children in terms of the guidelines on how that is to be responded to.

Mrs PEULICH — In providing the whole number, are you able to provide that, breaking it down to the various contexts — kinship, foster, residential and permanent care? It just goes to heart of the question of how effective the state's and the court's decision-making is.

Ms ALLEN — We can take the question on notice.

Ms ELLEMOR — I think it is in the annual report, the information you are seeking.

Mrs PEULICH — Then it will be easy to retrieve it.

Ms ELLEMOR — Yes, that is exactly right.

The CHAIR — Up-to-date information would be useful too. Ms Allen, just before I go to my question, I just want to clarify for me your evidence. In a previous question to you I asked about the department's stability, planning and permanent care project. You said that report is still in draft. In response to a question from Ms Springle, and correct me if I am wrong, you said that the Cummins inquiry response was informed by the department's stability, planning and permanent care project in 2012-13. Are they two separate projects, because if they are the same project, surely that report must have been concluded to inform the Cummins report, which would mean you are able to make — —

Ms ALLEN — Sorry. Following the Cummins inquiry, one of the recommendations arising from the inquiry was that the department undertake further research and examine the reasons for why children were not being placed in permanent care for up to five years, on average. As a result, government funded a 12-month

action research following the tabling of the Cummins report. It was that action research project, the stability and permanent care project, that considered the recommendations and findings arising from the Cummins report and further informed the legislation that was passed in September of last year. It occurred following the Cummins report.

The CHAIR — Yes, and informed the September 2014 legislation.

Ms ALLEN — That is correct.

The CHAIR — So how can it still be in draft form if it informed legislation that passed the Parliament nearly a year ago?

Ms ALLEN — The consultation and the work that contributed to that project informed the legislation without the report being finalised.

The CHAIR — When do you anticipate the report will be finalised?

Ms ALLEN — I would need to take that on notice.

The CHAIR — Okay. Going back to some of the questioning from other members, in response to Ms Symes you cited an example of how the court can order an interim accommodation order if services, for example, have not been provided with a 12-month period. Does that example not go to the heart of issue I think members have been asking about today? Really, this is about a resourcing issue. If services are available readily and in a speedy fashion, then resolution of these issues can be achieved within a reasonable period. Is that not the fundamental issue before us today, at the heart of the question?

Ms SYMES — The matter before us is the reference that we have, which is the — —

Mrs PEULICH — On a point of order, Chair, I think that there is no scope for interjections on questions being answered. It is inappropriate.

The CHAIR — Ms Allen, can you answer the question?

Ms ALLEN — Could you repeat the question, please?

The CHAIR — The timely resolution to issues is dependent on the resources available, and the timely provision of resources will lead to expeditious resolution of these issues. Would you like to comment on that or make your response to that proposition?

Ms ALLEN — There are a number of responses to that question. One is that the permanent care amendments passed in 2014 require that case planning will now occur at the point of substantiation. Following an investigation, child protection are required to make a decision about whether the concerns are evident and substantiated, and that occurs generally around the four to six-week mark of the investigation. Currently the legislation requires that case planning occurs six weeks after the making of a final order, which could take several months or even years to achieve. It means that often there is quite a long drift in terms of getting to the point of a case plan being developed. The fact that case planning will occur following substantiation and will now be a legislated requirement means that planning will occur much sooner and earlier and guide early identification and clarity for families about what the protective concerns are and what services are needed to bring about change for a family.

It means that around the six to eight-week mark we will be making those necessary referrals and pursuing those as vigorously as possible. One of the objectives of the legislation is to ensure that we are bringing services to bear as quickly as possible, and negotiations and discussions will be occurring with funded organisations to ensure that priority is given to children who are in out-of-home care so that we can bring services quickly, noting the amended time frames arising from the permanent care amendment act.

Ms SPRINGLE — You mentioned earlier that there had been extensive consultation with stakeholders. That is quite contrary to the feedback I have been given by a lot of organisations within the child and family welfare sector. Could you outline in more detail exactly who was consulted and in what sort of time frame before the legislation was introduced to the Parliament?

Ms SYMES — On a point of order, just for clarification: are you referring to 2014?

Ms SPRINGLE — Yes, I am.

Ms ALLEN — The consultation period that informed the development of the amendment act was quite extensive. There was a significant amount of consultation starting with the Cummins inquiry. So the submissions, the information provided to the Cummins inquiry, informed the development of the permanency amendments, and as I noted there was further consultation during the development of the stability planning and permanency care project.

That project was guided by a reference group consisting of a vast array of community service organisations, and consultation was had throughout that project with large caregiver groups, including permanent carers, to determine what the barriers were to achieving permanency for children.

The department also initiated consultation with the Children's Court in December 2013, and in respect to developing the actual permanent care act, consultation was had with the Children's Court of Victoria; the Commission for Children and Young People; the office of the privacy commissioner; Aboriginal community-controlled organisations; the family law court; the Victorian Aboriginal Child Care Agency; the Create Foundation; the Foster Care Association of Victoria; Permanent Care and Adoptive Families; the Mirabel Foundation; various academics, including Dorothy Scott, who was part of the Cummins inquiry; the Centre for Excellence in Child and Family Welfare; Anglicare Victoria; Berry Street; MacKillop Family Services; OzChild; and other community service organisations. A consultation session was also held with the Law Institute of Victoria and the Victorian Aboriginal Family Violence Prevention and Legal Service.

Ms PATTEN — I just want to seek a bit of clarification about an earlier statement that you made. My understanding was that these amendments have ruled out any family reunification orders by the court after a two-year period. I think earlier you said that the courts still would be able to make family reunification orders after a two-year period. I just want to clarify if I misunderstood.

Ms ALLEN — The Children's Court cannot make a family reunification order after the child has been in out-of-home care for two years.

Ms PATTEN — Is that consecutive or cumulative?

Ms ALLEN — It is cumulative from the time of the most recent report. If, for example, a child has been in out-of-home care between the ages of one or two, the department closes the case and the child is reported again at eight years of age, the clock would only start ticking from eight. It does not go back. When I say 'cumulative', it is from this most recent report. It does not go back in time if there have been previous episodes of care that have resulted in the department exiting the family's life.

Another way of describing that is that if we take the time period from the time of the child's most recent report, if they come into care for three months and go home for nine and then come back into care for another three, that would be a total of six months. The time that they spent at home is not included in the count, even though we have remained involved during that period of time.

Mrs PEULICH — Just a helicopter view, if we may: of the 7000 children placed in out-of-home care, what are the underlying reasons for their own families being unable to look after them? Are you able to give us a breakdown in terms of the contributing factors?

Ms ALLEN — The primary grounds for protection applications that lead to children being placed in out-of-home care relate to emotional and psychological harm in relation to children and most typically would involve parents with substantial abuse, mental health issues and family violence that impact on their ability to care for their children. That may or may not be associated with physical and sexual abuse. Physical and sexual abuse is a ground for bringing a protection application before the Children's Court; however, physical and sexual abuse in their own form are not as large a number as applications brought in relation to emotional harm for children. So generally they are captured through issues concerning family violence, substance abuse and parental mental illness.

Mrs PEULICH — Is there a breakdown in terms of proportion — mental health, substance abuse, alcohol and drugs?

Ms ALLEN — In relation to the reasons for protection applications being brought before the court there is data, and we could take that on notice.

Mrs PEULICH — If we could have that data, that would be great, thank you.

The CHAIR — Ms Allen, Ms McIntyre and Ms Ellemor, the committee thanks you very much for your presentation and your evidence this morning. As you are aware, the committee has a short reporting time of 4 August, so we would appreciate the production of the requested documents as quickly as possible, in the next week.

Ms McINTYRE — Mr O'Donohue, may I ask on that that we receive written confirmation, please, of the questions and the material that was required by the committee and the time frame? That would be good.

The CHAIR — We can provide a copy of the Hansard transcript, which will outline the requested materials, but I would also ask that you start searching for the requested information as quickly as possible, noting again the short time frame the committee has to respond to the reference that we have. Thank you.

Witnesses withdrew.