



***JOINT STANDING COMMITTEE ON  
THE COMMISSIONER FOR CHILDREN  
AND YOUNG PEOPLE***

**REVIEW OF THE 2007-2008 ANNUAL  
REPORT OF THE COMMISSIONER FOR  
CHILDREN AND YOUNG PEOPLE**

**Report No. 1  
in the 38<sup>th</sup> Parliament**

**2009**

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Joint Standing Committee on the Commissioner for Children and Young People

Review of the 2007-2008 Annual Report of the Commissioner for Children and Young People

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**REVIEW OF THE 2007-2008 ANNUAL  
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CHILDREN AND YOUNG PEOPLE**

**Report No. 1**

Presented by:

**Hon B.M. Scott, MLC and Mr M.P. Whitely, MLA**

Laid on the Table of the Legislative Council and Legislative Assembly  
on 14 May 2009



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**Deputy Chairman**

Mr M.P. Whitely, MLA  
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**Members**

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# TABLE OF CONTENTS

|  |           |
|--|-----------|
| COMMITTEE MEMBERS .....  | i         |
| COMMITTEE STAFF .....  | i         |
| COMMITTEE ADDRESS .....  | i         |
| COMMITTEE'S FUNCTIONS AND POWERS .....   | v         |
| CHAIRMAN'S FOREWORD .....  | vii       |
| ABBREVIATIONS AND ACRONYMS .....   | ix        |
| EXECUTIVE SUMMARY .....  | xi        |
| FINDINGS .....   | xiii      |
| RECOMMENDATIONS .....  | xv        |
| MINISTERIAL RESPONSE .....   | xvii      |
| <b>CHAPTER 1 INTRODUCTION.....</b>   | <b>1</b>  |
| 1.1 BACKGROUND .....   | 1         |
| 1.2 PROCESS OF EXAMINATION .....   | 2         |
| <b>CHAPTER 2 REVIEW OF THE 2007-2008 ANNUAL REPORT OF THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE .....</b> | <b>3</b>  |
| 2.1 BACKGROUND .....   | 3         |
| 2.2 REVIEW OF THE ANNUAL REPORT 2007-2008.....   | 3         |
| (a) Operational Structure.....   | 3         |
| (b) Performance Review.....  | 6         |
| 2.3 OTHER MATTERS .....  | 9         |
| (a) Advisory Committees .....  | 9         |
| (b) Wellbeing Indicator Framework.....   | 10        |
| (c) Interaction with Other Children's Commissioners .....  | 11        |
| (d) Relationship Between the Committee and the Commissioner .....  | 12        |
| 2.4 SUMMARY .....  | 12        |
| <b>APPENDIX ONE.....</b>   | <b>15</b> |
| BRIEFINGS HELD .....   | 15        |
| <b>APPENDIX TWO.....</b>   | <b>17</b> |
| HEARINGS.....  | 17        |
| <b>APPENDIX THREE .....</b>  | <b>19</b> |
| TRANSCRIPT OF HEARING .....  | 19        |
| <b>APPENDIX FOUR .....</b>   | <b>37</b> |
| LEGISLATION.....   | 37        |





## COMMITTEE'S FUNCTIONS AND POWERS

On 26 June 2008, the Joint Standing Committee on the Commissioner for Children and Young People ('the Committee') was established pursuant to Section 51 of the *Commissioner for Children and Young People Act 2006* ('the Act'). The Committee was re-formed in the 38<sup>th</sup> Parliament in November 2008. In accordance with the Act, the Committee's functions and powers were agreed to between the Houses.

It is the function of the Joint Standing Committee to:

- (i) monitor, review and report to Parliament on the exercise of the functions of the Commissioner for Children and Young People;
- (ii) to examine Annual and other Reports of the Commissioner; and
- (iii) to consult regularly with the Commissioner.

Otherwise, the Standing Orders of the Legislative Assembly relating to Standing and Select Committees are also to be followed as far as they can be applied.

The Joint Standing Committee comprises two members of the Legislative Assembly and two members of the Legislative Council.



## CHAIRMAN'S FOREWORD

I am pleased to present this inaugural Report of the Joint Standing Committee on the Commissioner for Children and Young People. The Committee was re-established in the 38<sup>th</sup> Parliament in November 2008 (after existing only briefly in the previous Parliament) and tasked with overseeing the exercise of the functions of the Commissioner for Children and Young People ('the Commissioner').

The Commissioner performs a critical advocacy role for the approximately half a million children and young people under the age of 18 in Western Australia. Ensuring that the Commissioner could perform the role independently of the government of the day and act for children and young people without restraint was significant in driving the establishment of the Committee. So too was the desire to ensure appropriate accountability through the review of the performance and functions of the Commissioner. The Committee therefore has an important role by ensuring the Commissioner answers directly to the Parliament and not to a Minister.

As required by its terms of reference, the Committee has undertaken an examination of the first Annual Report of the Commissioner for Children and Young People, which covers the initial seven months of the Commissioner's appointment. This Report summarises the process followed by the Committee and highlights a number of salient points. Significantly, this Report also identifies a number of matters that will be followed up by the Committee in its next review.

Having reviewed the Commissioner's Annual Report 2007-2008, I commend the efforts of Ms Michelle Scott, the state's first Children's Commissioner. Since assuming the role in December 2007, the Commissioner has undertaken extensive travel and consultation around Western Australia. She has also initiated numerous actions to assist in the performance of her functions under the legislation while simultaneously establishing an Office.

I would like to acknowledge the cooperation of the Commissioner and her staff in meeting with the Committee on several occasions during this review and also in providing timely and comprehensive information. I look forward to developing the positive relationship that has been established between the Committee and the Commissioner.

Finally, I would like to thank my fellow Committee Members for their commitment to the newly formed Committee and for their participation, in particular: the Deputy Chairman, Mr Martin Whitely, MLA (Member for Bassendean); Hon Carolyn Burton, MLC (Member for North Metropolitan); and Ms Andrea Mitchell, MLA (Member for Kingsley). I also thank the Committee's Principal Research Officer, Ms Dawn Dickinson, for her assistance.



HON B.M. SCOTT, MLC  
CHAIRMAN



## ABBREVIATIONS AND ACRONYMS

|                    |  |
|--------------------|--|
| “the Act”          | <i>Commissioner for Children and Young People Act 2006</i>                 |
| “the Commissioner” | Commissioner for Children and Young People                                 |
| “the Committee”    | Joint Standing Committee on the Commissioner for Children and Young People |
| “WA”               | Western Australia  |



## EXECUTIVE SUMMARY

The Joint Standing Committee on the Commissioner for Children and Young People was established in the 37<sup>th</sup> Parliament pursuant to Section 51 of the *Commissioner for Children and Young People Act 2006* and was re-formed in the 38<sup>th</sup> Parliament in November 2008. The Committee's functions and powers were determined by agreement between the Legislative Assembly and the Legislative Council.

Western Australia's inaugural Commissioner for Children and Young People, Ms Michelle Scott, took office in December 2007 and tabled her first Annual Report in Parliament in November 2008. The Annual Report details the Commissioner's activities undertaken during the first seven months following her appointment including travel around the state and consultation with numerous stakeholders, among them children. Also highlighted in the Commissioner's Annual Report are a number of priority work areas including closing the gap between children and young people from Aboriginal and other communities in Western Australia and the need for a coordinated approach to early childhood.

Among the Committee's terms of reference is a requirement to examine Annual and other Reports of the Commissioner. As such, one of the Committee's earliest tasks has been the examination of the Commissioner's first Annual Report. The Committee conducted a public hearing with the Commissioner in March 2009 after first providing a series of questions on notice, although additional questions were also asked during the hearing. The full transcript of the hearing is included in the Report along with the Committee's commentary on various matters raised during its examination.

The Report identifies a number of matters which the Committee will follow up in its review of the Commissioner's next Annual Report. This includes implementation of the Commissioner's strategic plan, which at the time of reporting was yet to be finalised. The Committee considers that since the strategic plan will frame the key performance measures of the Commissioner's Office, it will be a significant mechanism for measuring how the work of the Commissioner impacts on children and young people in Western Australia.

The Committee will also maintain a watching brief on the Commissioner's progress in several public policy priority areas such as early childhood, the wellbeing of Aboriginal and Torres Strait Islander children and young people, and the promotion of a child focus in the delivery of mainstream services. Initiatives underway by the Commissioner relating to other functions under the Act including the development of an assessment tool to assist in the review of legislation, and the development of participation and advocacy mechanisms such as complaints guidelines and participation guidelines for agencies, will also be followed up again in the Committee's review of the Commissioner's next Annual Report.

Through its review of the Commissioner's Annual Report, the Committee was alerted to the deferred proclamation of Schedule 1 Clause 3 of the Act, which pertains to Working with Children Checks. The purpose of Clause 3 is to transfer responsibility for conducting Working with Children Checks from the Department for Child Protection, where the checks are currently

administered, to the Office of the Commissioner. While deferral provided time for the Commissioner to establish her role, the Committee is convinced that, even though the Commissioner has been in the position for over twelve months, proclamation now or in the future will unduly impact on the Commissioner's other functions. The Committee therefore recommends that the Act be amended to delete Clause 3 of Schedule 1.

Another matter that arose during the Committee's review of the Commissioner's Annual Report pertained to advisory committees. Part 8 of the Act details requirements for the establishment, membership and functions of advisory committees to assist in the performance of the Commissioner's functions. The Committee considers that the Act is clear in its requirement for the Commissioner to establish advisory committees comprising children and young people and is liaising with the Commissioner on a suitable approach in this regard.

The Committee also heard about the Commissioner's proposal to fund development of a wellbeing indicator framework for Western Australia, which may help to address the current paucity of data on specific outcomes for children and young people in this state. In this regard, the Committee exercised a function under Section 57 of the Act by recommending to the Treasurer that the Commissioner's request for additional funding in the 2009-10 Budget to fund the proposal be approved. The Committee also recommends in this Report that the Commissioner is resourced to facilitate development of a report on the state of Western Australia's children, to measure outcomes including health, economic wellbeing, education, safety and community engagement.

Some attention in the Report is given to general matters such as the Commissioner's role in a broader context and the relationship between the Committee and Commissioner. Regarding the latter, the Committee recognises the importance of being the mechanism through which the Commissioner reports to Parliament and its responsibility for ensuring the Commissioner's compliance with the Act. In addition to its oversight role, the Committee is conscious of its responsibility to keep Parliament informed of the Commissioner's activities and will continue to liaise with the Commissioner in this regard.

At the conclusion of its review of the Commissioner's first Annual Report, the Committee notes that the Commissioner has adopted a proactive approach and has initiated and/or undertaken various actions to perform the functions required by the Act. Where indicated in the Report, the Committee will follow up certain matters again in its next review.



## FINDINGS

Page 5

### **Finding 1**

Proclamation of Schedule 1 Clause 3 of the *Commissioner for Children and Young People Act 2006* which will transfer responsibility for Working with Children Checks to the Commissioner for Children and Young People will unduly impact on the Commissioner's other functions under the Act.

Page 11

### **Finding 2**

It would be appropriate for a report to be developed on how Western Australian children are faring, and for the Commissioner for Children and Young People to facilitate development of the report with funding from the state government.



## RECOMMENDATIONS

Page 5

### **Recommendation 1**

That the *Commissioner for Children and Young People Act 2006* be amended to delete Clause 3 of Schedule 1.

Page 11

### **Recommendation 2**

That the state government resources the Commissioner for Children and Young People to facilitate development of a biennial report on the state of Western Australia's children. Outcomes measured should include health, economic wellbeing, education, safety and community engagement. Specific measures could include: rates of hospitalisation; extent of homelessness; school attendance rates; perceptions of safety; and civic participation rates.



## **MINISTERIAL RESPONSE**

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Joint Standing Committee on the Commissioner for Children and Young People directs that the Attorney General reports to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.



## CHAPTER 1 INTRODUCTION

### 1.1 Background

In July 2004, the Legislative Council Select Committee on Advocacy for Children tabled the final report on its Inquiry into the Appointment of a Commissioner for Children. The report investigated the need for children's advocacy in Western Australia, reviewed national and international models of child advocacy, and made recommendations for establishing advocacy for children and young people in this state. Among the Select Committee's recommendations were for a Commissioner for Children and Young People to be appointed for Western Australia, and for consideration to be given to a joint parliamentary committee of oversight.<sup>1</sup>

Pre-empting the Select Committee's report, the then Minister for Community Development, Hon Sheila McHale, MLA announced in May 2004 that the government intended to establish a new independent Children's Commission, to be headed by a Commissioner.<sup>2</sup> The Select Committee welcomed the announcement and viewed its report to be a useful basis for establishing the new Commission.<sup>3</sup>

Legislation establishing the Commissioner for Children and Young People duly came into effect in 2006. Western Australia's inaugural Commissioner, Ms Michelle Scott, was appointed to the position in November 2007 and took up the role in December 2007. The Commissioner tabled her first Annual Report in Parliament in November 2008 detailing the Commissioner's activities for the first seven months in the role.

In keeping with the Select Committee's recommendations and a desire reflected during parliamentary debate for the Commissioner to be independent of executive government and oversighted by Parliament<sup>4</sup>, the *Commissioner for Children and Young People Act 2006* provided for the establishment of a Joint Standing Committee on the Commissioner for Children and Young People. The Committee was first established in June 2008 however met only once in the 37<sup>th</sup> Parliament before dissolution of the Legislative Assembly and the prorogation of the Legislative Council in August 2008. Pursuant to Section 51 of the Act, the Committee was re-formed in the

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<sup>1</sup> Select Committee on Advocacy for Children (Appointment of a Commissioner for Children), *Final Report*, Legislative Council, Parliament of Western Australia, Perth, 2 July 2004, pp.ii-iii.

<sup>2</sup> Hon. Sheila McHale, MLA (Minister for Community Development), *Green light for Western Australia's first Children's Commission*, Media Statement, Government of Western Australia, Perth, 19 May 2004. Available at: [www.mediastatements.wa.gov.au/ArchivedStatements/Pages/GallopLaborGovernmentSearch.aspx?ItemId=117374&minister=McHale&admin=Gallop](http://www.mediastatements.wa.gov.au/ArchivedStatements/Pages/GallopLaborGovernmentSearch.aspx?ItemId=117374&minister=McHale&admin=Gallop) Accessed on 19 March 2009.

<sup>3</sup> Select Committee on Advocacy for Children (Appointment of a Commissioner for Children), *Final Report*, Legislative Council, Parliament of Western Australia, Perth, 2 July 2004, p.i.

<sup>4</sup> As raised during parliamentary debate. Refer to Hon. Barbara Scott, MLC, Member for South Metropolitan, Western Australia, Legislative Council, *Parliamentary Debates* (Hansard), 14 September 2006, pp5976-5977.

38<sup>th</sup> Parliament in November 2008 and its functions and powers were determined by agreement between the Houses.<sup>5</sup>

Among the Committee's functions is a requirement to 'examine Annual and other Reports of the Commissioner'. As such, one of the Committee's initial tasks has been to examine and report to Parliament on the Commissioner's first Annual Report.

## **1.2 Process of Examination**

The examination of the Commissioner's Annual Report commenced with a series of briefings by the Commissioner (refer to Appendix 1). As a newly established Committee, the briefings helped familiarise the Committee with the Commissioner's role and functions as well as provide a general overview of the Annual Report. This then enabled the Committee to conduct its examination of the Annual Report from a more informed position.

The method used by the Committee to examine the Commissioner's Annual Report was determined following a review of methods developed by other parliamentary committees of oversight. While there are different types of oversight committee and methods differ according to each committee's particular focus, the methods shared most in common tend to comprise a review of reports and the conduct of hearings (typically in public).<sup>6</sup>

For the examination of the Commissioner's Annual Report, the Committee resolved to conduct a public hearing with the Commissioner (refer to Appendix 2). A series of questions were provided on notice to the Commissioner although additional questions were also asked during the hearing. The full transcript of the hearing is attached to this Report at Appendix 3. This Report also provides commentary on a number of matters that arose during the Committee's examination of the Commissioner's Annual Report.

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<sup>5</sup> It should be noted that the Committee's terms of reference in the 38<sup>th</sup> Parliament are based on those agreed to by both Houses in the 37<sup>th</sup> Parliament.

<sup>6</sup> This conclusion was drawn following a cursory review of monitoring and review methods applied by various parliamentary committees including but not limited to: the Western Australian Standing Committee on Public Administration; the Western Australian Joint Standing Committee on the Corruption and Crime Commission; and the New South Wales Joint Committee on Children and Young People. In reviewing Annual Reports of the bodies they oversee, the Western Australian Joint Standing Committee on the Corruption and Crime Commission and the New South Wales Joint Committee on Children and Young People generally conduct a public hearing after first providing questions on notice, and afterwards report to Parliament on the process. This typically involves incorporating transcripts of hearings, answers to questions taken on notice, and any associated commentary by the committee.



## **CHAPTER 2 REVIEW OF THE 2007-2008 ANNUAL REPORT OF THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE**

### **2.1 Background**

The Annual Report 2007-2008 of the Commissioner for Children and Young People details activities undertaken in the first seven months following the Commissioner's appointment including travel around the state and consultation with numerous stakeholders, among them children. It also identifies a number of priority areas including closing the gap between children and young people from Aboriginal and other communities in Western Australia, and the need to focus on the early years and early intervention.

The commentary below relates to certain matters raised during the Committee's examination of the Commissioner's Annual Report, which the Committee wishes to highlight. Commentary has been organised into two main parts, 'Operational Structure' and 'Performance Review', which reflects a similar structure in the Commissioner's Annual Report.

### **2.2 Review of the Annual Report 2007-2008**

#### **(a) Operational Structure**

##### **(i) *Establishment of the Commissioner's Office***

As at 30 June 2008, the Commissioner employed 12 full-time equivalent staff.<sup>7</sup> The Commissioner updated the Committee on the establishment of her Office and advised that additional staff have since been recruited although a full complement of between 17 and 18 staff is yet to be realised.<sup>8</sup> Other key actions underway to establish the Commissioner's Office include developing the website<sup>9</sup>, and securing permanent premises. With regard to the latter, the Committee was advised that the Commissioner had secured permanent premises at ground level in Subiaco, which will be much more accessible to children and young people. Fit-out of the new premises was underway with a view to relocation by the end of April 2009.<sup>10</sup>

Also relevant to the operations of the Office, the Committee queried the Commissioner about the development of a five year strategic plan, which the Annual Report states will assist the

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<sup>7</sup> Commissioner for Children and Young People, *Annual Report 2007-2008*, Commissioner for Children and Young People, Perth, Western Australia, September 2008, p14.

<sup>8</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p3.

<sup>9</sup> *Ibid.*, pp15-16.

<sup>10</sup> *Ibid.*, p3.

development of key performance measures in 2008-2009.<sup>11</sup> The Commissioner advised that the strategic plan is close to finalisation and comprises four main elements, these being: listening to children and young people, their families and stakeholders; giving a voice to children and young people; influencing public policy; and developing a best-practice culture within the Office to support the other elements.<sup>12</sup> Although yet to be completed, the Committee was advised that the Commissioner's Office is already aligned to the plan and that the Commissioner's next Annual Report will outline how outcomes measure up against the strategic plan.<sup>13</sup>

The Committee is interested in how the work of the Commissioner will be measured including its impact on children and young people in Western Australia. Although the Commissioner is keen to achieve positive outcomes for children and young people, she stated that the challenge is how this should be measured and admitted to not yet having the perfect tool to do this even though it has been the subject of consideration.<sup>14</sup>

The Committee considers that the strategic plan will be a significant mechanism for assessing outcomes, although it may not be the only mechanism. However, in light of its importance with regard to framing the key performance measures of the Commissioner's Office, the Committee will follow with interest the development and implementation of the strategic plan and will review the matter again in its examination of the Commissioner's next Annual Report.

Of note, the Commissioner indicated that the establishment of the Office, while important for supporting her functions, has not been her main priority since assuming the role:

*...a priority for me actually has been carrying out my other work, doing work, travelling throughout the state, seeking to influence policy and consulting with children and young people. So over the last 12 months that has been my real priority, and coming alongside with those functions has been the drive to establish the office.*<sup>15</sup>

The Committee acknowledges the Commissioner's efforts in undertaking extensive travel around the state and consulting with children and young people while simultaneously establishing her Office.

## **(ii) Working with Children Checks**

The Annual Report notes that Schedule 1, Clause 3 of the Act, which pertains to Working with Children Checks has not been proclaimed.<sup>16</sup> The purpose of Clause 3 is to make consequential

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<sup>11</sup> Commissioner for Children and Young People, *Annual Report 2007-2008*, Commissioner for Children and Young People, Perth, Western Australia, September 2008, p38.

<sup>12</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p5.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid., p16.

<sup>15</sup> Ibid., p3.

<sup>16</sup> Commissioner for Children and Young People, *Annual Report 2007-2008*, Commissioner for Children and Young People, Perth, Western Australia, September 2008, p14.

amendments to the *Working with Children (Criminal Record Checking) Act 2004* and transfer responsibility for Working with Children Checks from the Department for Child Protection (where checks are currently administered) to the Commissioner for Children and Young People.

The Commissioner informed the Committee at the hearing that due to her initial emphasis being on the establishment of her role it was felt that the Working with Children Check would be a distraction. As such, the Commissioner secured agreement from the relevant Ministers to defer proclamation. Having now been in the role for over 12 months however, the Commissioner remains of the view that the screening function will present a significant administrative burden. The Commissioner considers that other agencies may be more suited to continuing or assuming responsibility for the checks and suggested that models in other states might be more appropriate.<sup>17</sup>

Considering the rationale for establishing a Commissioner for Children and Young People in Western Australia was to ensure an independent advocate for children and young people in this state,<sup>18</sup> the Committee is of the firm view that Working with Children Checks should not overwhelm the other functions of the Commissioner. In this regard, the Committee believes that the Commissioner's core functions, specifically advocacy and research, are paramount and should not be compromised. The Committee is convinced that proclamation of Schedule 1 Clause 3 of the Act will unduly impact on the Commissioner's other functions.

The Committee has conveyed these reservations to the Attorney General, as the Minister responsible for the Act. At the time of reporting, the Committee was still awaiting feedback. As such, the outcome will be reported at a later stage.

### **Finding 1**

Proclamation of Schedule 1 Clause 3 of the *Commissioner for Children and Young People Act 2006* which will transfer responsibility for Working with Children Checks to the Commissioner for Children and Young People will unduly impact on the Commissioner's other functions under the Act.

### **Recommendation 1**

That the *Commissioner for Children and Young People Act 2006* be amended to delete Clause 3 of Schedule 1.

<sup>17</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p12.

<sup>18</sup> As per the Final Report of the Legislative Council Select Committee on Advocacy for Children (Appointment of a Commissioner for Children), referenced in Chapter 1 of this Report; and parliamentary debate on the *Commissioner for Children and Young People Bill 2005*.

**(b) Performance Review****(i) Strategic Priorities**

With regard to public policy, the Commissioner advised the Committee that while it would be possible to comment publicly on numerous policy issues, she has chosen to limit her comments to only six or seven key public policy areas to avoid diluting her impact.<sup>19</sup> These policy priorities are highlighted in the Annual Report and constitute a common theme in the Commissioner's activities including submissions made to Parliamentary, government and other inquiries, and in the Commissioner's public comments to date. Some overarching themes include: promoting the best interests of the child; and promoting effective collaboration across government and with the private sector and the community. Other strategic priorities include but are not limited to:

- A coordinated approach to early childhood - the Commissioner reported to the Committee that compared to other states such as Victoria and South Australia, Western Australia does not have a comprehensive early childhood strategy. The Commissioner identified a need for a clear direction in this area and possibly even a dedicated office within government to drive an early childhood agenda, which will embrace health, education and childcare.<sup>20</sup>
- A focus on Aboriginal and Torres Strait Islander children and young people - the Commissioner is required under Section 20(1)(a) of the Act to give priority to the interests and needs of Aboriginal and Torres Strait Islander children and young people. In the period under review, the Commissioner undertook extensive travel and consultation with community members, including children and young people, in regional and remote areas in the north of the state.<sup>21</sup> The Commissioner created an Aboriginal Adviser position within her office to report directly to her,<sup>22</sup> and also focused on policy areas of significance to Aboriginal and Torres Strait Islander children and young people such as health and education.<sup>23</sup>
- Promoting a child focus in the delivery of mainstream services - the Commissioner stated that many agencies consider the adults to whom they are providing services but fail to do the same for children. In this respect, the Commissioner advised that she uses 'every opportunity to raise these issues either publicly or in [...] meetings with directors general and ministers'.<sup>24</sup>

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<sup>19</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Briefing*, 10 February 2009.

<sup>20</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p9 and Commissioner for Children and Young People, *Annual Report 2007-2008*, Commissioner for Children and Young People, Perth, Western Australia, September 2008, p33.

<sup>21</sup> Commissioner for Children and Young People, *Annual Report 2007-2008*, Commissioner for Children and Young People, Perth, Western Australia, September 2008, p27.

<sup>22</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p3.

<sup>23</sup> Commissioner for Children and Young People, *Annual Report 2007-2008*, Commissioner for Children and Young People, Perth, Western Australia, September 2008, p11.

<sup>24</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p9.

As the period under review covers only the first seven months of the Commissioner's appointment, the Committee will maintain a watching brief and report further on the progress of these and other initiatives in its next review of the Commissioner's Annual Report.

### **(ii) Review of Legislation**

Under Section 19(g) of the Act, the Commissioner is required to monitor written laws, draft laws, policies, practices and services affecting the wellbeing of children and young people. The Annual Report notes that the Commissioner wrote to directors general and Western Australian Parliamentary Committees advising of this function and requesting that they consult her during the development of laws affecting children and young people in this state.<sup>25</sup> The Committee was pleased to hear that the Commissioner had received positive feedback and had been briefed by some directors general or had received written notification regarding proposed legislation.

Of particular significance, the Commissioner informed the Committee that in order to facilitate her review of draft legislation, it helps to be involved early in the process:

*The ideal time for me to be involved in legislation would be before it goes to cabinet, seeking approval to draft the legislation. That would be the ideal, and that is my aim over five years—for more agencies to come to me in the early stages.*<sup>26</sup>

The Commissioner also advised that she is developing an assessment tool for new legislation in order to facilitate the evaluation of likely impacts.<sup>27</sup> The Committee will follow up the progress of the assessment tool in its review of the Commissioner's next Annual Report.

### **(iii) Participation and Advocacy**

Among the Commissioner's functions is a requirement to advocate for children and young people and to promote the participation of children and young people in the making of decisions that affect their lives.<sup>28</sup> The Commissioner has approached this in a number of ways, including:

- Highlighting best practice - the Commissioner advised that she publicises best practice examples of participation. In her public presentations and written information, the Commissioner promotes instances where agencies have successfully engaged with children and young people so that 'other agencies can see what it actually means in a practical way and how it can improve what [they] are trying to achieve'.<sup>29</sup>

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<sup>25</sup> Commissioner for Children and Young People, *Annual Report 2007-2008*, Commissioner for Children and Young People, Perth, Western Australia, September 2008, p37.

<sup>26</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p13.

<sup>27</sup> Ibid.

<sup>28</sup> Section 19 *Commissioner for Children and Young People Act 2006* (WA).

<sup>29</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p6.

- Initiating the development of complaints guidelines - this also addresses the requirement under the Act<sup>30</sup> for the Commissioner to monitor how government agencies deal with complaints made by children and young people and to monitor overall trends in complaints. The Commissioner described how guidelines have been developed in liaison with the Ombudsman, the Equal Opportunity Commission and Office of Health Review, and following consultation with children and young people. The guidelines are nearing completion and are intended to assist agencies in making their complaints systems more responsive to children and young people.<sup>31</sup> The Committee will follow up the progress of this initiative in its review of the Commissioner's next Annual Report.
- Initiating the development of participation guidelines - guidelines are under development which will encourage agencies to: engage with children and young people; describe best practice; and describe how the Commissioner can assist in this area.<sup>32</sup> The Commissioner advised that while the guidelines will be targeted at government agencies, they will also apply to non-government agencies.<sup>33</sup> As the participation guidelines are yet to be completed and implemented, the Committee will also follow up this initiative in its review of the Commissioner's next Annual Report.
- Maintaining relationships with communities - this starts with well-planned and well-organised visits by the Commissioner to communities. The Commissioner undertook extensive travel around Western Australia in the period under review and consulted with among others, established groups of children and young people in the northwest of the state. Contact with these children and young people was later re-established when the Commissioner sought input on communication tools under development including her new website.<sup>34</sup>
- Being accessible to children and young people - the Commissioner has adopted a variety of methods in this regard including two specially formatted versions of the Annual Report targeting 5-12 year olds and 13-17 year olds, which were sent to every Western Australian school. These are in a fold-out poster style and comprise pictures and text pitched at each respective age group. The Commissioner also described a new 'Shout Out' initiative currently under development, which will feature on the new website and in future publications to encourage children and young people to have a say and be heard.<sup>35</sup> The Committee supports the child-friendly versions of the Commissioner's Annual Report and the specific targeting of age groups, and will also follow the development of the 'Shout Out' initiative with interest.

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<sup>30</sup> Section 19(d) and Section 19(e) *Commissioner for Children and Young People Act 2006* (WA).

<sup>31</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p6.

<sup>32</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Briefing*, 10 February 2009.

<sup>33</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p6.

<sup>34</sup> *Ibid.*, p8.

<sup>35</sup> *Ibid.*, pp8-9.

#### **(iv) Special Inquiries**

Part 5 of the Act details the powers of the Commissioner and procedures in relation to establishing and conducting a special inquiry. As stated in the Commissioner's Annual Report, no special inquiries were initiated in the period under review.<sup>36</sup> The Commissioner identified the criteria that might qualify a matter for an inquiry of this nature:

*...it would be a serious issue that I did not believe was getting adequate attention elsewhere, and another agency was responsible for it but was not undertaking an inquiry, so that there is a gap and a need to focus on those issues. It would also have to be a serious issue of public interest.*<sup>37</sup>

So far, the Commissioner has not initiated any inquiries to avoid duplicating the efforts of others and cited as an example the Auditor General's performance examination of the Juvenile Justice system.<sup>38</sup> The Commissioner also advised that where possible she adopts a cooperative approach and will engage with an agency rather than call a special inquiry.<sup>39</sup>

The Committee has the capacity within its terms of reference to examine other reports of the Commissioner, including reports on the findings of any special inquiry, should any be conducted by the Commissioner in the future.

### **2.3 Other Matters**

A number of other matters were raised during the Committee's review of the Commissioner's Annual Report, which are summarised below.

#### **(a) Advisory Committees**

Part 8 of the Act provides for the establishment, membership and functions of advisory committees and reference groups to assist in the performance of the Commissioner's functions. Advisory committees consisting of children and young people are required by Section 52(2) of the Act. At the hearing, the Commissioner informed the Committee that she had not established an advisory committee and was considering an appropriate course of action as she did not want to establish an advisory committee for its own sake and was wary of duplicating existing youth advisory committees and children's committees in Western Australia.<sup>40</sup>

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<sup>36</sup> Commissioner for Children and Young People, *Annual Report 2007-2008*, Commissioner for Children and Young People, Perth, Western Australia, September 2008, p14.

<sup>37</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p14.

<sup>38</sup> This refers to: Auditor General of Western Australia, *The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994*, June 2008. Available at: [www.audit.wa.gov.au/reports/report2008\\_04.pdf](http://www.audit.wa.gov.au/reports/report2008_04.pdf) Accessed on 15 April 2009.

<sup>39</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 18 March 2009, p14.

<sup>40</sup> *Ibid.*, p7.

The Committee reviewed the rationale for advisory committees and in particular the intention behind legislating for advisory committees comprising children and young people. Parliamentary debate on the *Commissioner for Children and Young People Bill 2005* acknowledged that it should be compulsory for the Commissioner to establish advisory committees comprising children and young people and that these must be broadly representative of backgrounds, culture and age groups.<sup>41 42</sup>

The Committee is firmly of the view that that Act is clear in its direction for the Commissioner to establish advisory committees consisting of children and young people to assist in the performance of the Commissioner's functions. The Committee is currently liaising with the Commissioner regarding a suitable approach and will report further on this matter in its next review.

## **(b) Wellbeing Indicator Framework**

At the hearing, the Commissioner indicated that the measurement of outcomes for children and young people is a priority work area.<sup>43</sup> In the Commissioner's opinion, outcomes are currently not measured well in this state and there is a lack of detailed information on the wellbeing of children.<sup>44</sup> The Commissioner did not seek any additional operational funding in her 2009-10 Budget submission, however she requested an extra \$0.5 million to fund development of a report on how Western Australian children are faring. As a model, the Commissioner referred to reports produced every two years by the Victorian state government. These detail outcomes for children and young people and enable the government to plan and monitor the impacts of its funding as well as target investment to critical outcomes and to the children and young people who need it most.<sup>45</sup> Outcomes that are measured fall into the broad categories of health, economic wellbeing, learning, safety and community engagement, and include specific measures such as: rates of hospitalisation; extent of homelessness; school attendance rates; perceptions of safety; and civic participation rates.<sup>46</sup>

The Committee concurs with the Commissioner's view that specific outcomes for children and young people could be measured better in this state and that this could in turn facilitate the better targeting of resources. As such, the Committee exercised a function under Section 57 of the Act, which enables it to make a recommendation to the Treasurer on the budget for the Commissioner for a financial year. The Committee recommended that the Commissioner's requested budget for

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<sup>41</sup> Hon. Giz Watson, MLC, Member for North Metropolitan, Western Australia, Legislative Council, *Parliamentary Debates* (Hansard), 14 September 2006, p5964.

<sup>42</sup> As currently reflected in Section 52(2) *Commissioner for Children and Young People Act 2006* (WA).

<sup>43</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Hearing*, 18 March 2009, p11.

<sup>44</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Briefing*, 4 February 2009.

<sup>45</sup> Ibid.

<sup>46</sup> Department of Education and Early Childhood Development and the Department of Planning and Community Development (Victoria), 'The state of Victoria's young people', 2007. Available at: [www.eduweb.vic.gov.au/edulibrary/public/govrel/Policy/children/sovcreport07.pdf](http://www.eduweb.vic.gov.au/edulibrary/public/govrel/Policy/children/sovcreport07.pdf) Accessed on 7 May 2009.



2009-10 be approved and in particular the request for additional funds to develop a new outcomes report for children and young people in Western Australia.

**Finding 2**

It would be appropriate for a report to be developed on how Western Australian children are faring, and for the Commissioner for Children and Young People to facilitate development of the report with funding from the state government.

**Recommendation 2**

That the state government resources the Commissioner for Children and Young People to facilitate development of a biennial report on the state of Western Australia's children. Outcomes measured should include health, economic wellbeing, education, safety and community engagement. Specific measures could include: rates of hospitalisation; extent of homelessness; school attendance rates; perceptions of safety; and civic participation rates.

At the time of reporting, the 2009-2010 Budget had not been released. The Committee will maintain a watching brief on this matter and will report further in its review of the Commissioner's next Annual Report.

**(c) Interaction with Other Children's Commissioners**

The Committee queried the Commissioner's role in a broader context and was pleased to learn that the Commissioner interacts regularly with Children's Commissioners or equivalents from other states and can therefore share information and learn from other jurisdictions.<sup>47</sup> Furthermore, the Commissioner advised that she has collaborated on the preparation of several joint submissions with other Commissioners.<sup>48</sup>

The Commissioner identified merit in the Commonwealth establishing a national Children's Commissioner as this would enable Australia to have a greater voice on the international stage, which it currently lacks. The Committee also heard how the Commissioner views it as critical that such a role should have a broad remit, similar to her own wide-ranging functions and those of European Children's Commissioners.<sup>49</sup> The Commissioner identified her broad role as being one

<sup>47</sup> The Committee understands that the Australian Children's Commissioners and Guardians group meets twice a year and its outputs include joint submissions to the Commonwealth on matters of mutual interest and/or significance.

<sup>48</sup> Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Hearing*, 18 March 2009, p15.

<sup>49</sup> Ibid.

of the important features of the Western Australian Children's Commissioner as it extends beyond a child protection focus, which sometimes limits the functions of Commissioners in other states.<sup>50</sup>

#### **(d) Relationship Between the Committee and the Commissioner**

The debate surrounding the establishment of the Committee and development of its terms of reference highlighted the importance of reviewing and monitoring the activities of the Commissioner for the purposes of greater accountability and transparency.<sup>51</sup> The Committee thus considers its principal role to be that of oversight. The methods that will be used by the Committee to perform its monitoring, reviewing and examination functions will likely evolve over time. Nonetheless, the Committee has opted at this stage to pursue minimum, quarterly meetings with the Commissioner and any additional meetings on a needs basis.

Another factor underpinning the establishment of the Committee was ensuring the independence of the Commissioner by requiring the Commissioner to report directly to Parliament. In this respect, the Committee considers it is the instrument through which the Commissioner reports to Parliament and is conscious also of its responsibility to ensure the work and functions of the Commissioner comply with the Act.

In addition to its oversight role, the Committee has a responsibility to keep Parliament informed of the Commissioner's activities. As an example of this, the Committee resolved to host an information seminar for interested Members of Parliament on the role and functions of the Commissioner, to be held in May 2009. The Committee will continue to liaise with the Commissioner on other ways in which the relationship might achieve similarly beneficial outcomes.

## **2.4 Summary**

The Committee notes that in the period under review the Commissioner adopted a proactive approach and initiated and/or undertook various actions to perform the functions required by the Act. As indicated above, the Committee will follow up certain matters again in its review of the Commissioner's next Annual Report. In summary these are as follows:

- The development and implementation of the Commissioner's five year strategic plan;
- The progress of initiatives in public policy areas such as early childhood, the wellbeing of Aboriginal and Torres Strait Islander children and young people, and focus on children by agencies in the delivery of mainstream services;
- The development of an assessment tool by the Commissioner to facilitate the evaluation of new legislation;

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<sup>50</sup> Ibid., and Ms Michelle Scott, Commissioner for Children and Young People, *Briefing*, 10 February 2009.

<sup>51</sup> Hon. Barbara Scott, MLC, Member for South Metropolitan, Western Australia, Legislative Council, *Parliamentary Debates* (Hansard), 4 June 2008, p3435.

- The development of complaints guidelines by the Commissioner to assist agencies in making their complaints systems more responsive to children and young people;
- The development of participation guidelines by the Commissioner to encourage agencies to engage with children and young people; and
- The establishment of advisory committees by the Commissioner which consist of children and young people as required by the Act.

In addition, the Committee will maintain a watching brief on the matters of:

- Working with Children Checks; and
- The Commissioner's proposal regarding development of a wellbeing indicator framework for Western Australian children.



HON B.M. SCOTT, MLC  
CHAIRMAN



## APPENDIX ONE

### ***BRIEFINGS HELD***

The following briefings assisted the Committee with its review of the 2007-2008 Annual Report of the Commissioner for Children and Young People.

| Date             | Name              | Position                                   | Organisation                                  |
|------------------|-------------------|--|---|
| 4 February 2009  | Ms Michelle Scott | Commissioner for Children and Young People | Commissioner for Children and Young People WA |
|                  | Ms Amy Tait       | Principal Policy Officer                   | Commissioner for Children and Young People WA |
| 10 February 2009 | Ms Michelle Scott | Commissioner for Children and Young People | Commissioner for Children and Young People WA |
|                  | Ms Amy Tait       | Principal Policy Officer                   | Commissioner for Children and Young People WA |



## APPENDIX TWO

### *HEARINGS*

The following public hearing was undertaken by the Committee in its review of the 2007-2008 Annual Report of the Commissioner for Children and Young People.

| Date          | Name              | Position                                   | Organisation                                  |
|---------------|-------------------|--|---|
| 18 March 2009 | Ms Michelle Scott | Commissioner for Children and Young People | Commissioner for Children and Young People WA |
|               | Ms Amy Tait       | Principal Policy Officer                   | Commissioner for Children and Young People WA |





# **APPENDIX THREE**

## ***TRANSCRIPT OF HEARING***

**JOINT STANDING COMMITTEE ON THE  
COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE**

**HEARING IN RELATION TO THE COMMISSIONER'S ANNUAL REPORT**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
WEDNESDAY, 18 MARCH 2009**

**Members**

**Hon Barbara Scott (Chairman)  
Mr Martin Whitely (Deputy Chairman)  
Hon Carolyn Burton  
Ms Andrea Mitchell**

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**Hearing commenced at 10.00 am**

**SCOTT, MS MICHELLE**  
**Commissioner for Children and Young People,**  
**examined:**

**TAIT, MS AMY OLIVE BURKE**  
**Principal Policy Officer, Commissioner for Children and Young People,**  
**examined:**

**The CHAIRMAN:** Good morning, Michelle. We have opened our meeting and adjourned it for the hearing, so I take this opportunity to welcome you as the commissioner, Michelle. As it is the first public hearing for this committee, I place on the record my congratulations to you on being appointed the first Commissioner for Children and Young People for Western Australia and to say how pleased I am to know that we have a commissioner.

**Ms Scott:** Thank you.

**The CHAIRMAN:** I thank you and Amy for appearing here today. The purpose of today's meeting is to assist the committee in its examination of the 2007-08 annual report of the Commissioner for Children and Young People, which is the first report of the Commissioner for Children and Young People. Just for the benefit of Hansard and anyone else I will introduce my committee members. On my left is Andrea Mitchell, member of the Legislative Assembly; Hon Carolyn Burton, member of the Legislative Council; we are anticipating that another member, Martin Whiteley, will attend; and, as chairman, I am Barbara Scott, member of the Legislative Council.

There is a formality I need to go through at the moment; that is, this committee is a joint standing committee of the Parliament of Western Australia. This hearing is a formal procedure of the Parliament and therefore commands the same respect given to proceedings in the house itself. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as a contempt of Parliament. This is a public hearing and Hansard will be making a transcript of the proceedings for the public record. If you refer to any document or documents during your evidence, it would assist Hansard if you could provide the full title for the record. Before we proceed to the questions we have for you today, I need to ask you a series of questions. Have you completed the "Details of Witness" form?

**Ms Scott:** Yes, I have.

**The CHAIRMAN:** Do you understand the notes at the bottom of the form about giving evidence to a parliamentary committee?

**Ms Scott:** Yes, I do.

**The CHAIRMAN:** Did you receive and read the information for witnesses briefing sheet provided with the "Details of Witness" form today?

**Ms Scott:** Yes, I did.

**The CHAIRMAN:** Do you have any questions in relation to being a witness at today's hearing?

**Ms Scott:** No, I do not.

**Mr M.P. WHITELEY:** My apologies.

**The CHAIRMAN:** For the benefit of our visitors in the gallery, welcome. This is the first public hearing of the Joint Standing Committee on the Commissioner for Children and Young People for Western Australia. It is a significant day today because it is the first public hearing of this standing committee, which is the oversight committee. The commissioner for Western Australia has been appointed, and we have our first commissioner here, Michelle Scott. I welcome her and congratulate her on her position and say how very pleased I am personally that we have a commissioner for children and young people in Western Australia. As a standing committee of the Parliament, we are the instrument through which the commissioner fulfils part of her function and role; that is, report to the Parliament as an independent commissioner and not to a minister of the Crown. So, Michelle, thank you for being here. I will just start with a few questions, and I am going to spread the questioning around the committee. I introduce Martin Whiteley, who is the Deputy Chairman; I have introduced the others. Firstly, would you mind providing a very brief overview of your role in terms of when you were appointed and your key functions under the legislation?

**Ms Scott:** As members of the committee are aware, the Commissioner for Children and Young People Act was granted royal assent in 2006. In November 2007 I was appointed the Commissioner for Children and Young People, the first commissioner for Western Australia, and I took up my appointment on 10 December 2007. The key role of the Commissioner for Children and Young People is set out in the Commissioner for Children and Young People Act 2006, and in particular section 19 of the act sets out the functions. If I could summarise for the committee the broad role of the commissioner, it is to be an advocate for all children under the age of 18 years in Western Australia. Some of my critical roles are, firstly, consulting directly with children and young people throughout the state; listening to the views of children and young people and their families and their communities; and reporting back to children and young people about any action that I may have taken on their behalf. A very significant part of my role as commissioner is to advocate for policies, programs, services and laws that enhance the wellbeing of all children and young people here in Western Australia. One of the important elements of the legislation in Western Australia—and I would like to bring this to the committee's attention—is the very broad role that the commissioner has, which is distinguished from other commissioners in other states. Many commissioners have a much more narrow focus on child protection matters; whereas the commissioner here in Western Australia, in accordance with the legislation, is expected to have a very far-reaching role in all aspects of a child's life. I must also have regard at all times to the best interests of children and young people. I must also take into account the United Nations Convention on the Rights of the Child, and I must give priority to Aboriginal children and young people throughout the state, and children and young people who are vulnerable.

**The CHAIRMAN:** I will take that question further, Michelle, if I may call you Michelle. You have mentioned the legislation, and we as a standing committee are aware that we have got very strong legislation here in Western Australia. Would you be able to describe for us any of the extra powers that you have that are in comparison with other legislatures in Australia?

**Ms Scott:** I think the main difference is that the main role of many of the commissioners is in relation to monitoring the child protection system in their particular jurisdiction. Occasionally they also might have a mandate to look at other things as well. Our legislation is very similar to the New South Wales legislation, although there are some differences, and the legislation in Western Australia, I think, is more closely aligned to the European model, which is not just focused on the child protection system. So I think, Madam Chair, that is probably the significant difference, and I think that enables the commissioner to have a very broad brief and remit in terms of carrying out her functions.

**The CHAIRMAN:** The wide powers that the legislation gives you empowers the position as a true advocate for children, and maybe you would like to just describe some of those extra powers. They are almost the powers of an ombudsman, and the legislation itself, I guess, had its origin in the fact that European countries do have children's ombudsmen. So these powers are significant. I think it

might be worthwhile, seeing it is the first public hearing, just to delineate some of those extraordinary powers that you have as an ombudsman for children.

**Ms Scott:** I suppose one of the most substantial powers is the capacity to conduct a special inquiry into any matter that I consider appropriate, and the level and cooperation that is expected by others if I choose to hold such a special inquiry. As the committee is no doubt aware, I have not initiated a special inquiry here in the first 12 months since my appointment. I am happy to give the committee information as to why that is the case, but in very broad terms one of the reasons why I have not is I do not wish to duplicate any other inquiries or any other functions that are being carried out by other authorities; for example, the Ombudsman or the Auditor General here in Western Australia, who have undertaken inquiries that have relevance to my work as commissioner; but that is a far-reaching power, if you like. I can conduct a special inquiry. I also have the power to require a government agency to provide me with information and, as commissioner, I have written to directors general over the last 12 months requesting certain information. That has been very helpful to my function as commissioner. So they are two examples, if you like, where I have significant powers to act in the best interests of children and young people.

**The CHAIRMAN:** So, in a nutshell, that gives you the power to do a significant inquiry without fear or favour of a government agency, and you also have the power to call for papers and —

**Ms Scott:** Documents and information.

**The CHAIRMAN:** Like a royal commissioner?

**Ms Scott:** That is right.

**The CHAIRMAN:** Just briefly, maybe you would like to tell us how the establishment of your office is going.

**Ms Scott:** As I said, I took up my position on 10 December 2007, and over the last 12 months we have been active in a number of areas in terms of establishing the office, although I wish to point out to the committee that although that has been very important, otherwise I would not be able to function, a priority for me actually has been carrying out my other work, doing work, travelling throughout the state, seeking to influence policy and consulting with children and young people. So over the last 12 months that has been my real priority, and coming alongside with those functions has been the drive to establish the office. In terms of my budget, the committee is probably aware that the initial allocation was \$1.5 million, and once I was appointed I sought for that to be increased to \$2.6 million. That made me comparable to other similar independent bodies in the state, and also compares very well interstate and in Europe in terms of the similar roles that we conduct and the financial support that is required.

[10.15 am]

That allows me to recruit somewhere between 17 and 18 full-time staff, and over the last 12 months I have been seeking to do that. I have set in place an organisational structure consistent with my functions under the act, and I have a number of teams: one is the policy team; one is a communications team; and one is my business team. Also I have created a special Aboriginal adviser position reporting directly to me.

I have not fully recruited all of my staff, and that has been an ongoing process; I am continuing to do that. In terms of securing permanent premises for the office, I think I informally advised the committee that I have been in temporary offices since I commenced. I have secured suitable premises in Subiaco, Alvan Street, which is ground floor in Subiaco. I think it will be more accessible to children and young people, their families, community organisations, with good parking and good disability access. I am in the process of arranging for my office to be relocated to there. We are hoping some time towards the end of April, if I am optimistic.

We have also undertaken a number of consultations with children and young people about the office, such as: What do you think the commissioner should be doing? What do you think the logo should look like? What do you think the website should have on it that would be of interest to you? What would make you pick up a pamphlet or a brochure or an annual report and find out more about what the commissioner is doing? We have been consulting quite a bit with children and young people. We have also been consulting with stakeholders, community organisations, and also government agencies, about the role of the commissioner. We have produced an almost finalised strategic plan which I am happy to advise the committee of the details, but that has been important in terms of setting the strategic direction and meeting our compliance requirements within government.

**The CHAIRMAN:** Thank you for that. It is encouraging that you have been able to put on 17 FTEs. With Western Australia's child population being approximately 500 000, what is that budget per child?

**Ms Scott:** I cannot give you that detail at the moment.

**The CHAIRMAN:** About \$3 or \$4 a head?

**Ms Scott:** Yes, it is about that, roughly.

**The CHAIRMAN:** Yes, yes.

**Ms Scott:** When I did the comparisons with the other states—it was some time ago—it compared very well. However, there are particular challenges here in Western Australia; namely, the visits and the geography, and some of the special needs, particularly of Aboriginal communities.

**The CHAIRMAN:** Yes.

**Ms Scott:** So I think, over time, obviously that budget will have to be reviewed.

**The CHAIRMAN:** It will have to be increased. I know that the Tasmanian commissioner has a very low budget and two staff, so I think this is probably a reasonable start for Western Australia.

**Ms Scott:** Yes.

**Mr M.P. WHITELY:** You mentioned the capacity to do inquiries, and I know you have a broad brief, but I understand there is a limitation on your ability to investigate individual circumstances; you cannot handle individual complaints and are limited to doing systemic inquiries. Can you ever see a situation whereby delving into the circumstances of an individual might reveal failures in the system? Have you any concerns that that may limit your capacity?

**Ms Scott:** At this stage I do not think there are any limitations in the legislation. Since we have had our informal discussion I have reflected on that issue. I believe there is scope within the legislation to look at the individual circumstances in a number of cases, to determine whether there is a systemic issue. That is the relationship that I see. I shall give you a case in point without going into a lot of detail today, but there are some examples where an individual's circumstances come across my desk, or come to my attention, and I use that information about the individual's circumstances to go to a particular director general and say, "I am concerned because this raises these issues for me."

**Mr M.P. WHITELY:** That is encouraging.

**Ms Scott:** That is what I am doing.

**The CHAIRMAN:** That is good.

**Ms Scott:** That information comes to me in a number of ways. That has been one of the values of travelling throughout the state. I have not covered the whole state, but as you are aware from my annual report, I have travelled quite a bit in the north of the state. Last week I was in Bunbury. It is a wonderful opportunity to hear on the ground what is going on in a local community. From that

visit there are particular individual issues that were raised with me that I use then to look at the broader systemic issues. That is just another way that I do that.

**The CHAIRMAN:** If I could comment on that for the benefit of people in the gallery: the part in the legislation that was a hard-fought battle on the floor of the house was that the commissioner would have the power to pursue an individual inquiry. The argument put against that was that the commissioner may be overwhelmed by individual inquiries. The commissioners with whom I have met have said that the ability to pursue an individual inquiry gave them the ability to be a person of last resort.

**Ms Scott:** Yes.

**The CHAIRMAN:** It is comforting to know that you certainly see the value in listening to individuals, whilst you do not want the office to be overwhelmed by that.

**Ms Scott:** Yes.

**Mr M.P. WHITELEY:** The annual report states that you have got a five-year strategic plan under development. Will you elaborate on what will be included in the strategic plan and how it is going?

**Ms Scott:** As I mentioned before, we have almost finalised the strategic plan. We developed that by, one, looking at our act; that is the basis, our reference point. We talked with children and young people about how they saw the role of the commissioner in that context; we talked to community organisations—we have an extensive non-government sector in Western Australia and they were invited to participate in that process; and also significant government agencies. From that, there are probably four main elements to the strategic plan that we identified. The first element is listening to children and young people and their families and stakeholders, but listening is a key part. The second element is giving a voice to children and young people. The third element is, taking those two into account, how do we influence public policy; how do we influence services; how do we influence legislation for the wellbeing of children and young people in this state? Then we have a fourth element, which is, how do we develop a best-practice culture in my office which supports those other three? It is almost finalised, but already the office is aligned to that strategic plan and in next year's annual report we expect to report on how we are faring in terms of outcomes measured against that strategic plan.

**Ms A.R. MITCHELL:** One of your functions is to promote participation of children and young people. How have you approached this thus far? You have mentioned a few little things, but you might want to give a couple of specifics there as well.

**Ms Scott:** There are a number of things, I suppose, we have been doing around participation. The first is, everywhere I go I try to meet with children and young people just to introduce myself and listen to them firsthand. During the travel last year I did to the north, I certainly met a number of fantastic young people doing terrific things. The Hedland Youth Leadership Council is a really good example of young people actively involved in their community. I make a point of meeting with those individuals and organisations. Last week, when I visited Bunbury, I went to two schools. I met some young students at the local Aboriginal school, and also Kingston. The first thing is that they see that they can have a relationship with the commissioner and meet with the commissioner. In the office we have also been modelling good practice around participation of children and young people, such as some of the things that I mentioned: involving children and young people; their participation in the logo; the website, those sorts of things. When I go to other agencies—as I have—and say, “How do you involve children and young people in your services, in your programs?” I can point to some solid examples in my own office's operation.

Additionally, we are developing participation guidelines particularly for government agencies, but they also will apply to non-government agencies. Where I have identified an opportunity to work with another government agency on a joint project, I have done that. If I could just give you one example of a project we are involved with at the moment: the Western Australian museum wants to

consult directly with children and young people about the museums; the regional museum and perhaps whatever the new museum might be in Western Australia. I have joined as a partner with them to try to develop, if you like, a best model practice of participation. That is an example of an agency that was proactive and wanted to know how they could effectively engage with children and young people. Those guidelines will assist agencies to do that.

Another area mentioned in my annual report is that I have worked closely with the Ombudsman and the Office of Health Review and the Equal Opportunity Commission in developing up complaints guidelines that are more responsive to children and young people. We are just about to finalise the publication, which will be endorsed by the Commissioner for Equal Opportunity, myself as Commissioner for Children and Young People, and the Office of Health Review on how you can involve children and young people, how you can have more responsive complaints systems. That is another example.

The other thing is that where I see something that has worked very effectively, I promote that in all my public presentations and in all my written information. One positive example I would like to bring to the committee's attention is that the Public Transport Authority were running a campaign probably about six to 12 months ago, last year, whereby they were looking at two things: they were very concerned about young people going on the railway track and the danger and the high-risk behaviour; they also were concerned about the antisocial behaviour on the Armadale line. They developed a marketing campaign which they thought would target young people and deter them from both of those activities. Once they did that, someone thought it might be good to ask young people themselves. When they did, they realised that the campaign was flawed. To their credit, they revised the campaign. Then they ran a very effective campaign which reduced antisocial behaviour on the Armadale line and had the effect—a more positive effect—of keeping kids off the tracks. That is a really good example. Where I see good examples like that, I promote them. The participation guidelines we are going to develop will have a resource kit and good models, like the example I just talked about, so that other agencies can see what it actually means in a practical way and how it can improve what you are trying to achieve.

**The CHAIRMAN:** The complaints-based mechanism for consulting children is an interesting one. You are developing mechanisms to help young people and children to put in a complaint, are you?

**Ms Scott:** Yes.

**The CHAIRMAN:** And transport is one?

**Ms Scott:** Yes.

**The CHAIRMAN:** If you are training up children and young people to do that, is there an opportunity for that to be passed on to another set of children?

**Ms Scott:** Young people and children—and often their parents and guardians—do not know what the avenues are to complain if you are not happy about a particular service that your child is receiving. I went to the peak complaint bodies, if you like—the Ombudsman, the Equal Opportunity Commission, the Office of Health Review—and talked with them about what additional steps they take to ensure that children and young people, their parents and guardians, know about their services. Those agencies were very responsive in saying that they had not really thought about that, and they would like to make their service more known to those groups and make it easier to access. That is what the project is about. We also consulted with children and young people and asked them what they were looking for when they went to an agency and they were not happy with something. Some of the very simple things are that they are looking for a human being at the other side who might listen to them, talk to them; they do not like the automated telephone system, like we do not like them; they do not like to be kept waiting; they like to be taken seriously. It is simple things like that.

[10.30 am]

What we are trying to do is really make the agencies more aware of children and young people and their families, and what might make them easier to access.

**The CHAIRMAN:** Thank you, Michelle. As Andrea has rightly alluded to, one of the top priorities for the Commissioner for Children and Young People is to encourage participation and hear the voices of children and be an advocate for them. Part 8 of the act actually requires the commissioner to establish advisory committees consisting of children, and section 52(2) of part 8 says that the commissioner must establish advisory committees consisting of children and young people. I know it is early days and you have consulted with a number of children. Do you have plans to establish those advisory committees made up of children and young people?

**Ms Scott:** Yes. Can I just mention one other activity related to participation before I move on to that question? Last year we also held a major forum in Children's Week, and we showcased the participation of children and young people. We had several young people—I think it was five or six—throughout the state who presented to a forum of decision makers here in Western Australia about how active they had been in their local communities. We received a very positive response and feedback around that forum. That was another example. In terms of the advisory committees, one of the things that I was very concerned about was not to rush in and set up an advisory committee for its own sake, and so one of the things that I wanted was to do an audit of what exists in Western Australia already. The committee may be aware that there are many, many youth advisory committees, children's committees, throughout the whole of the state. I am just about to assess the situation now, having been in the position for 12 months, and decide what is the next step forward for me as commissioner. There are two broad options, in my view. One is that I could establish my own advisory committee. The other is that I may call for expressions of interest from existing advisory committees and whether they would like to be the two or three this year that the commissioner consults with over any aspect that she may wish to. So they are the two broad choices, if you like. I am really aware that there is a lot of fantastic work already going on, and there are a lot of resources in those existing committees, and I am anxious not to just create something for the sake of it, although I need good advice from children and young people and I need a mechanism to do that. So that is the stage that I am at at the moment.

**The CHAIRMAN:** Thank you for that. I think what struck me in reading the legislation in preparation for today was that there is a requirement in the act that you establish advisory committees in the metropolitan area and in the regional areas, so that they are dedicated advisory committees for the Commissioner for Children and Young People. I think that is worth noting, because whilst there are a lot of existing advisory committees, we know from experience that very often the YACs and the youth councils are made up of the school prefects and whoever. I will follow that with interest to watch the emergence of specific advisory committees for the commissioner made up of children and young people.

**Ms A.R. MITCHELL:** Michelle, can I go back? You mentioned your extensive travel and consultation, particularly in regional areas. From what you have experienced already, what are the main outcomes or even the lessons that you have learnt from both the internal operations and the external consultations and travel?

**Ms Scott:** As I was saying, I think the travel and meeting with people in local communities are a fantastic resource to me as commissioner, because you see firsthand on the ground what is going on. I see great strength and positive programs, and I also see gaps. I will give you just one example from Bunbury last week because it is in my mind. They have a wonderful Early Years Network in Bunbury. It is the maternal health nurse, it is the playgroups, it is the kindy teacher and it is the parenting program all coming together, and they meet and they share their resources and their knowledge. It is a great example on the ground of people collaborating and coordinating their efforts. So you see something like that, which is really working and making a difference to how the families are supported in a particular community and how children are supported. That is a model



that I have been promoting myself, as commissioner. So when I talk to them about what I am thinking, they feel supported, that I will advocate for that sort of mechanism, because they can see that it is working. That is a good example of something that is positive and working. As I mentioned, another positive example was the Hedland Youth Leadership Council. A high proportion of Indigenous kids are involved with that. It is very proactive. It is not your typical youth advisory council. They are doing a terrific job on a range of issues in the Hedland community and receiving good support from their local shire. That is another positive example.

I have also seen some of the gaps and some of the particular issues that might relate to a region—for example, housing in the north west, housing in the Kimberley, the lack of counselling services for children in the Kimberley region and the lack of integrated services for some children in the Kimberley. As I have mentioned informally to the committee, everywhere I go people talk about the need for comprehensive youth services in Western Australia and a comprehensive youth plan. Whether it is Bunbury or Derby or Halls Creek or little communities like Warmun, people are desperately wanting to do positive activities for young people.

There are many other issues that people have raised with me. I find it tremendously helpful, and also there is the recognition. There is a lot of goodwill towards the commissioner's position. Also, I use the visits to talk about the role of the commissioner and how the commissioner is independent and reports to a parliamentary committee. Generally, the response is very positive about that, because people see that the position is going to stand up for children and young people. Does that give —

**Ms A.R. MITCHELL:** Yes, certainly.

**Hon CAROLYN BURTON:** Michelle, regarding that, what sort of participation do you have with young people coming to these visits, and how do you let everybody know that you are actually coming to a town? Is that mainly on your website or —

**Ms Scott:** No. We are fairly proactive about how we go about organising my visit, and sometimes it takes quite a bit of time. I try to ensure that I see the key government agencies and the key non-government agencies. Last week in Bunbury we gathered together all the Early Years Network people. There is a great organisation Investing In Our Youth in Bunbury, and so they brought together a lot of that sector. I try to visit schools as well. So we are very proactive in making contact with key people in the community, telling them that we will be coming and would like to visit. I also try to meet with Aboriginal organisations as well. The office is very proactive about how we meet, and I look for established groups of young people or children that I could meet with, either through the schools or through a youth advisory council or an existing service. In Derby, for example, there is a great youth service after school, so I went there. That was all arranged. I met some of the young people; we talked about things. They have now been involved in our communication tool. We have developed this "Shout Out" idea as a communication tool with young people. We went back to them and said, "Remember you met with the commissioner: what do you think about this?" We went back to the Hedland Youth Leadership Council about our website. So we are maintaining an ongoing relationship as well.

**The CHAIRMAN:** So "Shout Out" is a mechanism for getting children to have their voices really heard?

**Ms Scott:** That is right.

**The CHAIRMAN:** Tell us a bit about that then.

**Ms Scott:** We are trying to meet everyone's needs, and how to communicate with adults as well as how to communicate effectively with children and young people. Sometimes if you do it simply, everyone's needs are met. But in relation to the website, for example, instead of just talking about the Commissioner for Children and Young People, we are going to have—we have tested this with young people—the idea of "Shout Out". There will be an entry point on the website, "Shout Out for

Young People". Every publication we put out, it will be "Shout Out". We have not made this public before today, but that is what we are looking at. It is "Shout Out, Stand Up and Be Heard", and the response has been very positive from young people.

**The CHAIRMAN:** I noted that one of your very first public announcements and public media statements identified that the real need in Western Australia for early intervention was for the zero to three-year-olds. I wonder whether you would like to comment on that. That has obviously come out through consultation, and they cannot shout out.

**Ms Scott:** No, that is right; no, they cannot. That is an issue that came to my attention fairly early after taking up my position. It is the zero to threes, but, from my perspective, it also really extends to the zero to eights. We do not have a comprehensive approach here in Western Australia to the early years, and other states do, such as Victoria and South Australia. I do not want to say that the other states are perfect because they are not, and I am sure that they are all works in progress like we are. However, I think that there are some examples elsewhere in Australia where people who are coordinating and collaborating have a more strategic idea about what direction the state should be going in. My concern is that we do not have that, and we do not have what they have in some of those other states, which is an office for early childhood that brings together the service delivery into every community and policy framework. I think that the Council of Australian Governments' agenda on early childhood presents us with a unique opportunity to maximise the resources here in Western Australia. I think that if we had a clear direction here in WA and an office that was driving that agenda, we could maximise the opportunities for children here in Western Australia. I have pointed out in my public presentations and in my annual report my concerns that even in small areas like maternal and child health nurses, we had an increase in our birth population, for example, between 2002 and 2006 of about 16 per cent.

**The CHAIRMAN:** What does that bring the birth rate up to—about 32 000?

**Ms Scott:** No, we have not got that figure.

**The CHAIRMAN:** That is a big increase.

**Ms Scott:** It is a significant increase that was not planned for in terms of aligning services with that population growth. In the maternal health nurse area, we have not had an increase in maternal health nurses for 20 years, so we are 94 maternal health nurses short right now. That is not in terms of improving our service delivery, but just in terms of maintaining the service delivery. There is a significant difference between a child born in Victoria and a child born here in Western Australia. All the research supports my view about maternal health nurses, and if you were to take evidence from Fiona Stanley or Frank Oberklaid from Victoria, or perhaps some other commissioners from overseas, they would all be saying the same thing: that universal services are very important to the wellbeing of children and young people. The maternal health nurse is a fantastic universal service that assists parents, mainly women, with their children about child development, immunisation, parenting, playgroups and all those sorts of things. That is just to give you an example, Madam Chair, of some of the gaps that we have here in Western Australia.

[10.45 am]

I think that if we had a strategic vision and an office driving this agenda then we would be better placed in Western Australia. One of the fantastic things about having a Commissioner for Children and Young People, which I am sure, Madam Chair, was your vision, is that it puts the focus on children and young people. Many agencies think about the adults that they are meant to provide the services to, but they forget about the children. In the health area I am very concerned that children and young people are not visible and are not getting adequate attention. I use every opportunity to raise these issues either publicly or in my meetings with directors general and ministers.

**The CHAIRMAN:** You said that we are 94 child health nurses short. I do not know whether it was in your media statement, but you compared the number of home visits. It would be interesting to remind the committee of the comparison of the number of home visits.

**Ms Scott:** Amy, who is my reminder person here today, will correct me if I am wrong, but the figure is five visits over four months in Victoria. If you have a baby, you will receive five visits by the time the baby is four months old. In Western Australia, in 18 months the baby would have had five visits.

**The CHAIRMAN:** Does not South Australia have some phenomenal number of visits?

**Ms Scott:** They have a fantastic Aboriginal home visiting program. Thirty-four visits are available to every newborn Aboriginal child in the first two years of their lives. In Western Australia, the goal is to have 20 visits over five years.

**The CHAIRMAN:** What would we achieve at the moment with that shortage?

**Ms Scott:** No one can tell us, because they do not keep adequate records, but all of the information would suggest that many Aboriginal parents do not take up, and I know the health department is working hard to redress that, but it is significant. I also believe that many families and parents are not taking up the regular visits to the child health nurse clinics.

**Mr M.P. WHITELY:** This is not so much a question as a piece of information that might be of interest to you. I think those statistics for all the children carry through for school-based nurses as well. I may need to double check it, but I think there has been a decline in absolute numbers of school-based nurses despite the population increase over the past 20 years.

**Ms Scott:** I do not have the figures on the decline, but I can say that I have been advised that they are least 100 school health nurses short, and there is a shortage of between 100 and 150 child development workers in the child development centres. All of those have consequences. For example, when I go to a school they say that they have a great school nurse and she is there half a day or one day a week. She rushes in and does what she has to do—she or he—and leaves. There is no capacity. In some schools they have told me of more serious incidents involving children when the school health nurse is just not available to assist. There has been a significant shortage. Related to that issue—and this relates to your question, Madam Chair, about integrated services and what an office for early childhood would do here in Western Australia—in the community, people say they want services integrated. They do not want to have to go down the road to the maternal health nurse, down the road to get screened for the speech pathologist et cetera. There are some wonderful principals here in Western Australia—I know that you are aware of some of these examples—who are trying to bring all those services on site. When I was in Bunbury last week I met a fabulous principal at a local school who said, “The parents of these kids don’t have the capacity to drive to another place an hour away to have their child assessed. If I could have it all on the school site, it means that the kids are going to be better off.” That is something I support—not only an office at this level, integrating everything government does and working with the non-government sector, but integrating at the community level. It is like a one-stop shop for service delivery, so families and parents do not have to compartmentalise their children and their lives in that way.

**The CHAIRMAN:** I have been involved in a kindergarten in Coolbellup for more than 20 years, with a high level of low socioeconomic families and Aboriginal families. We have fought and saved for years to get an on-site speech therapist, because the intervention was absolutely critical and families broke appointments at the local Southwell centre. That sort of integration can happen in a kindergarten, child health centre or at a school, but I understand what you are saying. I think, probably from the commissioner’s point of view, you have identified a high need for child health nurses and the need for home visiting. I guess the other area of interest in those early years is the lack of speech therapists and therapeutic intervention. Children sometimes have to wait up to two years for those specialist interventions.

**Ms Scott:** You can magnify the difficulty for someone in Fitzroy Crossing, Derby or Warmun, where, if the paediatrician does not get on the plane because the plane is cancelled, which is often the case, it is another month or two months, and some of these children have urgent needs. One of the things I would be interested in the committee considering, and something that I am coming to grips with as commissioner, is how we focus on those early years, not so much in terms of prevention, but in seeing that these children have needs right now. These are their needs right now.

**The CHAIRMAN:** Intervention.

**Ms Scott:** It is—right now, just as adults have needs right now. It is not about some future time, although if we intervene now and provide good quality services it saves us all that money down the track and all of the research shows that conclusively. It is not an economic argument, but somehow we really have to start paying more attention to children and their needs right now, as children. You need immunisation now, you need weighing now; you need all those things now. It does help in the long term, but the better services we need right now. Sometimes when we talk about prevention versus acute, it does prevent problems, but I am starting to think that we should not be talking about prevention, we should be talking about what children need right now.

**The CHAIRMAN:** It is fair to say that it is very much an economic issue, because if you have got the community without the social competencies at four or five, entering a school system, and if children have a speech delay or learning delay that is not assessed early, and you do not put in the intervention, there is going to be a social cost to them and an economic cost to the community later.

**Mr M.P. WHITELY:** Just very briefly—I do not want to editorialise—one of the concerns I am starting to get is that those delays in getting access from years two, three and four to identify problems with speech means that kids are not getting assessed until they are six or seven, and access to services stops at five. So you have got this catch-22 situation, in which the delay in getting assessed means you are too old to actually access the service under current government policy.

**Ms Scott:** One of the reasons I am advocating for an office of early childhood is that I am trying to make visible these children's needs, because they are hidden in departments. We need to bring them out to be very visible, and also very accountable in terms of performance and public investment in producing outcomes for children and young people. Another key part of my platform is how we need to measure outcomes for children and young people, as I have informed the committee before.

**The CHAIRMAN:** Thank you for that. It is a very basic issue. If a child cannot hear or speak they are not going to learn to read in a hurry, and that is the delay we have to face in an economic and social sense.

**Ms A.R. MITCHELL:** I will take a slightly different direction now. In your annual report, you mentioned better coordination of data on child deaths in Western Australia. Could you please explain your involvement in this and let us know how it is progressing?

**Ms Scott:** When I became commissioner I was aware that we had two different mechanisms in Western Australia. One dealt with the deaths of children who were in the care of the CEO of the Department for Child Protection, who were being monitored and investigated by a separate ministerial advisory committee. There had been a recommendation that the work of the committee be transferred to the Ombudsman, and I understand that is occurring and that legislation is either in the Parliament or pretty close to being introduced on that issue. The other was that at the Telethon Institute there was another advisory committee, chaired by Fiona Stanley, inquiring into data on deaths of children in the community, including road accidents and drownings in pools, which are two of the most common. The institute now has a contractual arrangement with the Department for Child Protection to monitor and prepare that data, and the Ombudsman is soon to assume the responsibility for investigating the deaths of children in care. I am monitoring the trends, so that I can be informed about any systemic issues that need to be raised in relation to the child protection system, and in relation to how we approach tackling deaths in the community, such as driving

accidents and pools. Are there public health messages, campaigns, policies and services? That is what I am doing at the moment. Since the arrangements commenced with the Telethon Institute, it has not yet produced a report. The child death committee has produced one report, and I am closely looking at that. I also generally monitor the other states to see whether there are any significant differences as well. That is what I meant about that.

**The CHAIRMAN:** Have you met with Kidsafe at Princess Margaret Hospital for Children?

**Ms Scott:** I do not know whether I have met with Kidsafe. I have met with Princess Margaret Hospital for Children on a number of occasions.

**The CHAIRMAN:** Kidsafe does a great job in preventing accidents, and in reporting and collecting data.

**Ms Scott:** There is also an organisation called SDERA, in the education department, which does a lot of campaigning around driving and child deaths. I have done a number of things with them in the past.

**The CHAIRMAN:** In relation to the question that Andrea has just raised, the Child Death Review Committee was very constrained in its powers. It could not call for papers from the Department for Communities or the Department for Child Protection. I understand that that function will go to the Ombudsman's office because it has wider powers to investigate children who died in suspicious circumstances while in the care of the state.

**Ms Scott:** Some concern has been expressed to me about whether we are gathering all of the data. A few people have come to me and asked whether there are other areas we ought to look at. I am still having those sorts of discussions with people, but I suppose the most significant thing for me as commissioner is using that evidence and information to raise issues and focus on what needs to be done about it. My focus is what can be done, from the public health point of view, in terms of service provision in addressing this issue.

**Hon CAROLYN BURTON:** The committee is aware that schedule 1, clause 3 of the act, which pertains to working with children checks, has not yet been proclaimed. Having been in your role for about 12 months, you have an opinion on how the screening might fit into your other functions and operations in your office?

**Ms Scott:** As the committee is aware, because I have written formally to the committee, I was reluctant to take on that function initially as commissioner because I wanted to establish my role and I did not initially want the function of working with children checks to distract me from establishing my office. I have met with the relevant ministers and expressed that view to them.

[11.00 am]

The past 12 months have given me the opportunity to review and assess the situation, and to look at what happens in other states. I remain concerned that if that function was to stay within my remit, that it would be a significant administrative workload. I believe there are other agencies that are well placed to continue or assume that responsibility. In other states there are other models. For example, another agency such as the Department of the Attorney General might take on that role. I understand from all the information I have received since I became commissioner that working with children checks are working very well within the Department for Child Protection.

**The CHAIRMAN:** I think the committee shares your view that we do not want the granting of a card to people working with children to overwhelm other work that should be a priority for the commissioner.

**Mr M.P. WHITELEY:** I agree.

**The CHAIRMAN:** I will move on to the next issue. One of the functions of the commissioner is to monitor and review draft laws, policies, practices and services affecting the wellbeing of children and young people. I am interested to know how you have approached that, because it is a politically

sensitive issue, I guess. Does cabinet let you see a cabinet minute? When cabinet is preparing something, do you have the ability to prepare an impact statement on legislation, for legislators and for members of Parliament? Where in the process of developing new laws and policies do you see your role as being a strong voice for children and to have an influence on legislators in those areas of policy, practice and legislation?

**Ms Scott:** I will make a couple of remarks before I speak in detail about how I monitor laws. I see the commissioner as having a very proactive and important leadership role here in Western Australia. Over the past 12 months, the commissioner and the resources of my office have been initiating policies and strategies that will enhance the wellbeing of children and young people. Although I have a function to monitor existing laws and policies, I think we actually have a very strong role in promoting and initiating laws and policies. A lot of my work over the past 12 months—we have discussed one of the areas, which is the early years. Another example is the juvenile justice area, and another area is regional and remote issues in relation to children and young people. I am not just monitoring what is already there; I am initiating and challenging what should be there, and raising the bar. In relation to proposals to change legislation in particular, I have written to the majority of directors general, in cases in which I think they have a significant role to play in relation to children and young people, and they will be developing legislation. I advise them of my role and functions in relation to monitoring, and suggest that they might like to brief me and engage with my office prior to legislation being developed. In some cases, legislation is well on track, and was already developed before my role was established. I am playing a bit of catch-up in some of those areas. In other areas, directors general are briefing me or they are writing formally to me, advising me that this legislation is about to be developed. There are some positive examples of that happening.

The ideal time for me to be involved in legislation would be before it goes to cabinet, seeking approval to draft the legislation. That would be the ideal, and that is my aim over five years—for more agencies to come to me in the early stages. There are some examples of that happening. There is a particular piece of legislation that the Department for Child Protection is looking at, and the director general has briefed me about that. I am seeking to have input at a very early stage in the policy that might inform what the legislation might look like.

**The CHAIRMAN:** That is good.

**Ms Scott:** That is what I am doing. The other thing I have mentioned informally to the committee is the development of an instrument or tool for evaluating the impact of legislation. I have considered a draft; it is not quite finalised yet, but I will start using that within the office to assess whether the legislation is in the best interests of children and young people. I will know more about how that is going in six months. I have also written to every parliamentary committee. I have written to the Standing Committee on Legislation and a number of the lower house committees, informing them of the commissioner's role. As the committee knows, from time to time those committees consult with various bodies, seeking their views. I have written to them formally, saying that I am happy to provide that advice.

**The CHAIRMAN:** That is good. For me, the issue is the commissioner having a purposeful role in draft legislation. If a government is about to launch into a piece of legislation that will impact on children, that is where your role is. Did the Minister for Child Protection approach you in relation to the change in the child deaths review prior to it going to Parliament?

**Ms Scott:** I do not think the current Minister for Child Protection has, but the previous minister raised that matter with me. To be honest, I have not seen the detail of the legislation, but I am in support of the legislation insofar as it goes to the Ombudsman. I have met with the Ombudsman and staff in his office about us having an ongoing relationship and being informed about that, so I am very satisfied with that process.

**The CHAIRMAN:** I guess my concern as chairman of an oversight committee looking at one of the functions of the commissioner is to ensure that there is an ability for the commissioner to have access at ministerial level or CEO level, prior to legislation hitting Parliament.

**Ms Scott:** My recollection is that that is the case, but it may have predated the current minister. Certainly the Ombudsman's office has kept me informed. I also personally met with the chair of the child death review committee.

**The CHAIRMAN:** So you have had that input?

**Ms Scott:** I have had some input, yes.

**Mr M.P. WHITELY:** Obviously you have the capacity to conduct special inquiries, but you have not had the need to do that so far. Are there any plans to conduct inquiries? I have a series of questions and I might just ask them all. Do you monitor inquiries that are undertaken in other jurisdictions? If so, do you actually have the resources to do it properly? If inquiries are conducted, is there any role that this committee could play to assist you?

**Ms Scott:** As the member correctly points out, I have not conducted a special inquiry. I considered, during the first 12 months, whether I would conduct inquiries around particular issues. One of the issues I contemplated was in relation to juvenile justice, for a range of reasons. However, I am also conscious of my legislation, which provides that I should not duplicate the efforts of others. In the case of juvenile justice, I met with the Auditor General, who was conducting an inquiry. I really valued the work that the Auditor General did in relation to juvenile justice, and in particular to the Young Offenders Act, and his performance examination of that act. I used the good information that came from that inquiry or performance examination, as commissioner, to advocate to relevant government agencies about what action they might need to take. I have also written to the relevant parliamentary committees that monitor the Auditor General's inquiries, saying that I had some knowledge and expertise in this area and that I was happy to assist the committee in its role of monitoring that. I am using that as an illustration that where I have the cooperation of a government agency or a significant agency, I engage with that agency rather than call a special inquiry. If someone else has already conducted something that provides the useful information, I use that information. They are some of the reasons I have not to date conducted any inquiries. I anticipate that I might hold a special inquiry during the five years. I suppose, in terms of the criteria, it would be a serious issue that I did not believe was getting adequate attention elsewhere, and another agency was responsible for it but was not undertaking an inquiry, so that there is a gap and a need to focus on those issues. It would also have to be a serious issue of public interest.

Do I have adequate resources? At the moment I have sufficient resources. However, depending on the nature of the inquiry, and considering the geography of Western Australia and some of the special interest groups, I may have to seek additional funds for that inquiry.

**Mr M.P. WHITELY:** Could you see this committee assisting in that role, and perhaps even conducting inquiries?

**Ms Scott:** I do think the committee has a role in conducting inquiries. I have a role in conducting special inquiries, but I know that the committee in NSW has conducted inquiries, and I think that that is a very important role of this committee. I suppose that one of the things we have previously talked informally about is the fact that the Western Australian Parliament has a number of committees that focus on children. I want to acknowledge that, because I think that is a good thing. I suppose I am mindful of that also, in terms of my efforts and not wanting to duplicate what they are doing. I imagine that is also a consideration for the committee, but I believe the committee has a role in conducting inquiries and other activities that will raise the profile of children and young people in Western Australia.

The member also asked whether I monitor other inquiries. I monitor all kinds of inquiries—inquiries from other states that I think are relevant, inquiries and initiatives at the federal level, particularly at the moment, and internationally.

**The CHAIRMAN:** In relation to the committee conducting inquiries, we need to look very closely at the legislation that guides us. Although our earlier discussions may have led us down the path of believing we could, I think we need to examine the legislation closely to ensure that it does not exceed the powers of this committee. Our role as an oversight committee really gives us power to oversight an inquiry that you conduct, or to recommend that an inquiry goes somewhere else. I think we need to do a little more work on that.

**Hon CAROLYN BURTON:** What interaction have you had with other children's commissioners or their equivalent in other states or international jurisdictions? Have you witnessed any collaborative work or efforts between other commissioners that could be of benefit to children and young people in our state? What are your feelings about having a national children's commissioner?

**Ms Scott:** I think it is really important to collaborate with others, both within the state and outside the state. I support collaboration between the other commissioners. So far we have collaborated, since my appointment, on at least seven joint submissions, and they are on our website, either with all the commissioners, or in some cases, with New South Wales, because we have the broadest role. Sometimes other commissioners believe they cannot contribute because of their narrower focus. However, there are certainly seven if not more areas in which we have already collaborated and made submissions as a joint effort.

[11.15 am]

The commissioners meet together twice a year to share information. That is incredibly useful because we learn from each other about some of the positive things that are going on in each other's jurisdictions and we learn lessons from what each commissioner has done. Members may be aware from my annual report that in the current financial year I intended to release a tender for research into children and young people's views about their own wellbeing. The tender period has just closed and we are in the process of finalising that. New South Wales also conducted similar research, and we have learnt about some of its strengths from the information it has gathered. That is how in a practical sense we can collaborate. I am very keen to collaborate and I think a lot of things can be gained from doing that.

I have raised the matter of a national children's commissioner with a number of people federally. When the notion of establishing a national children's commissioner was first raised, it was raised within the framework of national child protection and it was, in my view, conceived to be focused on child protection. I do not believe that that is an appropriate focus for a national commissioner. The national commissioner should have a broad-ranging role. I support the establishment of a national commissioner who has a broad focus that is more aligned with the functions in my act and to some of the functions of the European commissioners as well.

**Hon CAROLYN BURTON:** We have briefing papers from the New South Wales and Queensland commissioners. Have you done a briefing paper?

**Ms Scott:** We are about to produce a series of issues papers that will summarise some key issues. The first paper is going to be about the early years and we will do another paper on participation. We are planning to do that over the next few months. The submissions I make and the speeches that I produce are also published on our website. Some people have told me that our website is great, but I know that it is not as great as it can be, and we are improving it so that people can access it. We are trying to be as transparent as possible. The issues papers will be about two pages long and will provide a quick summary of the key issues about our research and what the commissioner is advocating. They will enable people to quickly see what the commissioner is doing. Another feature of the website, which we have been unable to do so far, is we want to communicate what the



commissioner has been up to. We will publish on it some photos of me when I have been in Bunbury, for example, to show what I have been doing. That will make the activities of the commissioner more visible, and the issues paper is one part of that.

**The CHAIRMAN:** Did you answer the member's question about a national commissioner?

**Ms Scott:** I think I did.

**The CHAIRMAN:** Do you agree that there should be a national commissioner?

**Ms Scott:** I do agree, although I have said that the role should be broad ranging and not focused solely on child protection.

**Hon CAROLYN BURTON:** When we were in New South Wales recently, we spoke to the New South Wales commissioner and she said that Australia does not have an international voice because we do not have a national commissioner. That is probably the role that a national commissioner could play.

**The CHAIRMAN:** That is an important point.

**Ms Scott:** It is very important, and I think that it is correct. We have talked internally about the United Nations Convention on the Rights of the Child. It is referred to in my legislation and a lot of other legislation. We do not monitor very well Australia's and Western Australia's compliance with the convention. There is a need for a strong national advocate, as you say, internationally.

**The CHAIRMAN:** Did the New South Wales commissioner make the point that only a national commissioner would get a seat at the UN to provide that sort of input?

**Ms Scott:** Probably. I do not know whether she made that point, but it is probably true.

**The CHAIRMAN:** Thank you very much, Michelle. I would like to wind up by asking a final quick question. Our time is running out and we have asked you a lot of questions. I would like to congratulate you on being Western Australia's first Commissioner for Children and Young People. An issue that I have raised informally with you, which I thought would be interesting to raise from a public point of view is, as the first commissioner, how will you measure your work and the impact you have had on children and young people in Western Australia so that Western Australians can say that this is the work of the commissioner and this is how it is measured?

**Ms Scott:** I am aware of your views about that. It is a challenge to create something whereby we can claim responsibility for having achieved a change in policy or legislation, but I think we can do that. We are working on doing that and on measuring our capacity to influence others to do their job better for children and young people. My position is about influencing others and the key is how to measure that. I could recount to the committee the many things that we have done over the past 12 months that have played a very significant role in leading the debate on particular issues and have contributed significantly to those issues being in the public domain among the relevant stakeholders, the government and the community generally. At the end of my five-year term I would like to see more value and priority placed on children and young people and to see them being more visible in the community. That is one of my goals. The challenge for me is how I will measure that. I agree with you, Madam Chair, that that is something I must do as the commissioner. I have turned my mind to it over the past few months. I do not have the perfect tool for doing that yet, but I intend to come up with one.

**The CHAIRMAN:** Are there any other issues you would like to raise with the committee?

**Ms Scott:** No, except to say that I look forward to working with the committee and to us jointly contributing to the wellbeing of children and young people and raising their profile in Western Australia. That is my key role and I would like to work with the committee to achieve that.

**The CHAIRMAN:** Thank you. Do committee members wish to raise any other matters?

**Hon CAROLYN BURTON:** Now that the committee has been formed, do you envisage meeting with it on a regular basis or on an as-needs basis?

**Ms Scott:** I have not thought too much about that. Obviously I will meet with the committee as required by the committee. I would like to have some discussions with the committee when it has formed its views about what it considers to be its role. I have heard what you said, Madam Chair, about the inquiries the committee can conduct and about the committee's limitations. There are other ways to work together, and we might work together to achieve that. I think I mentioned that last year I held a forum. A number of things are coming up this year, including a visit to Australia by the English commissioner later in the year and some conferences that will be held. I am looking at ways in which the committee might be able to be party to some of those things and to sponsor some of the events. I am also thinking about how children and young people might have contact with the committee and how that could be done. We are planning to hold a commissioner-for-the-day project, which was run in New South Wales last year during Children's Week. We will have a commissioner for the day and invite expressions of interest. I would like the children who are part of that project to meet with the committee and the relevant ministers and so forth. Other similar opportunities include holding forums for members of Parliament.

**The CHAIRMAN:** We have planned to hold a forum so that the other members of Parliament and maybe the media will become more aware of the position.

**Mr M.P. WHITELEY:** There are two ways you can play your role as an advocate. You can contribute to the long-term policy development and also comment on the day-to-day news. I am not asking you to comment on this particular issue because it would put you on the spot, but yesterday we dealt with very controversial legislation that had the potential to legislate for the mandatory detention of juveniles. How will you balance commenting on the short-term, immediate and newsworthy matters and commenting on the long-term issues? Potential difficulties must arise if you do enter the daily debate. I am not asking you to comment on that particular issue.

**Ms Scott:** I will not comment on that, so I thank you for that. The commissioner has a role to do both. To date, I have done both. I have publicly commented on some short-term issues and obviously I am working on the long-term issues. I have commented on a number of current issues that either I have initiated or for which the media has sought my comment on. I have done that on a number of occasions. A significant challenge a Commissioner for Children and Young People faces is dealing with every aspect of a child from preconception to 18. Members can imagine how many issues in the daily paper there are to comment on. I suppose that one of my considerations—and I get lots of requests—is I do not wish to devalue the role of the commissioner by commenting every day on the myriad issues; I must be selective about them. To some extent, that is a matter of judgement.

**The CHAIRMAN:** If there are no further issues, I thank you very much for appearing before the committee and the people who have attended in the public gallery. A transcript of this hearing will be forwarded to you for the correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. If you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence.

**Hearing concluded at 11.27 am**

## APPENDIX FOUR

### *LEGISLATION*

| Legislation  | State (or Country) |
|--|--------------------|
| <i>Commissioner for Children and Young People Act 2006</i>       | Western Australia  |
| <i>Working with Children (Criminal Record Checking) Act 2004</i> | Western Australia  |