

*Joint Standing Committee on the Commissioner for Children and Young People —
First Report — Annual report 2020–2021 — Motion*

Resumed from 10 November on the following motion moved by Hon Kyle McGinn (Parliamentary Secretary) —

That the report be noted.

Hon NICK GOIRAN: This is a very important report by the Joint Standing Committee on the Commissioner for Children and Young People. It is also very timely that we should be considering this matter today because there has been a revelation in another parliamentary committee and a public document is now available for all to see. By way of context and explanation for members, we have here the annual report of the joint standing committee that oversees the Commissioner for Children and Young People. At page 2 of the report, this comment is made in the third sentence under the heading “Briefings” —

The Committee invited the Commissioner for Children and Young People, Colin Pettit, to a briefing to meet the new members and outline his recent and ongoing work.

This briefing took place on 23 June 2021—that is, this year. On 23 June this year, the Joint Standing Committee on the Commissioner for Children and Young People met with Mr Colin Pettit, the commissioner, who, for reasons known only to the government, has not been reappointed, to find out about what is described in the report as his recent and ongoing work. Of course, this report is looking at the work of the commissioner during the financial year 1 July 2020 through to 30 June 2021. A substantial portion of that work was this bombshell *Independent review of Department of Communities’ policies and practices in the placement of children with harmful sexual behaviours in residential care settings*. As I say, whether that bombshell report played any role in why the McGowan Labor government decided not to reappoint Mr Pettit as the Commissioner for Children and Young People is something that is perhaps only known to members of the McGowan Labor government. One has to wonder whether it was ever discussed in cabinet whether, according to the McGowan government, Mr Pettit’s bombshell report was grounds to not reappoint him. I suspect we will never know the answer to that question. But what is particularly interesting about this matter is just how long the Minister for Child Protection knew about the matters at the heart of this placement of children with harmful sexual behaviours in residential care settings.

We had the opportunity to briefly consider this report, as I look at my notes here, on 10 November this year. Members may recall from that day if they were here and not away on urgent parliamentary business that it goes to the case of two unidentified Western Australian young people. For the purposes of the report, the primary victim has been renamed as Macie. Macie’s case is a harrowing one. In effect, despite the fact that Macie pleaded with the then Department for Child Protection and Family Support, she continued to be placed in a residential care setting or settings, plural, with at least one child who was displaying what is referred to as harmful sexual behaviours. The report set out Macie’s exasperation at page 13. She is quoted as saying —

“I know from my experience, no one believed me, like DCP didn’t really believe me when what happened to me at 12.”

On that same page, in her case file, Macie is recorded as saying —

“I don’t know why they would put me in a house with [him] when they know that I have been sexually assaulted before.”

We touched on this on the last occasion. What we did not know on the last occasion, and we only know now because of the work of the Standing Committee on Estimates and Financial Operations—this matter has only been revealed today, at least in a public forum—is this response provided by the Minister for Child Protection following a budget estimates hearing on 18 October this year. My question at the time, which was supplementary information A20, was —

When did the Department of Communities first brief the Minister for Child Protection about the two individuals referred to as ‘Macie’ and ‘Lee’ in a recent report by the Commissioner for Children and Young People?

Of course, I know from previous hearings in previous years when the Leader of the House has been representing the Minister for Child Protection that if we asked for any information whatsoever about something that might be in the knowledge of the Minister for Child Protection, everything would be taken on notice. Under no circumstances would any of the witnesses who might be sitting less than 30 centimetres away from the Leader of the House be consulted. No—the work of the committee would be obstructed in that form, and we would not be able to get that information. Thankfully, this year, the Department of Communities was represented by the hardworking Hon Samantha Rowe, who is away on urgent parliamentary business today. She was good enough to take this information on notice and this response came back from the minister, signed by Minister McGurk. It states —

The Department of Communities provided briefing information to the Minister regarding Operation Timing Belt on 22 June 2020.

The significance is that from 22 June 2020, Minister McGurk knew about this at the very least—having been briefed by the Department of Communities about this horrendous set of circumstances that involved two Western Australian

young people who have been re-identified as Macie and Lee—since 22 June 2020! When did the Minister for Child Protection refer this matter to the Commissioner for Children and Young People? Page 11 of the report of the Commissioner for Children and Young People tells us —

In October 2020, a young person in the care of the CEO of the Department of Communities ... in Western Australia spoke out in the media about her experience of being in residential care and specifically of being placed in the same group home as an older young person who she understood had engaged in acts of harmful sexual behaviour.

On 30 October 2020, the Minister for Child Protection, Hon. Simone McGurk MLA requested the Commissioner for Children and Young People ... conduct an Independent Review ... of the Department's policies, practices and services regarding children with harmful sexual behaviours ... in residential care.

It is shocking to think that the Minister for Child Protection knew about this, according to the answer signed by her and provided to the Standing Committee on Estimates and Financial Operations. The answer, which has just been made public today, states that this was brought to her attention on 22 June 2020. It was only when the young person screamed and pleaded in mainstream media in October, and public pressure was applied by the opposition and the media, that the minister found a solution, which was to refer the inquiry to the Commissioner for Children and Young People to determine whether the department should be housing victims and perpetrators together. One would not think that a competent Minister for Child Protection would need to have the commissioner undertake an inquiry to ascertain that information.

The CHAIR: Hon Nick Goiran.

Hon NICK GOIRAN: Thank you, Mr Chair. One would not think that that would be the case, yet that is exactly what has transpired. I cannot believe that the Minister for Child Protection, having known about this matter since 22 June, would have allowed young Macie to have to resort to pleading her case in the media in October before referring the matter to the Commissioner for Children and Young People. It is a harrowing story to think that these young people were put through this in a systemic fashion by the department, and that after all this time has transpired, the government's solution and supposedly policy direction is to say that it will not do that anymore if it involves a reportable offender. In the budget estimates hearings, we asked the department what it is doing about those offenders who might not necessarily be reported, but whom the department knows has committed some harmful sexual behaviours. Let us not wait for everyone to have to prove beyond all reasonable doubt that the harmful sexual behaviour has occurred. Let us not wait until that time before we start rehousing some of the victims away from the alleged perpetrators. Yet, the government has not provided a response to that. It did not provide a response at the estimates hearing and it has not provided one since. What exactly is the McGowan government's policy when it comes to victims and perpetrators being housed together?

This report from the Commissioner for Children and Young People contained a range of recommendations for not just the Department of Communities, which is always the easy way for Minister McGurk to shield herself from any accountability and responsibility; indeed, the commissioner took the step of making recommendations directly regarding the minister. I am sure she would have been thrilled by that! The first of those recommendations was for her to prioritise the full implementation of the 33 royal commission recommendations. The royal commission made more than 33 recommendations, but, nevertheless, the Commissioner for Children and Young People highlighted and identified 33 of them and asked for those ones to be prioritised by the minister. Has that happened? Is the minister or one of the representative ministers, in the absence of the parliamentary secretary, who is away on urgent parliamentary business, in a position to advise whether these matters have been prioritised? Have all 33 royal commission recommendations been prioritised by the McGowan government at this time, on 1 December 2021, or have only some of the recommendations been prioritised? Has anyone gone back to the Commissioner for Children and Young People to report on the progress of this matter? I cannot recall when the new commissioner starts or whether they have started or is due to start shortly, but one would think that the government would take some responsibility and the Minister for Child Protection would report back to the commissioner about the prioritisation of these 33 royal commission recommendations.

The second recommendation made by the commissioner was to establish and resource an independent advocacy function for children and young people in the CEO's care to ensure they are supported to speak out when they feel unsafe, so that their views are heard and responded to, and they can immediately participate in decisions about their lives. What is happening about that? Is anything happening? At page 72 of his report, the commissioner went on to say —

The Department's Better Care Better Service Standards 2 and 7 require that children and young people in care be supported to express their views and are made aware of individual bodies and/or agencies, including the Advocate for Children in Care, who can assist them in resolving concerns.

Consideration of report postponed, pursuant to standing orders.

Progress reported and leave granted to sit again, pursuant to standing orders.