

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

**REVIEW OF THE EXERCISE OF THE
FUNCTIONS OF THE COMMISSIONER**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 26 FEBRUARY 2014**

Members

**Ms L.L. Baker (Chair)
Hon Robyn McSweeney (Deputy Chair)
Ms E. Evangel
Hon Sally Talbot**

Hearing commenced at 10.21 am**Mr TERRY MURPHY****Director General, Department for Child Protection and Family Support, examined:**

The CHAIR: On behalf of the Joint Standing Committee on the Commissioner for Children and Young People, I would like to thank you for your appearance before us today. The purpose of the hearing is to assist the committee in its review of the exercise of the functions of the commissioner. At this stage, you know me, Lisa Baker, member for Maylands; Hon Robyn McSweeney, member for South West Region; Eleni Evangel, member for Perth and, of course, Hon Sally Talbot, member for South West Region.

The joint standing committee is a committee of the Legislative Assembly of the Parliament of Western Australia. This hearing is a formal proceeding of the Parliament and therefore commands the same respect given to proceedings in the house. 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 make a transcript of the proceedings for the public record. If you refer to any documents during your evidence, it would help Hansard if you could provide the full title.

Do you have any questions you want ask us?

Mr Murphy: No.

The CHAIR: Have you completed the "Details of Witness" form?

Mr Murphy: Yes.

The CHAIR: Do you understand the notes at the bottom of the form about giving evidence?

Mr Murphy: Yes.

The CHAIR: Did you receive and read the "Information for Witnesses" sheet provided?

Mr Murphy: Yes.

The CHAIR: Would you please state your full name and the capacity in which you appear before the committee.

If it is okay, we will be just be Terry and Lisa.

Mr Murphy: I think that would be really good.

The CHAIR: I will kick us off. We have a pretty good arrangement in which people just ask questions; we have some set questions. Perhaps, Terry, if you could start by telling us your history, because it is a significant history through the life of the commission. What has it been like and how has the interaction between the commissioner's role and your role played out over those seven years?

Mr Murphy: It has been exactly the same period; I started in October and the first commissioner started in December 2007. There has been some evolution of what has occurred but, really, it has been pretty similar throughout. I guess the first thing to emphasise is that I regard the commissioner's position as an important accountability mechanism for our agency. The commissioner can, at any time, call an inquiry into our work, a section of it or the Department for Child Protection and Family Support per se. That is an important discipline and, I think, opportunity within government. We have a lot of accountability agencies, as everybody knows, but the

children's commissioner is a special one because of, presumably, her interest in children and their wellbeing. As such, I would meet with the commissioner quarterly. I met with the acting commissioner, yesterday, as a part of our regular meetings. When Michelle Scott was in the job, she would always raise difficult questions, whether they were issues that had received some public attention, arose through specific queries to her office or were items of interest. I think a really good example is her role in secure care. We have a secure welfare centre for five to eight children at any one time; usually around five. It is a secure facility behind high walls and so on.

Hon ROBYN McSWEENEY: Magnificently run, though.

Mr Murphy: It has been a boon. It has been a boon. Kids can be in there for 21 days, extended for another 21 days; it is a very short-term facility. Admission to that facility is through an administrative arrangement by the director general for those children who are in the care of the CEO of the department. That is a fairly substantial administrative authority and rightly it needs to be subject to external scrutiny. The legislation allows for me to appoint external assessors who have regular unannounced visits and provide reports to me. I have always provided those reports to the commissioner for children and kept a running tally on what they have observed and what we do about it. Additionally, I have always indicated that she has open access to that facility on an announced or unannounced basis. On a range of matters there is accountability.

I think, secondarily, because it is less important, there is a collaborative relationship as well. I think this is an interesting issue within government—I also had my regular meeting yesterday with the Ombudsman, which is a key accountability central agency for us, and we discussed the need for both arms' length objectivity and separation of responsibilities, but, at the same time, a collaborative relationship whereby information is made freely available—not taking a letter-of-the-law approach to that exchange of information and views. He is prepared to test his recommendations of reviews with us before he finalises them because that makes for a better result and it brings the collective intelligence of the accountability agency and ourselves to bear. Without diminishing the accountability role, I think a collaborative relationship with the children's commissioner has been important, particularly when she has held inquiries or made publications into areas like mental health and youth justice in which we have an interest but not the main responsibility.

The CHAIR: Can I just, maybe, drill down a little bit on what you are saying? That is really helpful. It would be really interesting for me, and I am sure the committee, to know, Terry, if you could identify some places in which the work of the commissioner with your office has led to some change or some outcomes—you know, specific issues. That would be really good.

Mr Murphy: There is one very good example that I always credit the commissioner with putting to us and us acting on it, and that is the establishment of the young people with exceptionally complex behaviours program. It is a relatively small program, based on the adult program, essentially run as a whole-of-government effort. Disability is the lead agency for the adult program and we are, obviously, the lead agency for the young people's version. That was a simple suggestion from the commissioner, to which we went, "Great idea; let's do it." We found the resources from within and essentially have brought the whole-of-government effort to bear. Others are more difficult to think of, but, I think, in the interplay of our discussions it generates opportunities for its service improvement, but I think that is the most concrete, substantial one.

[10.30 am]

Hon SALLY TALBOT: If I can be clear, it is not just that the commissioner plays a, sort of, invigilators role, it is not just her eyes, it is also the role that she has played in changing policy, developing policy and putting practices in place?

Mr Murphy: On two fronts. That one is a very specific suggestion. From her perspective across government agencies and communities, she saw the need and the opportunity, and made the

suggestion. It is an interactive process when she has an inquiry into something like mental health because she is keenly interested in our capacity to service the mental health needs of our clients, particularly in secure care but also that group of children with very high mental health needs. As a result, we have had ongoing dialogue about the composition of the mental health team in secure care and the also the need for a dedicated mental health service for young people in care, which is something on which we and health are putting together a budget submission.

The CHAIR: It is a complex role that the commissioner plays, so finding ways that we have had successful outcomes from the commissioner is a really important part of something that we can contribute as a committee. I am really interested to hear that her role is recognised in your department. What about the rural and remote reports, some of the specific reports that the office has developed? Have you been able to find recommendations out of some of those reports that you have been able to grab hold of?

Mr Murphy: Not specifically, but in a general sense we are grappling with—she has really recognised what we grapple with in those areas that are relatively poorly resourced—our country regions are not badly resourced but relative to the city they are poorly resourced—and where the depth of some of the dysfunction, particularly in the Aboriginal communities, is such that it is very difficult to gain traction on those problems at a community level.

The CHAIR: Because of a lack of resources?

Mr Murphy: I think it is that 200 years of Aboriginal history where we have made every mistake in the book is not remedied by trying to do the right thing collaboratively now with no matter how many resources you have got. Some of those dilemmas are shared in recognition, and I am happy with how our strategies to approaching these issues go within the resources we have, and that is a conversation we have had rather than specific recommendations because with those recommendations I would say, by and large, that we are onto the issues.

The CHAIR: Are you on the review committee for the commission?

Mr Murphy: For the legislation.

The CHAIR: I know that you understand the position of what has been worked on over the past 12 months and where things are up to. The committee is keen to hear from you about your thoughts around the Blaxell recommendations and how you would see—we are aware that the government has asked the commissioner's office to play a lead role in delivering those recommendations and it would be really good for the committee to hear how you think that might happen. Just walk us through the nuts and bolts about how you think that might happen.

Mr Murphy: Our departmental position to that inquiry on the legislation firstly emphasised: do not duplicate existing roles because it would create confusion, inefficiencies and get the opposite result to that which was being sought. We envisaged—this was a collaborative process through the reference committee but it is certainly in line with our original thinking—that the office would be a safety net or an avenue for receiving complaints and that would be —

The CHAIR: The commissioner's office?

Mr Murphy: The commissioner's office, and that would be known through education and outreach. Once having received those complaints they would be referred to the responsible government agency or accountability agency, but the commissioner's office would then monitor how the government agency or accountability agency deals with those and, once again, perform the role of the a safety net should those complaints not be dealt with in a fair and reasonable way.

The CHAIR: So the commissioner would not be the sole point of reference at all?

Mr Murphy: No.

The CHAIR: The commissioner would need to make sure there was no duplication of what services were offered. I am trying to get my head around who the target group would be because I am not sure that I can see, unless there was a significant amount of advertising or education in the community, how somebody who has a genuine concern as a 50-year old adult and wants to revisit something happened to them, how would they know of or be aware of the commissioner's work and, similarly, why would a child be attracted to them?

Mr Murphy: Sure, and you have to look at what the Blaxell inquiry was about. It was about an institution and then it extended to another institution, as I recall, where the institution went rotten and there was a culture of suppression of information and misleading the public and the people who might have held some authority over that institution. To think that that characterises all institutions that children attend would be misguided in the 70s when that was happening, or the 80s, and now. We have very robust systems for reporting abuse and making complaints but there is an example, 20 or 30 years ago, where an institution went rotten and there was this suppression. The question becomes: how might people in those situations have known? If the kids are so suppressed that they cannot talk to anyone, it is very difficult, but we envisage that the outreach the commissioner would need to do is less to the whole public, because that would be a needle in a haystack job, and more to the stakeholders where there are risks. Where are the risks? Prisons, secure care facilities, residential care facilities, and educational hostels are the sorts of institutions that can go wrong, so there needs to be outreach to those agencies, or those stakeholders, of perhaps some readily available information. When any kid enrolls or comes to these institutions, as they do now for secure care, we give them information on the advocate for children in care and the children's commissioner appears on that. Those are the sorts of notions rather than a wholesale public recognition of "this is the way". That in turn puts requirements on those institutions that pose some potential risk for also having those mechanisms to make it known.

The CHAIR: So the commissioner would not then be carrying a lead role in collecting information. The commissioner's office would be just one of a range of agencies involved in collecting this information or in educating the community. I am struggling to see who, out of the many agencies involved as being a port of call for people who want to voice their concerns, is ultimately leading the collection of the information and making sure that the whole of government agencies and non-government agencies responsible are actually doing the job they are meant to do.

[10.40 am]

Mr Murphy: It is accountable agencies.

The CHAIR: So it is individual agency responsibility?

Mr Murphy: They manage such complaints as the commissioner might receive and refer them to the responsible agency and monitor how they are dealt with.

Hon SALLY TALBOT: That is really interesting. What you are describing—remember you have the option to go into private session—is something a little bit different to what I understood by a one-stop shop.

Hon ROBYN McSWEENEY: I understood it to be exactly what Terry is telling us.

Hon SALLY TALBOT: I am just trying to tease it out. I understood the one-stop shop to be, if not the sole place where you could report, that nevertheless all reports would somehow end up there even if they were just notified, so it is actually the commission that is acting like a funnel. In a sense you turn the funnel up the other way.

Mr Murphy: Yes. That is our department's position. As I said, it was the discussion that was had around the reference group table. Obviously I cannot anticipate what the legislative review, which I think is with the Attorney at the moment, ultimately recommended. I do not think we have even got that ourselves! But, yes, it is a good way of putting it, Sally—it does turn it on its tables. It has a wide net, but it does not catch everything, because if it did catch everything, we would be

duplicating multiple agencies carrying out the same effort. It would be not only phenomenally resource intensive, but also really confusing for those who have responsibilities in the area to pursue the complaints.

Hon SALLY TALBOT: But is it not one of the problems that we have seen from the evidence given to the royal commission—that when you have a multiagency function to collect complaints, monitor compliance or whatever stage they are involved in that you get such a widely differing range of understanding about what the problems are and how they can fixed? The one that particularly impressed me in the last couple of weeks were witnesses who clearly do not understand some of the basic precepts that they are supposed to be administering. Anecdotally, there was a woman the other day who did not know what grooming was, and she is currently in a role where she was supposed to be implementing child protection policies in a private school. I had understood that the one-stop shop concept was going to apply a universal standard across the reporting mechanism so that there would no longer be any grey areas. It always makes red mist descend in front of my eyes when people talk about the grey areas in child abuse.

Mr Murphy: I do not think there is an organisational solution to uneven practice and understanding. My own experience in managing the department over the past nudging seven years is that we have the clearest procedures we have ever had; the most streamlined procedures we have ever had; the clearest operating framework that we have ever had; the largest multilayered effort in learning that we have ever had; and, a really strong-layered effort in emotional support and professional supervision. However, the practice is uneven. That is the human reality of the nature of this sort of work. I would say our practice is more even than any other agency that I have worked with, and its average is a nudge above the average of other agencies I have worked with in the area of child protection, but it is the reality of this sort of work.

Hon SALLY TALBOT: Yes, the more agencies you stir into the mix the less evenness you get—and then you have the private sector as well.

Mr Murphy: I think our worry is that if you bring another agency into the mix and you do not solve it, you are adding to the complexity. Unless they have the same well of expertise as we have, for example, in dealing with the complaints we have to deal with, they will be even further behind. It boils down to those practical —

Hon ROBYN McSWEENEY: There are no grey areas in child protection. In the last four or five years, as Terry said, Western Australia has become the leader in child protection. We can never ever be 100 per cent. Were you talking about grey areas as in whether or not a perpetrator did it?

Hon SALLY TALBOT: I have not explained myself very well. I am not saying within the department that there are aspects of child abuse that are regarded as grey; rather, I am referring to the whole human experience of caring for children. We are seeing that quite clearly in evidence from the royal commission with people saying that they had the reports, but it was not clear to them that there was a benefit in reporting.

Hon ROBYN McSWEENEY: So people's perception of child abuse?

Hon SALLY TALBOT: Yes, absolutely.

Ms E. EVANGEL: Terry, what do you see as the priority issues for children and young people in Western Australia, particularly for those who may be vulnerable? What areas would you suggest the new commissioner focus on?

Mr Murphy: I am at some risk of stealing the acting commissioner's thunder. Having met with her yesterday, she put two areas to me that I thought were spot on. The first reflects Sally's question because we administer working with children legislation and we are always saying to people that it is not the single safeguarding mechanism—it cannot be. It is really the pointy end of it. We need more organisations that have the safety of children in their focus; that is, how they select personnel, their policies, the education they give staff, the monitoring and so on, which goes to the heart of: do

teachers know about grooming? Do they know what signs to look for? One of the areas that the commissioner could usefully focus on, because it is beyond our scope as an agency, is the promotion of child-safe organisations. Work has been done by national commissions for children to enunciate 10 principles for child-safe organisations. We can do a lot worse than promote and popularise that work. The second area—I share this idea entirely with the acting commissioner and it goes to the question of vulnerable kids—is the Aboriginal population. The department has reduced the number of children going into the care of the state significantly. However, as the Premier indicated in the opening of the house the other week, the number keeps on going up. It has more than halved what it was five, six or seven years ago, with non-Aboriginal kids at net zero. We bring them in but as many go out.

Hon SALLY TALBOT: In the budget papers one of the things about the statistical features of it seeming to reduce but the numbers going up is that the number of kids with more complex needs is increasing, so there might be a diminishing percentage of kids, but they have greater needs.

Mr Murphy: Certainly, anecdotally kids at the pointy end have more complex needs and there is continual pressure for the placement for high-needs kids. But the overall picture is that the increase in the number of kids in care is Aboriginal.

Hon ROBYN McSWEENEY: Is it still 48 per cent?

Mr Murphy: That proportion is continually nudging up; it is very close to 50 per cent, because the non-Aboriginal kids are steady, but the Aboriginal kids are still growing. In the same way it is commented on the regional and remote, that is the biggest challenge we have. It is not easily fixed and it is not only fixed by a focus on the kids, but they are key.

[10.50 am]

The CHAIR: Terry, I would like to ask you a question specifically about child protection. This is not a question about what the government is doing or not doing, it is just a question about the child protection system. Are there any gaps that need to be looked at? If there are any gaps, how would you suggest we look at them?

Hon ROBYN McSWEENEY: Money!

The CHAIR: Right; next question.

Hon ROBYN McSWEENEY: It is a fair question.

Mr Murphy: It is absolutely a fair question. There are always gaps; there are always opportunities to do better—both with what we have and with new resources. I do say to all our staff, who are all busy, “we could double your resources and you would still be busy because you would be pouring in more effort with all those families”. That is a truism. From my travels overseas I know a lot of jurisdictions in England, the States, Canada and The Netherlands, so I also say to my staff that very really we are the best resourced child protection jurisdiction I have experienced.

The CHAIR: So there are no gaps.

Mr Murphy: What are our next priorities? We have developed an innovation site for what we call a family support network in Armadale, which is an alliance of community sector agencies with a child protection worker providing a common entry point to family support services. This is modelled on an approach in Victoria called Child FIRST. This has been successful in the two things that we wanted it to do: first, move matters from child protection to the family support network of services; and second, thereby providing those families with earlier support. That pilot or innovation site has been running for a couple of years. Parkerville is leading with philanthropic funds to establish another one in Murchison and we are just about kick one off with MercyCare as the lead agency in Mirrabooka. That is a real priority—to do better with families and invest at the family support end.

Hon ROBYN McSWEENEY: Yes, we should have had 10 but the government cut us back so we did not have 10 did we? We wanted to put 10 around to start with but the toecutters in the —

Hon SALLY TALBOT: Do you have toecutters?

Hon ROBYN McSWEENEY: We do indeed; I think it is called the Department of Treasury. It was a pity that they did not allow us to have all 10 at once.

Hon SALLY TALBOT: Does the department embrace the person-centred approach; the brave new world of funding clients rather than service providers?

Mr Murphy: We have done a lot of work on this with our own community sector roundtable. There is some anxiety on their part when it is seen purely as a funding model—the funding attaching to the person. However, in terms of a set of organising principles, where services and responses are organised beginning with the person, it is unarguable. We in turn say that the approach we use for child protection, called “Signs of Safety”, has two key principles out of three: your working relationship with that family and what works is what works. Families are the arbiters of practice and you do your assessment, planning and decision-making inclusively with families, which is quite difficult in child protection. That operates very much from a person-centred approach and there is actually a publication published a few years back by John Wheeler from England, drawing those parallels.

Hon SALLY TALBOT: Is that specifically about person-centred approaches in child protection?

Mr Murphy: It draws parallels between a person-centred paradigm and the signs of safety approach.

Hon SALLY TALBOT: Will I find it if I Google John Wheeler?

Mr Murphy: Yes, probably, but it would be easier if I send it to you.

Hon SALLY TALBOT: That would be fantastic. I think the committee would be interested. It links directly to the questions about the commissioner because I have always thought that the role of advocacy changes in person-centred approaches. To the extent that the commissioner is an advocate that is a different sort of role.

Mr Murphy: What we are quite keen to do—we have done this with homelessness services and we are looking at doing it with domestic violence services—is have a pool of spare money in the pot that the service has, so that if someone has to buy a train fare or a night’s accommodation or a set of luggage or a set of kid’s clothes or whatever, there is that opportunity for flexible funding. Provider agencies can feel somewhat constrained—“This is our service and that’s it”—which makes it hard to be flexible. We have built what we call brokerage funding into all new homelessness contracts and we are trying to build them into domestic violence services, as I said. Also, hopefully, although it is a bit more resource challenged, is the youth sector.

Hon ROBYN McSWEENEY: I have to go shortly but can I just say that as a former Minister for Child Protection who worked with you for four and a half years, I thank you for those four and a half years.

Mr Murphy: Thank you, Robyn.

Hon ROBYN McSWEENEY: You did it from a faith base. Child protection is very hard as we have seen this week. You did it from a faith base like myself and it was a pleasure working with you. I am sure that the Department for Child Protection and Family Support is going to miss you greatly.

Mr Murphy: As they miss you, Robyn. Thank you.

Hon ROBYN McSWEENEY: I thank you for your service.

Mr Murphy: Thank you; I really appreciate that and let me say that during your time as minister we achieved great things.

Hon ROBYN McSWEENEY: Thank you.

The CHAIR: Two of our committee members have to go but I just have a quick question about the community service providers. There is some discussion at the moment with some departments around the indexation funding and of course, the adjustment. The Department for Child Protection and Family Support is not one as far as I am aware but I would like to know or be assured that this is not happening. How have you gone about dealing with that adjustment with your projects?

Mr Murphy: That seems a bit like an estimates question, Lisa.

The CHAIR: I am sorry.

Hon SALLY TALBOT: Because I am going she is getting carried away.

The CHAIR: I just thought I would take advantage of having the DG here.

Mr Murphy: My understanding is that essentially we were working on one indexation number but then when it was actually calculated it turned out to be a little bit less.

The CHAIR: That is correct.

Mr Murphy: We will make an adjustment to that figure in the final quarter payments.

The CHAIR: Have you done that in consultation with your —

Mr Murphy: All the agencies know that; we have talked to them.

The CHAIR: That is not the case with some other departments that have sent letters out saying, “You owe us \$2 000” et cetera. I just wanted to check.

Mr Murphy: That would seem a little bit counterproductive.

The CHAIR: Yes; I thought so. I was most assured that you would not have done anything of that nature but I just thought I should check.

Mr Murphy: That is administratively and relationally —

The CHAIR: Disastrous; I thought so too. Thank you so much for coming. I will now read the closing statement so that Hansard can breathe easily.

Thank you for your evidence before the committee. A transcript will be made available for correction of minor errors. Any corrections must be made and returned within 10 days from the date of the accompanying letter. If the transcript is not returned it will be deemed to be correct. New material cannot be added by corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate please include a supplementary submission when you return your transcript.

Again, thank you so much for your nearly seven years in the job; it has been great to know you. Not saying that we will not still know you!

Hearing concluded at 11.00 am
