

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

REVIEW OF THE FUNCTIONS EXERCISED BY THE COMMISSIONER

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
FRIDAY, 19 FEBRUARY 2016**

SESSION SIX

Members

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

Hearing commenced at 2.50 pm**Ms JUDITH GARSED****Advocate for Children in Care, 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, thank you for appearing before us today. The purpose of our hearing is to assist the committee in reviewing the functions of the commissioner, with particular reference to the review of the commissioner's office. At this stage, I would like to introduce myself, Lisa Baker, member for Maylands, chair of the committee; and Hon Robyn McSweeney—who you know, clearly—who is the deputy chair; the missing Eleni Evangel, who will no doubt make an entrance any minute, and the member for Perth; and Hon Dr Sally Talbot, a member for South West Region. The hearing is a formal proceeding of Parliament and therefore commands the same respect given to proceedings in the house itself. Even though we are not asking you to provide evidence on oath, you need to understand that deliberate misleading is a contempt of Parliament. This is a public hearing, so Hansard is making a transcript. If you refer to any documents please give the full title, for Hansard.

I have five quick questions. Have you completed the “Details of Witness” form?

Ms Garsed: Yes.

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

Ms Garsed: Yes.

The CHAIR: Did you receive and read the witness information sheet?

Ms Garsed: Yes.

The CHAIR: Do you have any questions?

Ms Garsed: No.

The CHAIR: Emma has been here before and spoken with us; she is very impressive, the director general. It has been great to meet her and hear from her. We are meeting her in March. We are really interested in your role and we felt that it was timely for me to ask if you would come and talk to us about your role, because this journey that the committee has been on has been a long and arduous one with very complex terms. Originally, we started this with Peter Blaxell's inquiry at the forefront of our thinking, in particular, his comments about a one-stop shop for reporting of child abuse. We have had to come a long way since that initial conversation, including hearings with Peter, where he has given more evidence to clarify his role. It is very interesting to us to hear from you about the role of a child advocate and how that works in the department. If you want to start by painting that picture that will be great.

Ms Garsed: I brought myself some notes, so I will just refer to them as I go through, if I may.

The CHAIR: Please do—yes, absolutely.

Ms Garsed: My role was created in 2006 to specifically focus on the interests of young people in care, especially promoting their rights and their participation, making sure that they have a voice in the decisions that are made for them and about them and in the services that are provided to them. So that is the background, really. The major commitments of the role are that I will listen to children and young people in care; help them say what they want to say, and they do need help to do that sometimes, and get adults to listen, which does not always happen either; and give them information and advice about what they are entitled to, how they should be treated; help them to

develop some assertiveness skills and the confidence to ask questions and challenge things in their lives; support them if they want to have a decision reviewed or if they want to make a complaint about something; represent those who are too young to speak for themselves or unable to speak for themselves because they may have a disability or something; and speak to people in authority about what young people say to me. Those are the basic commitments. The role is actually located in the service standards and contracting directorate in the department, alongside units like the complaints management unit, integrity services, standards monitoring, so it is that kind of area. The independence of this role is promoted by a direct reporting line to the CEO, which is outside the normal case management reporting lines. The role has a dual focus; part of it is around advocacy, individual and group advocacy for young people in care, and part of it is around policy and program development and service development for children and young people in care. So, it is very much with that focus. Would you like me to talk a little about the individual advocacy?

The CHAIR: I think it would be good to just give us a bit of an overview on it.

Ms Garsed: This is a service which is available to all children and young people in care and care leavers up to the age of 25. So, if those young people have an issue that they cannot sort out with decision-makers in the district for any reason at all, then they can come to me.

The CHAIR: How do they find out about you?

Ms Garsed: The role is promoted in various different ways. We have brochures and posters and I am on the internet. I do a lot of networking with caseworkers in the districts, with non-government agencies like CREATE, other advocacy agencies like the Family Inclusion Network, the WA Foster Carer Association, with foster carers, other government agencies—really, we get it out there wherever we possibly can. As part of the normal process, when young people have an annual care plan, which happens every year—you know about that—part of the process is that young people are told at that point that there is an advocate and that they can use my service if they need to. So it is in a lot of different ways.

The CHAIR: There is a time frame within which they are meant to hear about you, isn't there?

Ms Garsed: There is a time frame for the case review panel, which is perhaps what you are thinking of. That is a formal independent review panel of decisions that anyone is unhappy about, but there is no time frame with my role—kids can come to me.

The CHAIR: So, when they come into care, how quickly does a care plan have to be developed by?

Ms Garsed: The rules and regulations are that there should be what they call a provisional care plan within the first 28 days and then —

The CHAIR: Basically, they will hear about you within 28 days?

Ms Garsed: One hopes so, and there is also the “Charter of Rights for Children and Young People in Care”, which you may have seen and which comes in different age-related formats, and the role is also mentioned on there. So, it is something that, hopefully, people know about pretty well. In the advocacy service, referrals can be made, really, in any way from young people themselves or from anyone else who is worried that perhaps a young person is not being heard or their interests are not being met. Young people have a choice about which way they go when they come into my service. They can either use the department's formal complaints process, which you may know about. There are three tiers.

The CHAIR: Please talk about that, if you wish, for a minute.

Ms Garsed: Tier 1 is where there is a response required from the district that has made the decision in the first place. Tier 2, if people are not happy with the tier 1 outcome, is an independent investigation in head office of the department, and then tier 3 is the Ombudsman.

The CHAIR: Got it!

Ms Garsed: So, that is available. Young people can use that option, or they can use the advocacy option, and I suppose that is what I would like to just clarify: the distinction between a complaints management process and an advocacy process, because they are very different. In my experience, young people are much more likely to be interested in advocacy because it is less formal; it is working alongside me and it is much more dynamic and interpersonal. If they start out saying they are concerned about a certain issue, as they go along the track and as they get more information and insight, they can add things and change things, whereas in a formal complaints process, you are a bit more straightjacketed because it is often in writing and a lot more formal. That is why young people, I think, would prefer advocacy. In my experience, very few young people do actually choose the formal process. There is also learnings and skill development that young people gain in the advocacy process along the way, because they are in control of it and they are able to choose which way they go, how they address it. They might, for example, choose to have some help to write down their issues or they might ask for a meeting with somebody, in which case we might rehearse and role-play that before they go. There is a sense that they are much more involved in it and learn some skills along the way and can evaluate at the end what they might do differently another time, if it comes about again. It kind of adds to their resilience repertoire, really. In my experience, that is what young people prefer to do.

[3.00 pm]

The process is flexible in advocacy. I sound like a salesperson, but I am just trying to explain the difference. The process is flexible. Response times are kept to a minimum. They do not have to have written referrals, so they can refer in any way they like. They can ring me, text me, go on the net, they can send the message through someone else, and I will connect up with them in whichever way they like. Some young people prefer an electronic relationship, at least to start with, and others will say, yes, they would like to meet, but it is usually somewhere that is not too busy with the department, somewhere a bit less loaded. I would normally advocate on what the young person says, so on their instructions. It is not up to me to tell them what is or is not reasonable, unless of course the referral is about a young person who cannot give their own instructions, so then that is best interests.

Hon SALLY TALBOT: Can you advocate on behalf of a young person in cases referred to you by an adult, by a carer? Could you advocate with an agency, for example, where the child has been refused access to a service?

Ms Garsed: Yes, certainly, and I do do that. If the young person is old enough and if it is appropriate enough, I would usually like to connect with them as part of that as well. Yes, I have a lot of concerns that are raised with me about young people by others—by family, carers or someone in the community, schools—so it is often not directly from them, at least in the first place.

Hon SALLY TALBOT: I was asking because when we were in Ireland talking to the children's ombudsman, almost 100 per cent of his cases come from adults, but it is about structural, systemic unfairness towards children.

Ms Garsed: Yes.

Hon SALLY TALBOT: Do you take on those cases as well?

Ms Garsed: Yes, I do have—I think one of the questions that came later was about how I organise the information that I have. I have a database, so I am able to interrogate that to look at themes and issues. So, yes, there is advocacy on the individual level but also on the group level. Once a young person has spoken to me, we would look at what their choices might be and they choose which way they want to go, and then we go along and review that as we go along. The other part of my role is providing independent advice to the case review panel, which we mentioned just now, about a young person's views and wishes if someone—some adult or someone else—is appealing

a decision. Also, I provide a consultancy service to districts if they are wanting advice about young people. That is the individual kind of service. Is it helpful to talk about the other part of my role?

The CHAIR: Yes, I think you should.

Hon SALLY TALBOT: Just one more question for clarification. Could you advocate for a newborn baby who was taken into care?

Ms Garsed: Yes.

Hon SALLY TALBOT: On the part of the parents or the agency that was involved?

Ms Garsed: Only on the child's interests.

Hon SALLY TALBOT: But on the instructions—sorry, I used the wrong word.

Ms Garsed: The only constraints around my role are that if a matter is before the court, which with a newborn baby it may well still be, then it is probably not appropriate for me to become involved because I am not a lawyer; the young person's interests are presented to the court by lawyers in that situation. I do not have a legal background; I am a social worker. So until there is a full order made, then, generally, I would not get involved. But I certainly can advocate on behalf of young children and where referrals are made by someone outside.

Hon ROBYN McSWEENEY: Except if the mother was 15 and had the baby, then that is a different call?

Ms Garsed: Yes, double-up. Yes, that is true.

The CHAIR: Before you move on to the other area, can you make any kind of enlightening statement about what the majority of the complaints are, or are there any themes that—or are you going to cover it later?

Ms Garsed: Yes, it was in the list of questions. Can I keep going?

The CHAIR: Yes, keep going. You are on a roll.

Ms Garsed: Apart from the individual advocacy that I do for young people, I have a general role. I mentioned that I have publications. I am responsible for the charter of rights, but also I have some other publications for young people around helping them have a say. There are books for two different age groups about being in care and about really encouraging young people to ask questions. Young people are very disempowered and often feel that adults are not going to listen to them, so the purpose of those publications is really to say yes, it is okay to ask, and if you do not get the answers that you need, ask again or ask someone else. I do have some publications. I do research and reporting. I am always looking for new areas for young peoples' participation. For example, at the moment I am negotiating around the recruitment and involvement of young people in selecting caseworkers for the department, which is done in other areas. I think they are the best people to tell us what qualities are needed, so, that is underway.

You would have heard of Viewpoint, which I introduced in 2010, which is around promoting young peoples' participation as individuals, but also as groups. It uses a computer-assisted self-interviewing tool which asks individual questions. It is used for individual planning, but those individual responses are also aggregated to give group feedback and direction to the department. We actually have nearly 3 000 lots of responses now, so we are getting quite a good database of information from young people.

The CHAIR: With the resources that you spoke about a few minutes ago—the two books—do you share that with anyone or is that just for your department's use?

Ms Garsed: No; it is available. A lot of the agencies will have them. There are also brochures about speaking up and having your say, and all of those are available for no charge to agencies that are working with kids, so they are widely available.

The CHAIR: Carry on, Judith.

Ms Garsed: Just in terms of the Viewpoint aggregated data, really it is the first time since we have introduced that that young peoples' feedback is being used to shape services and to contribute to reporting. It is now used in the key performance indicators for the department, and I hope it will be used as part of the outcomes' framework in the out-of-home care reform when that is finally agreed and goes forward.

The CHAIR: With the Viewpoint—sorry to stop you, but while you are on the subject—I was going to ask you: have you had any sexual abuse disclosures through Viewpoint? When Emma was here last, she said that has not happened.

Ms Garsed: May I come to that, because it was in the questions?

The CHAIR: Absolutely. I will just shut up! Go ahead.

Ms Garsed: All right. I have some learning and development functions as well. I lead a six-monthly regular workshop for team leaders of children in care teams across the state to look at young peoples' feedback and to develop responses and to look at whether those responses are working, because with Viewpoint we have a continuous loop where young people are feeding back all the time, so if we do something different, we are able to see whether that changes the feedback. I also do some other training for other departmental staff, and I collaborate quite a lot, as I think I said earlier, with other advocacy agencies like the ones I mentioned. I co-authored a paper with the Family Inclusion Network of WA around helping parents to navigate the child protection system, which is pretty unfamiliar if you have never been there before, and contribute to policy development. So that was a rather lot of information about the role.

The CHAIR: Lucky we have Hansard; we can read it again later. Don't panic.

Ms Garsed: That is good. The next question I had written down was: how are children made aware of what I do? I think we have kind of covered that.

How much individual contact do I have with young people? Look, this is always a difficult question. It varies. On average I would guess it is about 25 per cent direct contact and 25 per cent indirect contact; so that will be things like meeting with other people, looking at records and files. So it is about half of my role and about half of that half would be direct contact with young people.

[3.10 pm]

The question about disclosures was: if a child makes a complaint or disclosure in Viewpoint, what process follows? I think I need to make a distinction, if I may, between a complaint and a disclosure. A complaint, obviously, is a protest or a grievance about something. A disclosure is revealing a secret or something that has happened that is new information. Just in the context of Viewpoint, it is a communication tool—that is what Viewpoint is—and it helps young people to speak up and to talk about their concerns. It is only the first part of engaging with young people and promoting their engagement in planning for themselves. It is an online questionnaire. The responses are instantly accessible in a database, but it is only the first part; it is not instead of caseworkers connecting with kids. The second part is that the case manager must look at those responses within two working days in case there are revelations of something that needs action, and then they must follow up in a one-to-one meeting with the young person to go through their responses where they may have flagged concerns or issues, to explore those a bit further and look at possible solutions or actions. Irrespective of when that meeting occurs, child protection workers must look at those responses to see if there are protective issues. If a young person should disclose harm or risk of harm if their questionnaire responses, or in a follow-up discussion, then the case manager—the child protection worker—follows normal procedures, which are clearly identified in relation to timelines, consultations and developing a plan to protect the plan and so on. It is a way of communicating with young people, but it is really not any different, in many ways, to any other way that you might communicate with young people, so the same process—the uniform processes—

apply. If the young person was to raise a complaint, on the other hand, they would then be directed to the options they have got. They can talk to me or use the complaints process and so on. So that happens.

The other peoples' responses in Viewpoint, like in everything else, are confidential, which means that without their consent that information is not shared unless there is indication that they are at risk of harm or someone else is at risk of harm, in which case thoughts responses have to be forwarded on to others. But if they do not refer to those kinds of issues and they do not want the things shared, then that is their prerogative and that is their right.

I suppose the other thing to say is that Viewpoint questionnaires, of course, are not the only opportunity that young people have to talk to protective adults. They would be seeing their case manager, there would be quarterly reviews where they have a private meeting with their case manager, or if they are in different agencies, there may be other methods where they have that opportunity. Viewpoint is only one way in, but it is an important way in because it has the strength of eliciting honest responses from young people about things that they might feel too embarrassed or too sensitive to talk to someone about, so it is an important communication tool in that way.

There was a question that came after that that asked what process is followed if a child makes a verbal complaint or disclosure to you, or if you are told of a concern by a caseworker. Again it is the same thing; the normal processes would apply.

I was asked, can a child ask a raise concern with me without it being escalated to a complaint or report. Definitely. As I said earlier, it is their decision; unless there are grounds to break confidentiality, it is up to young people. My role is to help them understand the options and to make a choice.

Hon SALLY TALBOT: Can I ask you something there? If a child disclosed sexual abuse to you, though, you are not a mandatory reporter?

Ms Garsed: I certainly am. I am an officer of the department, yes, so I would certainly be reporting.

Hon SALLY TALBOT: So you would have to escalate it?

Ms Garsed: Definitely, yes. That would be where confidentiality would be waived—that would be one of those. Obviously, one would try to do that with the agreement of the young person; but, if they were adamant, you would still have to report.

The CHAIR: Judith, I am going to interrupt you for a minute. I can see from what you are working through that you have got the same 15 questions that we have got, and you have written a response. Are you going to leave the written response with us?

Ms Garsed: I can; it is only notes, but I am happy to do that.

The CHAIR: So, we will do that, and we will then have a bit of a free-ranging discussion with you, which does not elicit anything untoward or sinister, and, if you do not know the answer, just say that, and that is all fine. We can then accept the evidence that you have provided in response to your 15 questions, and that beautiful description of what you do, and that will cut down on your time of having to go through it, and it might make us a little bit more relaxed about asking you some stuff, too. The thing that springs to my mind is that we have at the moment a children's commissioner and we have a child advocate in your role. What you have described about your role is absolutely fantastic for children in care. From your general observations, being somebody who is obviously quite expert in this area, where does a child who is not in the system go to do the sort of stuff that you are doing with children in the system? Do you have any comment to make about that? So, this is you, and you deal with this group, but there are kids out there who are not in the system. Do you know who they would go to? Have you got any gut feeling about that?

Ms Garsed: My expertise, obviously, is around children in care, but as a member of the community and as a parent, yes, I think that in families, hopefully, there are people that kids can talk to.

Schools also provide that opportunity, although in my experience as a child protection worker I have to say that there are young people who are not in care who have not found it easy to find an adult talk to, and so that can certainly be a problem.

The CHAIR: Have you had much of an opportunity to understand what the committee's focus has been around that journey from Blaxell's original recommendation? Did you get that information?

Ms Garsed: No.

The CHAIR: I do not want to labour the point, because you have come in here to tell us what you do and how you do it. What started our committee on this journey is Peter Blaxell's report, and in particular the recommendation that talked about the children's commissioner being the perfect place to place a one-stop-shop complaints role. That is really what started this off for us, because the review that followed of the children's commissioner's act said that sounds like a good idea, really, still, in a lower form. Then we got Peter Blaxell in to tell us what he really meant, and it seemed like what he meant was a friend of a child—that somebody needs to take the journey with the child, with any individual child who does disclose, and that that in his mind was not happening. We have been to many places and spoken to many different people about many different models of how to do that. In Scotland, they do the named person—when a child is born, there is a person named to be that child's advocate through their journey in life. There are all sorts of different models. I am just wondering from your position, as a very experienced social worker working with children, I am assuming for all your career, what is your general view about that need for a one-stop shop. Blaxell, remember, was dealing with children who were not in care; they were just totally regular kids from farms and whatever in hostels. We do not think that would happen again, but that is what we are on about—trying to make sure that does not happen again. What do you think?

Ms Garsed: Look, I think every child's situation obviously is different; the family support they get is different. But with children who have been subjected to sexual abuse, we know part of that would have been intimidation and threats about what would happen if you tell. So, I think you can set up all the fancy offices you like, but it does not mean that children are going to talk to you. You really need to be connecting with kids and teaching young people, in my view, that they do need to speak up, and they will be safe if they do, and certainly having a safety network for young people, including a number of different people. That might be someone who is identified birth, although I guess that might change over a child's life. I think that would be a very valuable thing to do, as a social education thing for young people in school, about who they would talk to. But it is always difficult. I mean, if you ask a social worker, they are always going to tell you there are a million different answers. I think it does depend on the child, but there could be some general education for young people around speaking up.

The CHAIR: What about of the flip side of that, which is for the many, many people and agencies involved in dealing with children—pick a number, anyway; everyone deals with children, almost; I cannot think of any organisation that would not deal with children at some level or other—from your knowledge of the industry, how child-safe are those organisations? Do you think they are better than they were 10 years ago or 15 years ago?

Ms Garsed: Certainly. Yes, I think we are making progress, but there is still a long way to go. The difficulty is, is it not, that in institutions like schools and places where there are adults with authority, or the department where there are adults who have authority, it is even more intimidating for children to talk, so there are barriers, there certainly are. But I think we are moving forward with that.

[3.20 pm]

The CHAIR: Another question that is of interest to the committee—bugger them, basically; I am interested in this—is that trauma-informed practice is something that has started to raise its head as being a very major part of the royal commission and part of the changing landscape around this

area—maybe the future in keeping children far safer in the long term, and adults. Have you had much experience with trauma-informed practice and trauma-informed recovery, and do you want to comment a bit about that, if you have?

Ms Garsed: It certainly is something that is very current in the department and in a lot of the placement agencies, and there is quite a bit of education going on around the staff in that area. It is not years old, it is relatively new, but I think that way of viewing young people and the need for them to heal and the need for us to be particularly accepting of some of the difficulties that they have is very much current.

The CHAIR: That is good to hear. I would have hoped that that would be the case, and in fact I think Emma kind of hinted at that. Our interest is, of course, not just in your department, but in the many other departments and non-government organisations that deal with children for different reasons and whether they understand and are sensitive to what changes are taking place around models of looking after children—the developmental view of their lives. So, it is interesting to see whether, from your colleagues, friends and the people you network with in government, you get the impression that that is oozing out a bit.

Ms Garsed: I do. Again, I keep going back to children in care, but just in that particular context, young people in care have a number of forums around education and health care in which the department is interacting with those other providers, and so those things are being discussed and are dribbling out.

The CHAIR: That is great. Look, that does me. I am just wondering whether my colleagues have any specific questions.

Hon ROBYN McSWEENEY: Just in two seconds, how are they changing out-of-home care? Are they going to non-government providers?

Ms Garsed: Of course, none of it has been presented or approved yet by government. There are plans, and certainly some of the proposals are to increase the sector, but whether that is going to happen or not —

The CHAIR: It is very topical at the moment.

Ms Garsed: Indeed.

The CHAIR: Thank you very much indeed, Judith, and thank you so much for doing such a comprehensive response to our 15 questions. When I realised that I was making a fool of myself by asking things that you are going to answer anyway, life became much simpler for both of us, I suspect! I am sorry about that. Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Any changes must be made and the transcript returned within 10 days of the letter attached to the transcript. If it is not returned, we will deem it correct. New material cannot be added, but if you want to add anything differently or new, just send it as a separate supplementary submission. Thank you again so much for coming. We have been interested to speak to you.

Hearing concluded at 3.23 pm
