

**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  
WEDNESDAY, 13 MAY 2015**

**Members**

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

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**Hearing commenced at 10.17 am**

**Hon PETER BLAXELL**  
**Retired Judge, examined:**

**The CHAIR:** On behalf of the Joint Standing Committee on the Commissioner for Children and Young People, I thank you for your appearance before us today. The purpose of this hearing is to assist the committee in its review of the functions exercised by the Commissioner for Children and Young People, with particular reference to the recommendations contained in the review of the Commissioner for Children and Young People Act 2006. I am Lisa Baker, member for Maylands and the chair of the committee and the deputy chair is Hon Robyn McSweeney, member for South West Region. With us also is Eleni Evangel, member for Perth, and Hon Sally Talbot, member for South West Region. This hearing is a formal proceeding of Parliament and therefore commands the same respect given to proceedings of 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. As it is a public hearing, Hansard will make a transcript of the proceedings for the record. If you refer to any documents during your evidence, it would assist Hansard if you could provide the full title for the record.

Have you completed the "Details of Witness" form?

**Mr Blaxell:** I have.

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

**Mr Blaxell:** Yes, I do.

**The CHAIR:** Did you receive and read the information for witnesses briefing sheet?

**Mr Blaxell:** I did.

**The CHAIR:** Do you have any questions in relation to being a witness?

**Mr Blaxell:** No questions at all.

**The CHAIR:** In what capacity do you appear before this committee?

**Mr Blaxell:** I appear as the person who conducted the inquiry into St Andrew's Hostel in Katanning as a special inquiry under the Public Sector Management Act into the response of government agencies and officials to allegations of sexual abuse. I did that, I assume, because I was a retired Supreme Court judge at the time.

[10.20 am]

**The CHAIR:** Thank you very much, Peter. We have been so excited to have you appear before us and we have waited with great expectations to talk to you face-to-face about your recommendations. You know that our committee is currently looking at the review and, in particular, the recommendations you made and how they have been interpreted in the review so that we can provide sage advice to Parliament about the best way forward in this. I think I can speak on behalf of all the committee to say that we take the issue of child abuse extraordinarily seriously, as you can well imagine, with people like Robyn, who has been the Minister for Child Protection, on the committee. We are really concerned that we have the most effective system operating. We have been looking at gaps and what the best model might be. We want to have a bit of a chat to you, so perhaps you might like to start with your thoughts and views.

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**Mr Blaxell:** I will start with the present system, which is much better than it was 30 or so years ago when the events the subject of the St Andrew's inquiry occurred, but there are still some gaps. In broad terms, the factor that is lacking in helping children subject to sexual abuse when they make a complaint is support for them. By support I do not mean someone else to investigate, because we have the agencies to do that; in particular, the child abuse squad in the police service is an excellent unit and can do all the investigations. They have the skill and operators to do that. But what is lacking is the support for the child who has to deal with the aftermath of making a sexual abuse complaint. Almost inevitably there is some sort of negative reaction when making a complaint, whether it be from the family of the alleged offender or from people who do not believe the complaint to be true, who might like the alleged offender who might be popular. Some paedophiles are very adept at infiltrating organisations and making themselves popular respected figures. Paedophilia can occur throughout the community. The most respected people can be paedophiles, so it can occur anywhere. Many people simply do not believe what is alleged and they get to hear about it through rumour or innuendo. For a child in that situation, especially if they do not have the support of parents or immediate relatives, it can be a terrible experience. It can lead to suicide and all sorts of issues like that. There needs to be that support system in place. If the Commissioner for Children and Young People becomes the person to give that support, there needs to be a really good system which applies to every child and there is more or less a check to make sure that support is there, and if it is not there then to provide it in some shape or form.

**The CHAIR:** Thank you. It is a very complicated environment in some respects. I think our committee agrees that we have come a long way in the 30 years since this started, but it did finish in the 90s, so it is not that long ago. One of the things we are very interested in is finding out how to simplify the system for a child and how to make it evident where they can connect, how they can connect. Your suggestion was that the children's commissioner might be the place for that to happen. Do you still think that or have you shifted your views?

**Mr Blaxell:** If the children's commissioner is provided with the resources to do the job, I think the children's commissioner is best. In my report I suggested the Ombudsman might be the correct person for that. The reason for that was that the Ombudsman at that stage had the resources and the staff ready to start straightaway doing the job. The Ombudsman did give evidence to my inquiry and was eager to take on the role, whereas the commissioner—one would think given the nature of the commissioner's functions it would be the ideal organisation to provide that support role—simply lacked the resources, and I see that is still the position. Subject to the commissioner being given the necessary resources and the funds to have a publicity campaign and things of that nature, the commissioner would be best but, as we all know, in these terrible budgetary times, I query whether the commissioner will be given those resources.

**Hon SALLY TALBOT:** Was that the only objection the Commissioner for Children and Young People expressed? Did you actually interview the commissioner about the possibility of taking on that role?

**Mr Blaxell:** Yes, we spoke to the commissioner a number of times and also to the Ombudsman. It is just that the commission did not have a very sophisticated organisation ready to go and it required some structure to be set up. Obviously, it would take time. I did not say that it definitely should be done, but I said that the office of Ombudsman would be a suitable candidate perhaps.

**Hon SALLY TALBOT:** I notice that Professor Gillooly's report talks about the Public Sector Commissioner taking on that role.

**Mr Blaxell:** I do not agree with that at all. I thought that was most inappropriate

**Hon SALLY TALBOT:** No, I see you expressly dissented from that. So we have moved from that suggestion to the Ombudsman.

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**Mr Blaxell:** As I saw it, the most appropriate bodies were either the Ombudsman or the Commissioner for Children and Young People. I thought that because of the resourcing issue the Ombudsman might be the way to go, but it was a decision for government and I did not really express a strong preference; it is just that it seemed to be perhaps the preferred way to go. As of today, and in light of the review, I agree that the commissioner was the appropriate person, provided that the commissioner has the resources.

**Hon ROBYN McSWEENEY:** The Ombudsman has the Child Death Review Committee, so I can see where you are leading to there, and it does have the staff to cope with that. I am just picking up on your point. I have never heard it said before, as you did, that the children's commissioner should be a support system. I always thought when your report came down that what you were saying was that there needs to be a child-friendly place, which is the children's commissioner. But to me it was more about if a child wanted to disclose to the children's commissioner, not the children's commission pick up the support after the child has disclosed. Do you not separate the two?

**Mr Blaxell:** There are two things here: the first thing is to have an external child-friendly person to take the initial complaint because it is not reasonable to expect a child to go to the institution where the offence occurred to make the complaint, which has been the system in the past. You can understand the barriers to that happening. So it must be a child-friendly external organisation, such as the commissioner, there to take the complaint; and not just take the complaint, send them off to the police and then do no more, but to follow through the matter, all the way through the proceedings that might occur, and to provide the support the child must have to endure the terrible processes of the law. It is well recognised that with sexual abuse—which is a dreadful thing, especially the more severe forms of child sexual abuse—very often, particularly the milder forms of abuse, it is the aftermath of the complaint that causes more damage than the sexual abuse itself. That is a terrible situation. That is what we have to overcome. The best way to overcome that is to provide the child with support.

**Hon ROBYN McSWEENEY:** A child's life is never the same, and it never will be.

**Mr Blaxell:** That is right. And it is the long delay in proceedings, for up to two years perhaps, and that is an awfully long time for a child, especially a young teenager or a very young child, and their whole life is dominated by the prospect of proceedings, which seem to be forever into the future. It comes at a critical time in their development and it can be extremely damaging. It is a bit like a sapling that gets pushed over when it is small, and when it grows up the tree grows crooked. And that is the problem; it affects them for the rest of their life.

**The CHAIR:** In proposing either the Ombudsman or the children's commissioner, did you think the Ombudsman was at that time ready to take on that long-term support role; is that what pushed you?

**Mr Blaxell:** The Ombudsman told me that and I accepted that assurance.

**The CHAIR:** The children's commissioner may have been in a position to take a complaint with a lesser resource impost attached to it, but would not have any resourcing to do that long-term support role.

**Mr Blaxell:** No, and I do not think there should be any separation between those functions: the body that takes the complaint should deal with it all the way through and the child should get to know who they are dealing with and have a support person, such as a relative. You will see in my submission that it does not necessarily have to be an employee of the government; ideally, it probably should not be. It might be a close relative, a teacher, a scout leader or whoever it might be. The commissioner performing that function would have to monitor that support and ensure it is being done properly and there would probably be guidelines and things of that nature, and the ability for the mentor support person to ring up the commissioner and ask them how to handle a situation. The good feature of having some volunteer—if I can put it like that—as a support

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person is that they are available after hours. Usually the big problems occur after hours and on weekends. That is when the support person needs to be there and a government official cannot perform that role.

[10.30 am]

**The CHAIR:** One of the interesting language changes that has occurred is that we have seen the term “child abuse complaints role” emerge in the review of the commissioner’s act that has just been completed; so there is this child abuse complaints role recommended by the statutory review of the act. That sounds to me quite different from what you have just described as your ultimate —

**Mr Blaxell:** It could well be. What I am saying is that the commissioner has essentially two roles, as I have said; to take the complaint and deal with the complaint, and be the means of receiving the complaint, and then referring it on to the appropriate body, but also, after referring it, to continue to support the child. There are essentially two roles that need to be done by the same person.

**Hon ROBYN McSWEENEY:** I had not really thought about the support role that you mentioned in that context, and it is very clear now. I did not want anything duplicated, because we have the mandatory reporting line, the social workers and the police, as you said. But it is critical that that support role be there.

**Mr Blaxell:** For example, say the complaint was made to the commissioner and the complaint was referred to the police, the support person should go along with the child to the police and sit outside the interview room while that is happening, or perhaps be in there if that is appropriate. It is the holding of the hand and being there when needed that is required.

**The CHAIR:** We have just been talking to the UK commissioners about various changes they have experienced. The UK commissioner has just had a new function added to what they do around this issue as well. The Scottish commissioner and, of course, the Welsh commissioner have had it for a while. They are very clear about the resource implications. They are talking about quadruple or double the number of children we have in WA of course, but their estimates about the number of additional staff for the children’s commissioner were very interesting. For instance, in Scotland the commissioner would need to accept a new role, so he is in the process of negotiating back to his government at the moment to say that there are half a million children, so six FTEs are needed, basically. I am not clear, however, that they are considering continuing through the support role all the way through. I am just scratching my head and looking at my colleagues here because we did not ask that question, and I do not remember them being clear in any of the jurisdictions. So it might be a point that we should perhaps follow up.

**Hon SALLY TALBOT:** We did canvass your concept, Peter, of the “child’s friend”, which was a useful concept, particularly as you went to the trouble in your submission to us to underline the fact that you are not talking about an investigative role.

**Mr Blaxell:** That is right.

**Hon SALLY TALBOT:** In fact, an investigative role would almost be inappropriate because, once again, you are into that sort of conflict of interest.

**Mr Blaxell:** Yes. The support organisation must accept the child’s complaint at face value, not query it or say that they are lying or that it did not happen a certain way. It is nothing to do with the support person. The support person is to say, “Yes, I accept what you say. I’m here to help you and I’ll be with you at all times.” The police must be objective; they must look at all possibilities and perhaps question the child quite closely about the way things happened. But the commissioner in the support role does not need to do that.

One thing I do think is important is the name of the commissioner. I make the point in my submission that if you ask random members of the public about the Parliamentary Commissioner for Administrative Investigations, most members of the public would not understand that term, but

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when you say “the Ombudsman” they immediately know. The Commissioner for Children and Young People is a term which no child will understand. In fact, someone made the point to me in the waiting room that for many children the word “commissioner” is a scary word, especially for Aboriginal children, so I suggest that name is not appropriate. In my report I suggest the name “One Stop Shop”, which is really just an interim name. I am trying to convey that it needs to be a child-friendly name—an informal name that signifies to the child that it is a friendly person they can see one on one, with no bureaucracy. That is very necessary. There would need to be a campaign advertising that name so that children know what it means. It must get to all the children who are potentially subject to sexual abuse from a government officer or a government institution. It would be a fairly big campaign and would be expensive. I have been giving the name some thought. I did suggest “Children’s Friend”, but I think that perhaps a better name might be “Kid’s Counsellor”, with the spelling k-i-d’-s; I really do mean that. To any child, that signifies informality, no bureaucracy, someone to help them. I think a name like that is what is needed.

**Hon SALLY TALBOT:** Yes, because “child abuse complaints” does not go much further than “commissioner”, does it?

**Mr Blaxell:** That is just not going to achieve the object. It must be a name that rolls off the tongue easily for a child so they instantly know what it means.

**The CHAIR:** I suppose one of the things that concerns me—I will not speak on behalf of my colleagues—is that we are now facing a further wait until the royal commission has completed its work. So effectively the time between your report and when something might be done is long. I do not care which government is in place, I just think that for children’s protection it is not acceptable to have nearly a seven-year gap between when you said what you said, when the government of the day accepted what you said, and when something finally happens.

**Mr Blaxell:** Over seven years there will be very many damaged children who perhaps would not need to be so damaged because such a system as that I recommended was not in place. The royal commission may well go on for years. There was a similar royal commission in Ireland some years back that was originally going to take two years and it took 10 years. It came to an end because the government said it had had enough; it could not have any more and it was over. I have seen the terms of reference of the royal commission and it has a vast task. I do not see it being able to really deal adequately with the number of complaints it is getting and the number of issues it is dealing with in a short time. That could continue getting extensions for some time.

**The CHAIR:** Am I to think that you agree with the lag being too long?

**Mr Blaxell:** I think it is, yes; that is my opinion.

**Hon SALLY TALBOT:** Of course, the longer that national royal commission goes, the more that people are being perhaps encouraged to disclose, so it becomes almost a self-perpetuating sort of exponential growth in the need for some sort of service.

**Mr Blaxell:** The view I take is that obviously there has to be a place to make the complaint external. That is so obvious; it is a no-brainer. That should not have to wait for seven years; that simply has to happen.

**The CHAIR:** Are you familiar with the Kids Helpline and those kinds of models that operate?

**Mr Blaxell:** Yes.

**The CHAIR:** Would you like to comment about what you think about that?

**Mr Blaxell:** I think that is the type of mechanism that is required for the commissioner in the role of dealing with complaints of sexual abuse. There also must be the SMS option. I am told that social media at this stage is taking over from SMS as children’s main means of communication, so social media is required. I know that looking after social media is very labour intensive. There is Facebook and Twitter and all the others —

**The CHAIR:** That is just the tip of the iceberg.

**Mr Blaxell:** — and someone has to be looking at it all the time, so there would be a number of FTEs involved in a social media presence for the commissioner, but all of those avenues must be available to have a system that operates satisfactorily.

[10.40 am]

**Hon ROBYN McSWEENEY:** We will get back to your original report, which looks at hostels. To help make those children safe there is a program I use with little kids and it is five fingers cut out and put on the fridge. The child has to have three people outside the family who they feel safe with and two relatives. Every six months those people are changed, so that if the child says they do not want a person on there anymore, that starts you thinking, “Why don’t you want them anymore?” That is just a little example, but I thought that perhaps if each hostel had five people in the community they knew to go to, it could be the rubbish collector, the lawyer, the doctor —

**Mr Blaxell:** Do you mean five for each individual child?

**Hon ROBYN McSWEENEY:** In the hostel; five for the hostel.

**Mr Blaxell:** The problem I see with that is that there would not be the personal relationship between all children and those five individuals. Your system sounds like a community safe house—type system where there is a sign on a letterbox indicating that it is a community safe house if a child feels threatened. I think for the support role to work there must be a personal relationship between the individual child and the person providing the support.

**Hon ROBYN McSWEENEY:** No this is to make a complaint, for a child in a hostel.

**Mr Blaxell:** Oh, to make a complaint? I understand.

**Hon ROBYN McSWEENEY:** Just going back to the Katanning hostel, if those children had five people in the community they could have called, maybe one of those people would have come forward. I do not know; I have read the report and I know that he certainly had the town fixated upon him, that he was king of the town. But surely out of five people, one would be a support. It is a safety mechanism, I guess.

**Mr Blaxell:** Perhaps in these modern times that might work. It would not have worked back then and it would not have worked in Northam with St Christopher’s hostel.

**Hon ROBYN McSWEENEY:** No, it certainly would not have worked back then.

**Mr Blaxell:** If you had good, decent, community-minded people who were widely recognised as being child-friendly, it might work.

**Hon ROBYN McSWEENEY:** That was just an aside. I certainly believe in the children’s commission and what you are telling us.

**The CHAIR:** At the very beginning when you sat down, you said that you recognised some of the work that has been done in changing what is happening. Could you just tell us what in your opinion those good things are?

**Mr Blaxell:** Yes, the most significant improvements have been in the way the courts deal with complaints of sexual abuse. When I started off in the law it was a terrible system. It was not called sexual abuse then, it was called molestation or interference or whatever it might be. There was no recognised person they should go to to make that complaint, although they would usually end up with the police. The police tended to be disbelieving; that was the culture then. You might have read about the Bindoon orphanage. When children there tried to make complaints about priests, they were kicked out of the police station because it simply was not believed. There was a disposition by police not to believe complaints by children. Even if they got over that hurdle and a charge was laid, there was no real protection of the child from disclosure of the fact of the charge. It would be in the newspaper. The child would get all of the feedback from that and negative feedback from family

members and things of that nature. Then they would have to go to the Magistrate's Court and give evidence in a committal hearing and be cross-examined quite often. If there was a committal to the superior court they would then go to the Supreme Court or District Court and have to give evidence in a witness box with people in wigs and gowns questioning them and people in the public gallery watching. So it was a very formidable experience for children. There was no sensitivity to the damage being caused by the nature of the legal proceedings. They would be cross-examined and they would end up in tears. I know of one instance when the child ran out of the court and never returned again.

**Hon SALLY TALBOT:** Did you ever find the source of the transcript that you published as one of the appendices?

**Mr Blaxell:** Yes, we certainly have had the source of that.

**Hon SALLY TALBOT:** Okay; it is just that the footnote says it was a study in Queensland, but the study did not identify the actual court case.

**Mr Blaxell:** I beg your pardon, that one. I am not sure, but that was not unusual.

**Hon SALLY TALBOT:** No, it is absolutely chilling.

**Mr Blaxell:** It is chilling; it was dreadful. Since then, gradually over the years there has been a recognition that sexual abuse of children is much more widespread than used to be thought. Studies show that up to a quarter of females and perhaps 15 per cent of boys experience sexual abuse as children, which is staggering. When I first heard that, I could not believe it, but that is the position. In fact, as people become more comfortable talking about sex abuse it is interesting—members of the committee have probably all had this experience with people they know—that people will say they have been abused as a child. I know a number of people in that situation, so it is widespread. There has been no recognition by the community that it is a serious problem. We have gradually had changes in the way children are dealt with. We have now world's best practice where a child making a complaint about sex abuse is interviewed on video by very child-friendly police officers, usually female, and that video becomes the evidence-in-chief of the child in court. They only have to appear in court if they are going to be cross-examined and usually that cross-examination is done on video, so it is a situation where there is no public looking on. If the child does have to appear in court, they usually give evidence by video link, so they are sitting in a room somewhere with a parent or support person next to them and all they see is the lawyer or judge on the screen; they do not see anything else. All these things reduce the trauma. The system we have here now is world's best practice and I think is as good as you get.

**The CHAIR:** Thank you. That is very much about the process once a complaint is lodged. It is clear to me that your concern is in that front end. Are children any more likely now to have a place to put a complaint forward, or to feel confident or well-equipped and brave enough to speak to someone, and who would they go to under those circumstances? Assuming it was an adult they trusted, and then it went to the police, that is one issue, but if they have no-one surrounding them, like the situation in Katanning, if that did occur at the moment—we do not know that it does not—is there anyone —

**Mr Blaxell:** The biggest worry would be with institutionalised children who do not have the support of families or parents.

**The CHAIR:** Yes, those children were not classically defined as institutionalised, were they, because they were just put into a school to board. They had parents, who I am sure loved them.

**Mr Blaxell:** Or children in foster care being abused; those sorts of situations.

**The CHAIR:** Correct. Is there a system in place at the moment in which children can come forward and feel confident? Have you had an experience you can comment on? I know you said there

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is a gap and that you have concerns, but are we in a better space at the moment for children to feel confident?

**Mr Blaxell:** With the front end? Yes, it is mostly a much more child-friendly, comfortable process with the police accepting the complaint. As soon as someone walks into a police station or says to a policeman that they have been sexually abused, they are immediately referred to the child sexual abuse squad who have all of the procedures and the environment to deal with it very appropriately.

**The CHAIR:** I think my point is more about whether children are more confident to walk into a police station now.

**Mr Blaxell:** I think generally speaking, yes, but not totally.

**The CHAIR:** On their own?

**Mr Blaxell:** No, not necessarily on their own. I think they would always want to speak to someone they trust first and go with that person to the police.

**The CHAIR:** I think I am right in saying that from when the child has disclosed to someone, then the process is much better on the journey through that, but there still is not a guaranteed support that runs through. Right at the very beginning, would a child disclose if the mum and dad do not believe them or if there is no adult around to whom they can disclose? Is that situation better now than it was previously? Do you think parents believe children more now?

[10.50 am]

**Mr Blaxell:** I think they are more inclined to believe children, yes. There is much more widespread recognition that there is a problem. The other thing which occurs to me and I should mention now is that—and I made this point in my submission—I think it is very important when a child makes a complaint that they have control over what is done with that complaint and that there is no rush off to the police or someone. The child must be perhaps advised, “I think you should be going to the police about this.” The child may have questions about that, may have fears about that, but the child must have some degree of control over how the complaint is dealt with. They must know that they will, in order for them to come forward and make the complaint. If they think that they are going to lose control of what happens and the response to their complaint, the children will not come forward.

**Hon ROBYN McSWEENEY:** And that is why they do not come forward. It is very difficult. I have sat in on interviews with children to try to get them to talk years ago as a social worker and it is very hard, but they are very wise little children to know that their lives will never be the same. It is up to us and incumbent on us to make it as easy as we can, given that it is never going to be nice —

**Mr Blaxell:** It is never going to be easy.

**Ms E. EVANGEL:** Just going back to the potential of the commissioner being that first point of call, would you envisage that the child would first make their initial complaint to a parent or an adult around them and then with that go to the commissioner?

**Mr Blaxell:** Quite possibly.

**Ms E. EVANGEL:** Or will the commissioner be the first point of call?

**Mr Blaxell:** For children who already live in a supportive environment, they will usually go to the parent or the person whom they regard as their trusted mentor, and then presumably that person would take the child to see the commissioner. That is the way I would envisage it. But there are many children who do not have that supportive environment, do not have a real family life or are in government care in some shape or form and they do not have a person like that to turn to. That is where this publicity campaign to have a kid’s counsellor—whatever you call it—becomes very

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important because those children must know they have somewhere to turn where they will receive a friendly reception and have some control over what happens in response to their complaint.

**Hon ROBYN McSWEENEY:** In 95 per cent of the time it is within family anyway.

**The CHAIR:** I am also thinking around Aboriginal children and how to actually get something that is acceptable to them and accessible to them in communities, really remote communities —

**Mr Blaxell:** That is a very, very difficult problem. On the Supreme Court I was part of a task force which dealt with sexual abuse in the Kimberley. A committee was formed to deal with the volume of proceedings resulting from a police task force, which went through a number of communities to try to sort out the sex abuse problem. But what was notable about that was that some of the initial complainants got a very negative reception from families that were being charged and, as a result, subsequent children in subsequent communities would not make complaints. In those small communities there is that terrible problem where if the person is charged, there is nowhere else they can go while on bail; they either go into custody or they are back in the community and the child sees them every day. Even if they go to court and are convicted and sent to jail, they ultimately come back to that same community where the child lives and what is the answer to that? I do not know. The child cannot go and live in another suburb or go anywhere else. It is just a terrible problem.

**The CHAIR:** I am not anticipating that the commissioner would find it an easy job to try to be that support role under those circumstances, so the challenge for us as a committee is to think about a suggestion we can be making around that particular enormous problem and how we might tackle that as a parliamentary committee in writing about —

**Mr Blaxell:** I think the key to that is if an Aboriginal child in a small remote community is being sexually abused, how does that child communicate with the commissioner without the alleged offender knowing? I am not quite sure what the answer is to that.

**Hon SALLY TALBOT:** Of course, that is where social media can play such a big role because the one thing—it does not matter how remote you are, most of the communities have still got —

**Mr Blaxell:** That is right. If the facility is there, that is the way to do it.

**The CHAIR:** Just on the social media, we had Professor Donna Cross come in and give us a 101 lecture in children and social media. A remarkable woman and remarkably serious, but she talked at length about the challenges around social media and children's access to it today particularly around sexual exploitation. She explained that she is doing a lot of work with the European Commission and other children's commissioners in the European network to try to get the Googles and the Facebooks of the world and the social media giants of the world to take responsibility for their role in this. She is saying that there is no other way of tackling it really because children are disclosing to children online because they do not trust adults. They are having conversations in social media that they will not take to a grown-up because the person they are talking to is another eight-year-old. It is really quite a remarkable challenge in that area as well.

**Hon ROBYN McSWEENEY:** If I could just go back to the national inquiry and what was said in here about seven years is too long, but we cannot forget that the national inquiry is dealing with historic abuse and how awful it was back then, and then come forward to what you said about how it is different and we do have different systems set up now. I have set up a few of them myself so I know that we work towards having child-friendly services even though it is very difficult for those children whichever way you look at it. So there is the historic and then there is now. The systems that they have now, we can cope with children coming forward. But I think where you are coming from, which is very succinct, that we need to take it a step further and we need to have those supports set up. If we can focus on that, then we will be doing Western Australia a good service. So not forgetting that that is historical, come forward to now and any child can come forward with complaints. Mandatory abuse lines are there and we have the social workers there, too, to support

children who have already made complaints. When we were in Edinburgh, the ombudsman said that his set-up was that he only looked at complaints from children 18 years of age and under; they were his specific parameters and I guess that is what we would have to put in place as well because a children's commissioner could not look at historic abuse. He or she would have to go from today forward.

**Mr Blaxell:** I agree with that. I do not think the commissioner should be involved in looking at historical complaints of people who are now adults. I do not think that is appropriate.

**Hon ROBYN McSWEENEY:** No, so I am now looking at the support system, which is very important, and I am thinking ahead as to how we can best do that.

**Mr Blaxell:** I think the key to that is to engage the services of volunteers as much as possible and to provide the professional backup for the volunteers; the volunteers being individuals who are known to individual children and who the individual child trusts. I used to be a special magistrate in the Children's Court back in the 1970s and at that time, the probation service operated by the Children's Court was operated by volunteers and it worked really well. These people in the community wanted to help.

**Hon SALLY TALBOT:** It was community based.

**Mr Blaxell:** Yes, it used to work really well and these probation officers were readily available on weekends and after hours but then, for policy reasons, the then Department of Child Welfare—I think it was called—decided that volunteers were not good enough and it needed to be a professional service involving full-time staff. So they built an empire and set up these full-time probation officers, but they were never available after hours and never available on weekends, usually when they were required. They could not cope with the volume and eventually the probation system collapsed and we had a system where children who were placed on probation simply did not get the supervision they required. I think a system like this, to be successful, should utilise the services of volunteers and provide them with the backing and support so that if they have an issue, they can ring up and find out how to handle it or things of that nature.

**The CHAIR:** It is a bit like the children's—what was the name of it? It was the Children's Hearings System.

**Hon SALLY TALBOT:** That is a fascinating way of drawing that practical example of what you are talking about because it occurred to me—when we were in Scotland, are you familiar with the named person proposal in Scotland? It is basically that every single child, not just children in care, will have a named person who is their go-to support for anything —

[11.00 am]

**Mr Blaxell:** Which is great.

**Hon SALLY TALBOT:** Of course, it has been challenged in the courts, basically, by the Tea Party lobby in America, who are saying the state should not be putting its footprint into family life. They have won all the court cases, so it looks as if it is going ahead. It occurred to me, reflecting on that idea, that the functional Aboriginal communities we have—recognising that there are many of them that are high functioning—actually operate that system informally because there is always a safe place where children can go. I wondered if you had given any thought to that sort of proposal. Have you come across that idea?

**Mr Blaxell:** No, I have not heard of that one, but it is an interesting one.

**Hon SALLY TALBOT:** It sounds to me as if that is fundamentally what you are talking about, that every child—and I am wondering whether —

**Mr Blaxell:** Of course in Aboriginal communities, especially the traditional ones, the adults responsible for the rearing of the child are not the natural parents but the skin group elders.

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**Hon SALLY TALBOT:** Yes, extended family systems.

**Mr Blaxell:** There is much more scope for a named person to be caught in that sort of environment.

**Hon SALLY TALBOT:** It grows out of that idea that Robyn has put to you about the five fingers; if you take any one of those children in abuse cases that you have examined in your report, that is the person that they were missing. The person who would take on their case in a prejudiced way.

**The CHAIR:** And be guaranteed.

**Hon SALLY TALBOT:** This was something else that your report helped inform our discussions in light of that fact that the police actually have to be nonpartisan in the way that they prosecute the case, whereas what you are talking about is somebody who is absolutely biased towards the child.

**Mr Blaxell:** Unconditional support—"I accept what you say and I am helping you." That is what is required.

**Hon SALLY TALBOT:** There are two other things I wanted to pursue with you, Peter; one is the point that Eleni raised. I was slightly surprised, in some of the jurisdictions that we have talked to, to find that by far the majority of the complainants or the people bringing issues are adults. I think in the case of the children's ombudsman in Ireland, about 97 per cent are adults.

**The CHAIR:** It is huge.

**Mr Blaxell:** Is that for historical complaints, or old ones?

**Hon SALLY TALBOT:** Well, no—both.

**The CHAIR:** It is both in Ireland.

**Hon SALLY TALBOT:** It is both, yes. Because remember that being an ombudsman, his brief is to look into malfeasance in the public sector, so it certainly involves current cases—97 per cent. I think one of the things that has frightened one of the arms of the executive, in terms of your recommendation, is that they are imagining that we might be loading the commissioner up with thousands of calls. We have got some figures on how many people from Western Australia called Kids Helpline. It is between 16 000 and 24 000 a year. Did you envisage that it might be that kind of —

**Mr Blaxell:** I would be very surprised if it was that sort of number. I would not expect it to be a sudden onrush; I think it is something which would gradually build. I do not doubt that there have been thousands of children abused in Western Australia that no-one knows about; that is undoubtedly true. I think that the Irish figures show that 97 per cent adults making complaints suggests to me that they have not got a system which is child friendly. The children do not feel confident in coming forward. I would be surprised if the commissioner, under the system I recommend, got so overburdened they could not cope. I would be very surprised.

**Hon SALLY TALBOT:** They are not a replacement Kids Helpline. Also, without wanting to put any words into your mouth, it seemed to me that you actually identified two groups of victims, if we can use that word. It was not just the children who had been abused; it was also that cohort of adults who believed the children. I wonder whether it is actually as important for that group—the barmaid and the Maggie Dawkins' of the world and the parents—do you see them as being one of the main users of the one-stop shop?

**Mr Blaxell:** What I propose is that any person who either knows the abuse is happening or reasonably suspects that it is happening should be free to go to the commissioner. As long as they bona fide believe that it is happening, then that person should be able to go to the commissioner and draw it to the commissioner's attention. That would include the adults who perhaps see something happening and suspect it and are troubled by it and can go to the commissioner now. But the issue then is: how does the commissioner deal with such a complaint if the child does not come forward? That would need some thought. Probably the commissioner would refer it to the police, and it may

be that the adult does not feel comfortable going to the police, but they are comfortable going to the commissioner, so the commissioner speaks to that adult saying, “Well, I think this should go to the police” and perhaps takes the person to see the child abuse squad. So, it is a channel of communication of the complaint.

**Hon SALLY TALBOT:** Am I right in reading your recommendation as being that it is only the hostel staff who are not currently included in mandatory reporting who should be included?

**Mr Blaxell:** That is correct.

**Hon SALLY TALBOT:** That is the only cohort you identified?

**Mr Blaxell:** That is right.

**Hon SALLY TALBOT:** We have obviously talked to the acting commissioner about your recommendations. There is a lot of work going on at the moment by the commissioner and her staff that is focused on educating the public sector about the way that they handle complaints such as those relating to child sexual abuse. In a perfect world, would you delegate the function you are talking about to individual agencies? In a perfect world, would individual agencies be equipped to deal with exactly what you are talking about—the ongoing support of the child?

**Mr Blaxell:** It is feasible, I suppose, in north west towns. It might be appropriate to delegate to the local child protection officer or something like that. It might involve some sort of training. It may be that all the children in that region know that the local kids’ counsellor, or whatever the person is called, is this person in the town. So, that may well be appropriate. I do not feel qualified to say whether or not that is definitely so, but mechanisms such as that may be appropriate.

**Hon SALLY TALBOT:** But in general you think that no matter how well individual government agencies were dealing, for instance, with the country hostels bureaucracy, would you still see the need for a child’s friend or a kids’ counsellor?

**Mr Blaxell:** Yes, I think that there is that need. That is where the social media and the SMSs and email communications are important because that enables a complaint to be made from anywhere in the state. That is one of the reasons why I think that is important. But to the extent that it might be thought necessary to have someone on the ground who the child can go and see personally, then obviously there would have to be some degree of delegation.

**Hon ROBYN McSWEENEY:** The schools have chaplains now—female chaplains—who are very good. All the children identify with them. There are school guidance counsellors and school chaplains. That is where I am saying there is historic abuse and then there is now; what do the kids do now? Within those hostels, there are people who they can go to, but it is like Lisa said, you can never say that it will not occur. I have been around child abuse for many years and I know these creeps that perpetrate it. They do not have horns on their heads; they do not have it emblazoned across their chests. They look like you and I. It is very difficult to detect. But we do need to make the children safe and I think that, in our present day system, it is as safe as we can get it, but we can always do better. I think that is where you are coming from.

**Mr Blaxell:** That is exactly right.

**Hon ROBYN McSWEENEY:** We need to do better, and we always need to make sure —

**Mr Blaxell:** At the time of my inquiry, the procedure for dealing with complaints of sexual abuse within hostels was to make the complaint to the senior officer of the hostel. That is just simply not appropriate. It may well be since my inquiry that that has changed. I have not kept completely up to date with that.

**Hon SALLY TALBOT:** I noticed that they had not resolved the conflict of interest—had they?—even at the time when you were writing.

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**Mr Blaxell:** That is fundamentally it: the child must feel that the perpetrator is not going to get to know that the complaint has been made.

**Ms E. EVANGEL:** Just a small question: if the children's commissioner was to be that one-stop shop—the place to report, the place to support the child through the process—where would you see the commissioner's role still fit its current jurisdiction of being the advocate on behalf of children generally and the educator? Where do you see all of the other roles that are currently within that?

[11.10 am]

**Mr Blaxell:** I think there is a very good fit between this new role and those other ones. That is what makes the commissioner the appropriate person because of the education role—informing children how to deal with sex abuse complaints is part of that. I think those things fit together very well.

**Ms E. EVANGEL:** Thank you.

**The CHAIR:** I think we are almost there. I just wanted to offer you the opportunity wrap up. I wanted to do that by reading you back a final comment you made back in “Creating a Safer Future for Children” that you wrote, which was published in the *Medical Forum*. Renée brought the last paragraph to my attention this morning. I want to read it to you and then I want your views on where we are at the moment —

All that can be reasonably hoped for is that children in the future will be sufficiently educated and equipped to recognise dangerous behaviour, and that they will be aware of the means and be willing to take preventative action before any sexual abuse occurs.

**Mr Blaxell:** I am not satisfied that all children are in that situation now. The reason for that is that the protective behaviours curriculum at schools, the recommended curriculum—I cannot remember the percentage but I think it was something like only 30–odd per cent of schools were using that curriculum.

**Hon SALLY TALBOT:** Twenty per cent in your report.

**Mr Blaxell:** Yes. It is a discretionary matter for each principal. One of my recommendations was that that be looked at in terms of making it mandatory curriculum because that is so important. I know there are sensitivities there with some parents who do not like to see children being given sex education at schools, and I respect those views, but I think it is more important to make sure that children are safe. I think we just have to bite the bullet and make sure that this happens.

**Hon ROBYN McSWEENEY:** I agree with you.

**Ms E. EVANGEL:** I agree as well.

**The CHAIR:** Thank you so much; you have not let us down! I will read the closing statement now, Peter. Thank you for your evidence before the committee today. The principal research officer may write to you in the future about additional matters the committee might want to clarify. A transcript of the hearing will be forwarded to you for correction of any minor errors. Any such corrections must be made and the transcript returned within 10 days from the letter dated. If the transcript is not returned, it will be deemed correct. New materials cannot be added via corrections or the sense of your evidence altered. If you want to provide any additional information or elaborate, please include a supplementary submission for our consideration when returned. Thank you so much for your time; it is deeply appreciated.

**Mr Blaxell:** Thank you.

**Hearing concluded at 11.12 am**

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