

**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, 18 MARCH 2016**

Members

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

Hearing commenced at 2.33 pm**Ms EMMA WHITE****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, thank you for your appearance today. Our hearing is to assist the committee in its review of the functions exercised by the commissioner. At this stage, I would like to introduce myself and members of the committee once again: Lisa Baker, member for Maylands; the deputy chair is not here today so I do not need to introduce her; Eleni Evangel, member for Perth; and Dr Sally Talbot, member for South West Region. This is a formal proceeding of the Parliament and therefore commands the same respect given to proceedings of the house itself. Even though the committee is not asking you to provide evidence on oath or affirmation, you must understand that deliberate misleading may be regarded as contempt of Parliament. This is a public hearing. Hansard will make a transcript for the record. It would be great if you could give us the full title of any documents.

Finally, have you completed the "Details of Witness" form?

Ms White: Yes, I have.

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

Ms White: Yes, I do.

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

Ms White: Yes.

The CHAIR: Do you have any questions about being a witness?

Ms White: No; nothing.

The CHAIR: This is housekeeping for us in many respects. This is us having been on this journey for a couple of years. Our committee is looking specifically in relation to that recommendation that Blaxell made about the role of the commissioner in child abuse reporting. We have covered a lot of ground and we think we have come to a place where we can recommend three specific themes that the commissioner would be well served to pick up. I had wanted to ask you: from your role as the director general of child protection, would you like to tell us what you think of what you know that we are recommending or that we are thinking about at the moment?

Ms White: Certainly. It is probably just a recap in terms of what I understand you are recommending, which is an expanded role of the commissioner with regard to complaints that children may make being number one.

The CHAIR: Excuse me, Emma. Can I have a copy of the paper? I have got it. Emma, you can have a look at that one.

Ms White: Terrific; thank you.

The CHAIR: You cannot take it away but you can have a look at that one.

Ms White: So with regard to education and outreach, information and program referral, and monitoring and oversight?

The CHAIR: That is correct. They are the three kinds of themes that we are thinking about.

Ms White: In principle, we are quite supportive, I think, particularly around the education and outreach role, an expanded role, a more integrated role with departments like ours, other bodies like

the working with children card unit as an example, and there will be others across the state. I think there is a huge need and role to expand that education and support capability building that the commissioner's office is best placed to perform. There is, in our view, a bit of an absence of a pure focus on children in terms of their experience, the access and their mobility around complaints, but also in terms of how organisations and individuals are equipped to support and respond to children when there has been a disclosure. So, we are in furious agreement with that particular aspect, if we have understood it correctly.

With regard to an expanded role in monitoring the compliance of complaints, whilst, from the department's point of view, I think it is entirely sensible around the capability and education role, I think an additional oversight around complaints with regard to compliance would duplicate the Ombudsman's role to a large degree. I think that would be a little confusing and somewhat cumbersome, and I am not sure how the two legislations would interact neatly. However, as I have said, I think the Ombudsman maintains the office's role of the oversight and the children's commissioner does that missing prong with regard to capability building. I think that is a much strengthened system. That is my basic view.

The CHAIR: So of those three roles, you think roles one and two, are pretty good, and you are cautious about the oversight role if oversight means a power to get in the way of agencies doing their jobs or duplicating what is already out there being done?

Ms White: Yes, and specifically with regard to duplicating the role and the function of the Ombudsman under the act, with compliance and monitoring specifically to do with complaints—I think that would be duplication.

The CHAIR: So would there be a role involved—because the Ombudsman is specifically, I think I am right in saying, mostly concerned with the role of public sector agencies and their processes?

Hon SALLY TALBOT: Administrative issues.

The CHAIR: Yes, so you think that the —

Hon SALLY TALBOT: What is the word? Is it malfeasance?

The CHAIR: Yes. What about the NGOs and the role of children outside the system?

Ms White: With regard to complaints from children or families or anyone in contact with the child protection system, we consider the Ombudsman the third tier of that complaints system, as we have provided before. So, not often, but it is certainly possible for the Ombudsman to step in in a much broader brief than the administrative process, and has done—in fact, that is kind of built into our complaints mechanisms quite specifically. I think that sort of covers that bit from our point of view. The other aspect of your question—I am sorry.

[2.40 pm]

The CHAIR: So it is okay if somebody perhaps has a problem with an agency which is not a government agency?

Ms White: Apologies. The Ombudsman has the powers under his act to oversight out-of-home care in its broader sense. Those provisions exist in broad terms. We have, as an example, to be concrete through the out-of-home care reform process, been exploring through a working group of which the commissioner and Ombudsman are part of, the Ombudsman have an expanded role in external oversight and monitoring of standards of all out-of-home care, be it the department, be it a non-government agency, community sector agencies and so on and so forth, so there is no discerning line in the sand between government and community, nor should there be in an out-of-home care sense. We see a very specific role with regard to the safety standards aligned with the safe organisational work that the children's commissioner has progressing, and in that sense it would be a jurisdictional look rather than if you are in government or not. That is the missing piece.

The CHAIR: So in terms of the role that is mapped out in a very sketchy form, how do you think that the department would be able to work alongside a commissioner with that kind of slightly expanded role? If you want to leave the monitoring and oversight one out, and let us talk about the first two, what would be the most important things that you think the commissioner could bring to the table on those issues, Emma?

Ms White: In some way it would be playing a very important leadership and coordination role about things that already exist. So, for example, I understand the commissioner will release a range of products in the coming months with regards to safe organisations and standards. We would, as we have already been in negotiation, support his office to deliver that education to both community services sectors, members of the public, our department, through things like integrating or including those education sessions on our learning and development calendar which we provide to non-government agencies and ourselves and more broadly. We do not see any issues with sharing of information or anything like that, so we could quite easily and neatly work together in my view. We have some existing information and learning modules and publications of which I think we have submitted a number, and I am happy to do so again, with regards to, you know, the three main things with regards to safeguarding children. It is screening, it is creating situational safety and it is looking at how organisations can adopt very broad child safe practices.

The CHAIR: On that last point—sorry to interrupt you, because I just said to you that you would probably only need half an hour. I will get my question out of the way, and then we do not need to worry about anybody else having any questions, because we would have covered them all—just joking!

With the possibility of the commissioner, or anyone for that matter, promoting and helping in the creation and delivery of training that makes an organisation child safe, I am really interested in what your opinion is, that there is no actual accreditation available. So, you can go to a lot of training courses and still not have a bloody clue what you are doing, so how do you actually know that the organisation involved, even though it has done 700 courses on this, is actually accredited or doing the work that it is meant to do, that we can proudly say this is a child-safe organisation? There is no one accrediting organisations at the moment. You think that is really a hole, or is that okay?

Ms White: From the department's point of view, particularly with regards to agencies providing out-of-home care, we think it is a gap. Whilst we have got very good standards that exist—better care, better services standards nice standards—two of which are specifically to do with child-safe organisations, which get reviewed through standard monitoring, they are enshrined in the contracts and they are assessed against those elements of the contracts. So there does exist both standards and monitoring. From our point of view, that we have really progressed with the out-of-home care reforms, the external nature of the oversight and monitoring of that is the gap. At the moment the department is a procurer, a provider and a regulator of standards, and we think we would be a much strengthened system if some of that was put outside, and we think that leads to the Ombudsman's office.

Hon SALLY TALBOT: So you do the regulating, but who does the oversight; who does the inspection?

Ms White: Sure, sure, so currently we have a standard monitoring unit within the department that does those active—monitoring those standards in situ, so in the home, in the district office, in the actual community sector agency, so in person.

Hon SALLY TALBOT: What sort of format would those inspections take?

Ms White: Look, it is a mixed method, so they do a combination of interviews with children, with carers, with workers, both on the ground level and in management. That is done by phone or in person, depending on people's locations and comfort. They also look at a sample of cases, so they will go straight to the files to review, if it is in the district office, looking at case files and how they

have met those standards, which have been long-standing. They also look at, particularly the non-government sector, they will look at all the contract specifications and the reviews that have been done against them, and they collate them against the standards into one report, which goes either back to the work unit or to the external community sector agency, who has got the opportunity to provide further information and feedback. That report is then finalised and tabled at the at the quarterly exec meeting for the department, and they have a sort of a—called an action cycle, so there might be actions arising as a result of that review, and those actions are monitored and reported on throughout the reporting period till the next more formal intensive review.

Hon SALLY TALBOT: Is there a self-reporting element?

Ms White: With regards to concerns for children?

Hon SALLY TALBOT: Yes.

Ms White: Yes, of course. So that comes twofold. It might be an environmental concern, say, happening in a residential home that may be run by ourselves or the sector, through both the safety standards and all the operational procedures that are put in place as a result of them. If you are an NGO in addition, and you are contracting, there are provisions and requirements for you to report when the building goes wrong, when the combination of children, let us say, is creating an overall unsafe environment. Then we have operational sort of triggers that kick into is it the right mix of children and what needs to happen for that environmental issue to be safe. When it comes to a child disclosing a concern for their safety or any form of abuse, which I think I have spoken with your committee about before with regard to very mature, longstanding protocols around what the staff member needs to do, and that kicks off a whole response both from us as the child protection department, and the police. If that has occurred in an NGO, both in their contract and all our other agreements with them, they are very clear about how they report that through our duty of care unit, and that kicks it off that way. There are a couple of folds.

The CHAIR: I am really interested in what has emerged in Victoria, which I think you mentioned you know about, which is the regulation of child safe standards in Victoria and that there have now been some mandated standards brought in. In some respects that links in with what we are saying about how do we an organisation is actually at a particular level to be dealing with children; well, you need standards, first of all, it says. This is what you should be doing, but then somebody needs to check the standards, and then, ideally, maybe somebody needs to give you a stamp to say that you have got that. So there are at least three steps, and then there is the auditing after that. Do you like that model that the Victorians are running? Do you see any benefit? Is there anything that WA should be doing, do you think?

[2.50 pm]

Ms White: We, as part of the out-of-home-care reform and the oversight group that I mentioned, have looked really closely at other jurisdictions—Victoria being one, but New South Wales, Queensland, across nationally and further afield. There are pros and cons with all systems. We could not be coming from a different starting point here in Western Australia than Victoria or New South Wales with regards to this work. Some of their accreditation and, sort of, regulatory bodies have been in existence, and in fact across multiple government agencies, let us say, with reportable misconduct as an example. There are whole departments doing that. We have looked at that, and certainly the royal commission has really mobilised and focused everyone's attention on what do we need to do to strengthen. What we are proposing—it is pending government endorsement and approval—is a very concrete and rather large step in that direction, but what we are suggesting is that we review of the current Better Care, Better Services standards by that working group that I mentioned, which has the Ombudsman, the Commissioner for Children and Young People, the Attorney General and other community sector agencies and consumer reps on it. We review the standards, particularly with regards to improved consistency and accountability for assessing carers' suitability, so we are all assessing carers against the same competencies. We are

looking at, as I have mentioned, the Ombudsman taking on a more substantial role in the oversight of the safety standards. We will continue to manage the standard monitoring in the way I have just described, but in addition we put in a set of safety standards, which the Ombudsman will do right across the jurisdiction. We are also suggesting that, as part of the contracting process and the whole review, agencies, including the department and non-government departments, will need to demonstrate at every point how they are actually meeting those standards. So, it is not called “accreditation”, but it has a lot of similar features. Our view has been—the working group has come to this—that that is a reasonably sensible next step for us in WA that is achievable, builds on what we have and is set for purpose here in Western Australia, and is achievable without creating a whole other department or mechanism that has other implications.

The CHAIR: That would pick up any agency in the state that is involved in working with children, so if you are a sporting group or you are an education facility or a private education facility or anyone, really, who is working with children, would then have some standards around how to have a guaranteed child safe organisation.

Ms White: What I have just described is specifically for providers of out-of-home care, so children in care.

The CHAIR: Okay, I thought it was.

Hon SALLY TALBOT: What is the time frame around that?

Ms White: Pending government approval, we would like to see that happening at the beginning of next year, and starting to really work that up and implement that. It is quite ready to —

Hon SALLY TALBOT: It is ready to go?

Ms White: Yes, we have done the work. Because of the work that the Commissioner for Children and Young People has done around safety standards for all organisations—there is a range of education activities through the working with children card, the mandatory reporting centre and the office of the children’s commissioner itself—there is great capacity to actually join together to sort of ramp up some of that education support to a broad brief of agencies, be it sporting or otherwise, to look at how they can evolve their organisational practices against those standards, and we would certainly be open to supporting the office to do that.

Hon SALLY TALBOT: When you say “government approval”, does it need any statutory change or change to regs or something like that?

Ms White: No, not immediately, but I think if we wanted to build on that, eventually we would be needing to look at some legislative provisions to help support it. The Ombudsman has the provisions as the oversight of out-of-home care currently. This is now developing a set of safety standards which aligns to the work that has happened and in addition to the better care, better services standards.

The CHAIR: I have a couple of questions that I should get us back on that, and that is all I want to know. One of the things we think we will be referring to in the report that is not yet included in the notes that you have been given is of making sure that the focus on Aboriginal children’s safety is taken across the whole of the commissioner’s portfolios. We have looked at the Victorians in particular and the way they have built into their legislation that they have two positions, the commissioner and the deputy commissioner. One of those positions is to be filled by an Aboriginal person, and that is not just because that person is only going to do all the Aboriginal work; it is because, of course, you need cultural appropriateness across the whole organisation. They have done that and we are looking at ways of strengthening the work that our new commissioner wants to do in this area, and he is constrained, of course, by government restrictions in funding at the moment and hiring. So in the future, we think it would be necessary or essential for us to have a focus in the commissioner’s office that carries across all the work they do on Aboriginal children, so something like that. Do you have any comment to make on that?

Ms White: My main comment would be that all the work of the children's commissioner's office, the department and other human service agencies needs to be re-prosecuted through cultural links. Certainly, an agency like the Department for Child Protection and Family Support, overwhelmingly that is the majority of our work, quite sadly, certainly when it comes to children in care. Aboriginal children are 15 times more likely to come into care, so everything we do in both a regulatory sense and in legislation, policy, practice, guidelines, and service design and delivery, has to work for Aboriginal people. So —

The CHAIR: Let me stop you, Emma. I totally agree with what you are saying, but I am just remembering that it was either the director general of child protection in Victoria or it was the commissioner himself who said to us that—it was a woman we spoke to; I cannot remember who it was. She was either a head of child protection over there or something. She said that they had embarked on this journey, as the commissioner or in their role, with exactly that attitude: “Everything we do is through a cultural lens. There is nothing we do wrong here; it's all done through a cultural lens.” They actually had an Aboriginal person appointed to look after the area and the whole world changed colour. Was it the commissioner?

Hon SALLY TALBOT: Victorian child protection.

The CHAIR: It was not the commissioner, it was —

Hon SALLY TALBOT: The department for child protection.

The CHAIR: That is right. It was so enlightening for me to hear that because I think sometimes people think that when you want to have this role, you mean that this is all the work they are going to do. It is critical of what the system is currently delivering. It is not bad, it is just that that cultural lens that we all think is so completely correct when we are looking at it through a non-Aboriginal set of eyes, suddenly changed completely when an Aboriginal set of eyes was brought in to look at the same picture. That is kind of why we are interested in this issue, to try to make sure that lens is in place.

Ms White: Anything that builds our system's capacity to do better with Aboriginal children is something that I would support, the department supports, be it a separate commissioner or be it setting employment targets right across the system with regards to having Aboriginal people at every level of every organisation, because it should not be a special event, although it sometimes needs to be, we really do need to do it at a systematic level. If that is a step that can be taken, that would be of use. We would support it, but we would support any strategy to really increase our rigour and ability to do that.

The CHAIR: Two quick questions: how is George Jones going?

Ms White: Good. It has been a fantastic pilot, which we are not quite through, with regards to all being co-located down at George Jones. We are covering the Armadale and Cannington police district at the moment. Really looking forward to having some of the evaluation results come out. Certainly from our point of view it has strengthened working relationships. Some of the real-time response to children and families I think has been very good with the advocate there, the child protection workers with detectives and so on and so forth. Just being in each other's house of course builds understanding and so on and so forth. We think it is going very well. We think the evaluation needs to be quite instructive about how you might take a next step both in those locations or further afield. The department has always had an interest in looking at how that model could be replicated in regional WA, because of course in Perth we have lots of good things and a very mature system of co-location with the police. The child advocate, I think, has taken that at the next step but of course we have not quite made the same gains in regional WA. That sort of hub model I think lends itself particularly to some of the larger regional towns. I have had those discussions with police in Parkerville and others. I think that is a fit-for-purpose model that has merit further afield.

[3.00 pm]

The CHAIR: Yes; it is a pretty sexy model. Final question: if the commissioner actually was in a position, at some point, to have a disclosure, would the commissioner be able to have a referral pathway to one of the department's services? Do you see a problem in that? So, if a child discloses to the commissioner at some point in time—I know they already have a pathway in—do you see any problems in the future, if that might happen again?

Ms White: No, certainly not. The Children's Commissioner's office, like many others, there are many pathways that can be taken if there was a disclosure. I particularly like the idea of the Children's Commissioner's office having a developmental piece around a website, a central repository of resources and information that children in particular and community members can go to, almost like the red dot on the website to press and in you go. Being able to develop those resources that are up to date, contemporary et cetera is really critical. I think if his office did that, it would be a broader resource than other individual agencies doing it. I do not see an issue with the referral pathway, but I think it already exists.

The CHAIR: Yes, I do, too. Just before we close off, when you were talking about George Jones, you mentioned the advocate who is in George Jones, the one person who works for the child. Do you just want to tell us how that is working, because that is new as part of the George Jones centre—that pilot?

Ms White: The role and function of the child advocate has been in place for six years, so we have always had the provision of the child advocate services to be in Stirling Street in ChildFIRST/CAIT, but that was for metropolitan wide, so it was very much focused on all families and children that came to the centre. Their primary role was, really, emotional support upon entry, but then really being able to spend that time, during the time that they are in the centre and then further afield, about linking them into other resources, being that one consistent point of call to explain to the child and the family what is happening now, what is going to happen next, and what can you expect in the next week, month et cetera. As you would appreciate, with the heightened anxiety and emotion that is happening at that time, kids and families need to hear it not once, but twice, 10, 20 times and consistently at different points of the system.

The CHAIR: Yes, of course.

Ms White: That function has already existed. I think the benefit that we are seeing in the George Jones model in Armadale–Cannington, where they are completely embedded—they are just focusing on those two police districts rather than metropolitan-wide—and, of course, because we are co-located, everyone has enhanced their understanding of the benefits, merits and opportunities that having an advocate alongside you in every matter can really bring. It is a wonderful function; it is a really needed function; it is a glue. There are lots of services out there, but in fact that does not matter if you cannot find your way to connect with them and actually get benefit from them, and I think the advocate is really critical in that.

The CHAIR: Yes, so do we.

Ms White: And between the statutory agencies, too, because we all have a slightly different role, focus and function, and they really can travel with the family and the child right the way through.

The CHAIR: Thank you, very much, Emma. I think that about wraps it up for us, so I will read the closing statement. Thank you for the evidence before the committee today. The transcript of the hearing will be forwarded to you for correction. Any corrections should be made within 10 days of the receipt of the letter. If the transcript is not returned, we will deem it correct. New material cannot be added or the sense of your evidence altered. Should you wish to provide additional information, please include a supplementary submission for our consideration when you return the transcript. Thank you so much.

Ms White: No problem; thanks very much and best of luck.

Hearing concluded at 3.04 pm
