

**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, 24 AUGUST 2016**

**Members**

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

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**Hearing commenced at 10.24 am****Mr COLIN PETTIT****Commissioner for Children and Young People, examined:****Ms TRISH HEATH****Acting Director, Policy and Research, Commissioner for Children and Young People, examined:**

**The CHAIR:** On behalf of the Joint Standing Committee on the Commissioner for Children and Young People, thank you, commissioner and Trish, for your appearance before us today. The purpose of our hearing is to assist this committee in reviewing the exercise of the functions of the Commissioner for Children and Young People. I would like to introduce myself and members of the committee. I think you know me already. Of course you know Hon Robyn McSweeney, member for South West Region, and Hon Sally Talbot, member for South West Region. The member for Perth is an apology today. This hearing is a formal proceeding of the Parliament and therefore commands the same respect given to proceedings in the house itself. Even though the committee is not asking you to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading is a contempt of Parliament. This is a public hearing and Hansard will be making a transcript for the public record. If you refer to any documents, it would assist us if you could provide the full title for the record.

Have you both completed the "Details of Witness" form?

**The Witnesses:** Yes, we have.

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

**The Witnesses:** We do; thank you.

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

**The Witnesses:** We have; thank you.

**The CHAIR:** Do you have any questions?

**The Witnesses:** No.

**The CHAIR:** I should start by thanking you very much for waiting for the committee's report to come out. I suppose the place for us to start as a committee is to get some feedback from you about the report, because we have not had a chance to formally do that yet and it will be a good time to do that. Then we would like to move on to discuss a few other issues that have come to our attention and to get your opinions on that, and then maybe just talk a little about what our committee will do between now and the end of the sitting period that we are in at the moment. Commissioner, would you like to make any comments about "Everybody's Business"?

**Mr Pettit:** Thank you, chair. First of all, I thank the committee for its report. I think it is a very strong report and its logic in the recommendations will contribute to, as the title says, enhancing WA's response to child abuse. From that point of view, the eight recommendations in particular need to be strongly considered. As such, I have written to the Attorney General reflecting our response to that. I can outline some of that for you today.

**The CHAIR:** Great; thank you. It was definitely a labour of a great deal of love and a lot of consideration and expertise on behalf of the committee. With the amazing journey that we went on as a committee, hopefully we managed to get some sense out of it and reflect the things that we

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eventually came to agree, as a committee, were the most relevant for needing immediate attention. It would be good to let you continue, Colin.

**Mr Pettit:** Thank you. Perhaps if I bundle them into the areas that you identified the last time we met, into the four or five areas working around education et cetera. We will start with recommendation 1 around the investigation of support services for child abuse victims. Obviously, it was much deeper than that, but certainly the recommendation is consistent with the work we have been doing currently, and is consistent with the work we know that the Royal Commission into Institutional Responses to Child Sexual Abuse is happening. We believe this to be a very strong recommendation that needs to be looked at but, obviously, will need some resourcing if it is to be worked through to its nth degree. We would like to recommend back to the committee that while we accept the recommendation, we have talked through letter to the Attorney General about how we think that could happen. We think that to do a full workover about what facilities are out there currently and make sure that we understand all of the implications of those services would take us between six to nine months from the commencement of that work. We believe it is an important piece of work and we will start that work as part of the office, even if we are not resourced to do it, because we think it is an important piece of work. We have started talking to a number of agencies already about where their services are heading into the future, given budget constraints.

[10.30 am]

The second element of that around an advocacy service is really important, and I think we mentioned it the last meeting with you. When we have spoken to the royal commission and when we have spoken to a number of people who have either responded to the royal commission or to our office, the advocacy service is one that is a missing link for children and young people in particular who identify that they have had a complaint or a problem. The ongoing service is the real issue. We have written to the Attorney General to say that a once-off response to an individual is not acceptable; it needs to be a continuation or a service available as a continuation, almost throughout the life of that person. What the royal commission is saying to us is that often the manifestation of problems do not arise until much later in life, so there needs to be this one-stop advocacy role that needs to be independent of all other agencies, so that there is a confidence for that person to come to and know that they are going to have a confidential service, but also a service that is there designed especially for them. We believe that that could, as you have identified, sit inside the commissioner's office; however, it would need significant resourcing on an ongoing basis. I think there are certainly other models that we could look at in terms of where it could sit if it was not inside the commission's office. We have allowed that information up to the Attorney General and we will wait and see the government response on that particular recommendation.

**Hon SALLY TALBOT:** Did you canvass those other options with the Attorney General in your submission?

**Mr Pettit:** We have not canvassed fully the other options, although I am meeting with the Attorney General shortly to work through that. One of the things that we are not saying is that it must rest with the commissioner's office, so long as it is independent, it is an ongoing service—so it is not something that will start up and shut down—and it is well communicated to the community about its purpose and its function so that people who may know someone who is in this space can direct them to it. We will be having that conversation with the Attorney General.

**Hon ROBYN McSWEENEY:** Just from my point of view, you said that it is ongoing, and it is throughout a lifetime when somebody has been sexually abused. The children's commissioner in one of the places overseas—I think it was the Scottish commissioner—sees children only up to 18 and they make that stipulation. The children's commissioner—it would change what you do if you had that advocacy in your office for a lifetime. I just put that point there: I do not say that you should or you should not, but I just put that there for your noting.

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**Mr Pettit:** We would agree with that. However, certainly the information that we have is that similar to children who go into out-of-home care, just because they turn 18 does not mean that their problems have been resolved.

**Hon ROBYN McSWEENEY:** Yes, and I understand that clearly.

**Mr Pettit:** That is why we have not pushed one way or the other that it must rest in this place or that place. What we do push, though, is that we agree with the committee that there needs to be a service of this nature to support people in this space, regardless of age.

**Hon ROBYN McSWEENEY:** Yes, I do too.

**Hon SALLY TALBOT:** Just on a thoroughly contemporary note, did anybody notice the reports of that protest in Melbourne yesterday about the 3 000 people who have been to the Royal Commission into Institutional Responses to Child Sexual Abuse talking about the historical nature of the abuse, talking about the treatment they received from the police? It was a protest at the police headquarters or somewhere in Melbourne, but the spokesperson was very articulate and went into some detail about the fact that we are talking about decades of lives being ruined because people failed to take action at the time. I thought it was a very poignant and very articulate statement of the nature of the problem that we are dealing with. Robyn is absolutely right: it fundamentally changes the nature of your original remit, but the fact is that as we uncover more of this kind of historical abuse, the facts are actually changing. That is the important thing, is it not? The facts change; the policy response has to change.

**Mr Pettit:** Yes, and so long as the policy response changes to meet the needs of those vulnerable people, irrespective of where it is placed, then that is the important thing.

**Hon SALLY TALBOT:** Yes.

**Ms Heath:** I think that is why we were not wedded to it actually necessarily being based at the commissioner's office. There are a number of ways that you could look at managing those issues, such as having different divisions. The question of whether we only bring in people who are children to start with and then follow them through, or whether it is for people who now—as mentioned in the royal commission, there are some services, but I do not think they are particularly well funded or supported for adult survivors. I think there are some very good models there. I think the nature of the advocacy work is that it has to be strongly independent from all service providers, whether they are government or non-government, and also they need to be independent from complaints mechanisms as well. So you would not see it bedded in an ombudsman's office, for example. I think that there is some evidence to suggest that that is not the appropriate place. It should be helping people to work through ombudsman-type processes, and so it is sitting alongside the person on that journey; it is not acting as a service provider in itself.

**Hon ROBYN McSWEENEY:** I believe there is one in Queensland, but that was for victims of historic abuse. I am not sure how that works, but I have heard that it is very well resourced and works very well and that it is independent. So that would be something that we could all have a look at.

**Ms Heath:** Yes; and if you separate by jurisdiction from children to adult, you need to have a very supported transition process for people, because it is all about trust and security.

**The CHAIR:** It would be diabolical to adopt someone who is 18.

**Ms Heath:** Absolutely.

**Hon ROBYN McSWEENEY:** It is continuous, is it not? We all recognise that.

**Mr Pettit:** That was recommendation 1. Recommendation 2 was around the education and monitoring of protective behaviours. We think this is a really important issue, and I have meetings set with the director general of Education, and I am also trying to get a meeting with the director

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general of DES, because I think whether the minister puts the report or the information in the annual report of the Department of Education or whether it should be split over two is an issue that needs to be looked at. The important issue, though, is that every school, irrespective of government, Catholic or independent, needs to report this, because it is an essential piece of work for all children around protective behaviours. I would certainly commend the department on the resource it has developed, but, like you, we are concerned about the resource actually being implemented to a point where children understand it and react to it. I think your recommendation of making sure that it is not just ticked off that, yes, we have delivered it, but how children actually respond to it is important, and that needs to get across all three sectors. It is a conversation that we are having with the director general, as I say, of the Department of Education, but we would also look to talk to DES, and also the Minister for Education, and I am sure you will do the same thing.

**Hon ROBYN McSWEENEY:** I am chair of Rural and Remote Education for Western Australia, and not only on this committee are we all very strong on protective behaviours, but I try and get the message out, as we all do, because this is the one area that we just need to get into schools on, particularly I think with grooming. Parents do not understand what grooming is. I think if they understood that, that would —

**Hon SALLY TALBOT:** Because often it is the parents who are being groomed.

**Hon ROBYN McSWEENEY:** Yes, exactly, so they just do not understand that grooming.

**Mr Pettit:** I certainly commend the committee around the fact that the minister needs to have a look at this, because the response we have had from the system generally is that it is up to the principals —

**Hon ROBYN McSWEENEY:** I know.

**Mr Pettit:** — and the reality of that is that principals are very busy, as we know, and they will respond to that and say, “Yes, we have implemented it”, but to what levels? So it needs a policy overlay, certainly from the minister, about the importance of this area.

**The CHAIR:** Anyone who is a Minister for Education has got to understand that the minute something hits the fan on this subject matter, they are the ones who are going to be skinned alive about this. It is not going to be the school principals; it is going to be the minister. I think it is really important that that is sheeted home very firmly to whoever is the Minister for Education.

**Hon SALLY TALBOT:** And it is worth reminding people, just by way of overlay of sharpening their response, that this is the third report to talk about protective behaviours. We have got this one, Blaxell, and then we have the original Gordon report —

**Hon ROBYN McSWEENEY:** Yes, the Gordon report of 2001.

**Hon SALLY TALBOT:** — where she talks specifically about that program.

[10.40 am]

**The CHAIR:** Yesterday the Premier tabled a report, which I am embarrassed to say I do not have a copy of, into the hostel, and he talked about Blaxell as being the root of this journey, and he reiterated that he rejected the one-stop-shop issue and, you know, protected himself in that fashion. I did not have a chance to read through that report but it would be interesting to see what action he is going to take. It was tabled yesterday in the Assembly. We will certainly be having a look at it. It is worth one of you trying to pick up a copy, too.

**Mr Pettit:** I believe the legislation is being pushed through so that the Department of Education will now take full responsibility for hostels, and that is what it was about. So, again, in talking to her, one of the meetings I have with the director general is to ask her how she will monitor protective behaviours in that space, given that is a huge responsibility for her to have.

**The CHAIR:** Bet she was happy with that!

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**Mr Pettit:** I am sure she will have a response for that.

The third recommendation is around having a special adviser for Aboriginal children, and whether it will be a commissioner, or other. We have had a lot of feedback on this issue from a range of organisations, particularly Aboriginal organisations, and there is not one defining point that all will agree to. There is certainly an agreement that there needs to be greater concern for Aboriginal children, and the office is, under legislation, guaranteed that we will do that work. As such, we have employed an engagement officer, Will Haywood, who is an Aboriginal man. Will has worked in a range of organisations similar to ours in both Queensland and Western Australia and has already hit the ground running and really making a big difference about connecting our office to Aboriginal children and young people in particular, but also to their families. This recommendation, we have said to the Attorney General that we would certainly support it, but it would need additional funding, and then at what level you would have it—whether you would have a commissioner. Some people like Sue Gordon believe it should be a deputy commissioner, others think it should be an assistant commissioner, and others think it should be an adviser. So, again, that would be up to government to determine, if that is an important issue for them, to fund that person appropriately into our office.

**The CHAIR:** I would agree with that. It is a government thing. We are just really glad to hear that you got your engagement officer approved and on board. That is very good.

**Hon SALLY TALBOT:** Did they break the freeze for you?

**Mr Pettit:** No, unfortunately, but he was employed virtually on 1 July, I think it was, as soon as the freeze was lifted. As I say, he has hit the ground running and is doing some terrific work, and he has negotiated with quite a few people, as I said to you earlier, in Derby, and we are having a barbecue with a range of families up there to talk about their issues.

**The CHAIR:** My only comment—it is just a personal comment—is that this entire area around the work that we all carry around protecting children, I think, is going to probably continue to sharpen, and I think that this will be one of the future issues that governments are going to have to get their head around. So, from my perspective, I am really proud that our committee agreed to put this recommendation into the report, because I think it is a really important thing for the future.

**Mr Pettit:** As a significant function of my act, we obviously will always work with Aboriginal communities and individuals, particularly children and young people, to make sure their voice is heard. It is an important element for us, and, irrespective of personnel, we have that as part of our work plan literally every year.

**The CHAIR:** For me it is only logical that if you have got a function that involves targeting particularly Aboriginal children that you have a staffing profile that reflects that you are targeting Aboriginal children. So, having an acting commissioner, a commissioner or a senior commissioner, or some person whose responsibility it is, is just logical to me.

**Mr Pettit:** Thank you. Recommendations 4 and 5 we might do together, given that is education and outreach and the online portal. We have been talking to a range of organisations at the moment about where they are seeing their activity, because some of this is actually being delivered in a range of services. There is no one connected service, and we are looking at how that might happen, and in fact we are talking to a number of agencies to see whether it may be better placed with them to do some of this stuff, but we certainly provide support and also some communication around how that could be evolved. Again, if it does come to us, we would be more than happy to do the educational and outreach approach, and in fact we have started that with our child-safe organisation work, and we have had a range of seminars both within the metropolitan area and also the regional areas, and we have had well over 200 organisations involved in that work already. Certainly, the information that we have developed around the educational tools is being well received and being used, and in fact we only talked to a group in Kalgoorlie last week who are

using the self-reflection tool, as are a number of agencies, to see where they are at and how they can improve their child-safe organisations.

So we are in that space, but to get it to the level we think the committee was recommending would require another significant investment. Again, whether it is with us or whether it is another organisation is probably irrelevant, but what is more relevant is the fact that we want to make sure that parents in particular have access to quality information. Of course, as you know, Mr Simpson has instituted the parenting centre of excellence, and we will wait and see how effective that work can be in that space, and we think that is a very good start. But other agencies also have information that is being developed at a fairly rapid pace and it is about how we ensure the community more broadly understands where we are going to. We think we have a role in that space. We also have a role to work with agencies to bring them together so that their information is not duplicated all around the place.

The portal idea we are very happy to accommodate. Again, it is a big investment, but it could line up with some other work that you have already identified in your recommendations. But again it does not necessarily have to sit with the commissioner; it can sit elsewhere, providing it is done. We certainly agree with the idea that better information needs to be out there for parents, particularly young parents, so that they can support their children. When you overlay that with issues like mental health, drugs and alcohol et cetera, parents are scrambling for information.

**The CHAIR:** Colin, the link that our committee was really wanting to make in recommendation 5 was with the best practice, and also clearly the children's commissioner should be the best practice model for all of this issue, and rather than having to rely on Education, or whoever, to scramble around and find out who is doing this better than anybody else and what we should be doing, I think our committee thought that you should be doing that work. Who hosts that information, I agree, is somewhat secondary, but you as the best practice.

**Mr Pettit:** Certainly, with some of our partners like TKI we could look at evidence-based information to give confidence to parents to know that if they go down this path, there is the likelihood it will help them, rather than just have hundreds of programs that they can reach. In fact, we are talking with a number of those providers now about how we might look at some of these programs that are evidence based, and how we could then portray that back to the community.

**Hon ROBYN McSWEENEY:** Just to support Lisa, it is very important—we all felt the same way—that it does come from the children's commissioner. I have been working with abused children for many years; I do not anymore, but when I was minister I came across some shocking cases, and I was a social worker before that, working with children who had been abused. When somebody comes across a child who discloses and tells them that they are being abused, that person is confronted and does not really know what to do. It does not matter whether it is a bishop of the Church of England, a doctor or whatever. People really do not know what to do if it is an ordinary mum or dad. I think it is fair enough that they get on the website and look at all these things, but, really, if you could hone it down to Western Australia, what is the best thing you can do, who do you talk to—very simple things that a parent or a person can do. It has to be broken down to the lowest common denominator. Instead of having screeds and screeds of information on this is what to do —

**The CHAIR:** It is so complex.

**Hon ROBYN McSWEENEY:** — just a few simple things from the children's commissioner's office that these are the people that you can go to. Have you thought about doing this? Have you talked to anybody else about it? When you are confronted, you think, "My God!" Even me—if somebody came to me today, I would sit down and I would have to go through all the steps of what is best for that child, really, and where do I go next, because there are consequences once you take that next step, and people have to understand that. I think, from my point of view, something

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coming out of the children's commissioner's office that is nonthreatening, but that is where people know where to go on the website to have a look.

[10.50 am]

**Mr Pettit:** We would certainly support that. Certainly, the developments in technology now around a number of apps would provide us with an opportunity to move this whole agenda forward. We are very keen for that to happen, but of course it depends on the investment and where we come from.

**Hon ROBYN McSWEENEY:** It certainly does, yes. If we can help —

**The CHAIR:** This is something that is not going to go away. I keep saying we do not know that the situation is actually any better. We cannot take our eyes off it.

**Mr Pettit:** The only point of clarification on these two recommendations was that we were not entirely certain on what you meant by the commissioner having an outreach program. We assumed it was to make sure that we were into regional areas, but we just wanted to make sure that that was your intent, or is there another intent behind it?

**The CHAIR:** I am just finding it. It is recommendation 4 —

“The Children's Commissioner must develop an education and outreach role to increase ...

Our thinking is that education is one matter, but there are a lot of other agencies involved, so the child-safe organisations model is something that I think my committee was really saying, “Get the NGOs involved, get everybody who is involved, but don't wait for them to come to you; actually get out and market it, so go out into the community.”

**Hon ROBYN McSWEENEY:** Give them a package.

**Mr Pettit:** We thought that was it, but we just wanted to make sure that we clarified that we had not missed something.

In terms of the last three recommendations around the monitoring and the ongoing oversight, these are crucial recommendations around making sure that agencies not only do what they say they are doing, but report it publicly to their community. We have started some work around monitoring, and working with agencies about how they might monitor, but it needs a lot more discussion, and deeper discussion, with each one of them. Certainly, annual reports are a way that we could make sure that the community is aware of what is happening in each of those agencies. Some, at the moment, do a fairly good job on reporting complaints et cetera, but others do not, and what we would like to do is make sure that—in the process of reporting, that would mean that there would need to be clarity for the end users, which predominantly are children and young people, around how they can make a complaint and then how that is recorded and how it is then effected. We think this bit of work is vitally important for all three. We are talking to a number of the oversight agencies, particularly around youth justice and out-of-home care, to see if in fact there is a more joined-up way that we can make the Parliament aware of what is happening, so agencies like the Ombudsman, the Auditor General and OICS, where we are working very closely to see if we can improve the way that we collectively work in this space to provide information, and that, therefore, will have an impact on how agencies respond.

That is the report as we have seen it, unless there are things that we have missed.

**The CHAIR:** Sure. Renée was just worried that we had not covered non-government services. I think we did say that they would be included in your response.

**Mr Pettit:** Yes.

**The CHAIR:** Thank you very much. I suppose our committee is very heartened after what was an incredibly arduous and complex report. I am sure Renée would have preferred to be somewhere else some of the time! I am really proud of the report and I really proud that my committee agreed to the recommendations, and I am really happy to see that the commissioner's office is moving these



recommendations forward, because it would be very sad if yet another report was sitting on the shelf without being appropriately addressed. We will wait for the government's response to our report and then we will pursue the matters that we can in the time that we have before Parliament is prorogued. That will be part of the agenda for the committee for the next 10 weeks. Thank you very much, both of you.

We have a few other more broad-ranging questions. I think you have another half an hour with us, so I thought that we might—I am going to start on a purely self-interested one and ignore Renée's questions completely. I have two issues. One is the Valuing Children Initiative. Have you touched base with that?

**Mr Pettit:** Yes. We are a sponsor, as an office, of that particular project. We are working closely with Linda Savage and her team and Tony and the team. Certainly, we think it has an opportunity to bring to the public's attention the value of children or how we value children in this community, so we think it is an important piece of work.

**The CHAIR:** Good, thanks. I am glad to hear that you are working with them because I think they have a really good position to come from with the stakeholders that they have got involved. They are certainly motivating a lot of people to do things.

**Hon SALLY TALBOT:** It was a very impressive launch, was it not?

**Mr Pettit:** It was. It was a great launch, yes.

**The CHAIR:** Yes, I know. There were lots of you there.

**Hon SALLY TALBOT:** I guess we have the capacity to go into private session if you felt the need to, but I am particularly interested in the criticism about the act being situated with the Attorney General. I know that is part of a broader argument about having a minister for children, but do you have any comments about that?

**Mr Pettit:** Personally, no. I know it was raised by Linda and we have left that to the group to progress how they see that particular element. Certainly, the Attorney General is supportive of the commissioner's office. But I am not sure where you would place the commissioner's role if it was not to the Attorney General. You obviously have a view of where that could be.

**Hon SALLY TALBOT:** I think there would be a few different views on this.

**Hon ROBYN McSWEENEY:** There would be a few different views. I am quite happy with it being with the Attorney General and I will say why. He is the top lawmaker in the land and I place children as very much being front and centre of any government. If they do drop the ball, the children's commissioner is sitting right next to the Attorney General, and I think that is a good place for it to be, albeit, the children's commissioner could have its own, but that is another philosophical argument for another day. I think sitting where it is now is good for the time being.

**The CHAIR:** The next issue I was going to ask you about is Daniel Morcombe day, which I think is in November. The reason I am aware of this is kind of really interesting. The sergeant of police at Bayswater—I think he is now quite happy to be outed as the "Mr Big" who was involved in Daniel Morcombe's case. He was the man who was undercover for 10 years catching this guy. He is a wonderful, wonderful man and was very damaged by the experience. He has gone back into the regular police force now. Obviously, he is a sergeant of police and he has gone now back into counterintelligence, I think. Anyway, he is a fine man and he has gone to the family and said that he would be happy to promote the Daniel Morcombe awareness day for child protection in WA. I am going to write to all of my schools to just let them know that it is coming and they give you a package of information and balloons and what not and you can use it as a—I was just wondering if you had heard of it or if you have made any contact with the Daniel Morcombe Foundation; and, if not, I was going to suggest that you might want to do that because you might want to put something on your website about it.

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[11.00 am]

**Mr Pettit:** I have certainly heard about it. In fact, in a previous role I met with the Morcombes and instituted their information into another service. I am very much aware of the Daniel day and the information that they have. I certainly encourage schools to have a look at their website because their resources are sensational and have been developed over many years. I am very committed to making sure that it is something that we raise the profile of and we will certainly place it on our website and do other things.

**The CHAIR:** Thank you. To perhaps a more pressing issue—a lot of things have happened in the last few months since we saw you and I suppose we were all watching with horror the juvenile justice recent revelations that came out of the Northern Territory, and more recently Tasmania, and then Renée tells me something else happened over the weekend where the commissioner was involved in saying that we really need to do some work in this this area. I know that Sally was also interested in this, and Robyn, because she has a big background in juvenile justice. We want to know what the commissioner's office is thinking around the juvenile justice issue in the light of the revelations that keep being made public.

**Mr Pettit:** Certainly, we share your unhappiness, to put it very mildly, around the information that has come out of the Don Dale and, more recently, Cleveland in Queensland. It is unacceptable behaviour towards children and young people, albeit that they are very vulnerable and difficult children to manage, so that needs to be acknowledged. As a result of that, I have spoken with the Public Sector Commission and I am also speaking with OICS, the Ombudsman and the Auditor General. In fact, we are meeting in a few weeks to have a look at—we all have a share of that puzzle, and just to have a look at what information we have. I have to reassure the committee, though, that at this point we do not have any direct information from children or young people that they have been mistreated post-riots at Banksia Hill. Credit to the justice service there; they are trying to go make some heavy reforms. I think we need to acknowledge that. But, that said, that does not mean that things cannot happen. What I want to do with particularly the oversight groups is to make sure that, one, we do not duplicate effort, and, two, that we are very confident and can say to the Parliament that things are going in the right direction out there, and that is the reason for the meeting. We are organising that. I have been out to Banksia Hill and had a look—that was earlier in the year, though—and have been impressed with the number of reforms that they are trying to put in. That does not mean that on any one day things cannot go wrong. So, we need to keep an eye on it and make sure that all the oversight committees are doing what they said they would do.

**The CHAIR:** Thank you. In relation to the same topic, the overrepresentation of Aboriginal children in prisons, part of your five-year plan is to address that. Do you just want to talk to us a little bit about what your early plans are in that area?

**Mr Pettit:** Yes. Certainly, the overrepresentation of Aboriginal children in both the youth justice system, which is well over 70 per cent, and the out-of-home care area, which is over 50 per cent, is something that we all need to have a look at. One of the issues that we are doing with our engagement officer is to start to talk to communities around what would make a difference. We have already spoken to the previous commissioner, who did a fantastic job with on “Listen to Us”. With over 1 300 Aboriginal children, they identified a range of things that were happening in their world, particularly around their culture, their families, around education, around being safe communities and racism. Subsequent to that we are doing some work in both the youth justice system and also the out-of-home care. Both those reports will be due in the next two to three months, and we have interviewed or consulted well over 90 children and young people in each of those reports. We are hopeful that they will be educative towards helping the community to understand why children and young people get into these spaces in the first place and what they consider are ways of getting out of it. They were the questions that we asked. There is some

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consistent messaging coming from both groups. Once we get them, we will be working with both Corrections and Child Protection about what children and young people have said and how will that change their culture internally to reflect that information.

**The CHAIR:** Have you just done that under the normal powers of the act? I am just interested in the part 5 special inquiry capacity that you have. I know that section 19(f) has some different specifications. Have you thought about exercising your capacity under part 5?

**Mr Pettit:** We have not to this point, although that is still an option for the office, as you pointed out. At this point we are trying to work in partnership with both Corrections and Child Protection about changing their practices and policies into the future to support these vulnerable children.

**The CHAIR:** Is that the whole of the five-year plan that you will be working with them?

**Mr Pettit:** No, that will be the first bit. Those reports will be coming out later this year and we will be working with them from there. Subsequent to that, if their information comes post that, we would look at what the next steps will be in those spaces.

**Hon ROBYN McSWEENEY:** “I just want to change child protection policies.” How were you thinking about doing that?

**Mr Pettit:** Certainly, the partnership we have with Child Protection in this particular project, they are very keen to see what children and young people have told us. They are very keen to have a look at how they might change some of their practice, in particular around training. But it is early days yet and we are certainly still working with Emma and her team to have a look at how it matches their reform. There are certainly some things coming out from children and young people around the way they see their caseworkers, the way they see Child Protection more broadly. I do not think it has been a surprise to Child Protection but it has been a bit of an awakening.

**Hon ROBYN McSWEENEY:** If I can say, even when I was the minister, caseworkers do their best, but it is not continuous for some children. The children who do best are the ones who have a continuous caseworker, and that is not rocket science, but the public service, being like it is, you burn out very quickly. Even when I was working as a social worker, I would do only a six-month or three-month contract and then go back out. I guess I could do that. There are other people who cannot do that.

**Mr Pettit:** I think one of the things that we need to acknowledge is, if that is the problem, we need to try to find a smart way around it, even given your identification of the HR practices. I think there are some simple things that we can do that could be different and that is what we are working on with Child Protection.

**Hon ROBYN McSWEENEY:** Child Protection is always the emergency end; it is never the other end.

**Mr Pettit:** It is, and we need to acknowledge that too. This is not a program or a project that is about pointing fingers; it is about how we can get better.

**Hon ROBYN McSWEENEY:** Yes, exactly.

**Ms Heath:** Can I just make a comment there, just to share with the committee. Obviously, as a priority, you will get a copy of that report. What is really interesting is the children themselves acknowledge that, that they cannot always have continuity with caseworkers. They also recognise that their caseworkers are incredibly busy. It was actually very touching to hear them say those things: “Well, I know she’s really busy but I would really like to hear back from her when I’ve asked her something.” They have got ideas about how we can do this better and we really do have to listen to them because I think we do know that our own lives are very busy, but these children should be our priority in this case.

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I think the other thing is that it is the level of preventative work that we need to be doing. The commissioner attended a meeting in Broome earlier this year with a group of Aboriginal organisations and people who were leading some work, working cooperatively with the department around Aboriginal children in care. That front-end work to keep children with families, with communities, and not have to take them into care is really where the effort should be put. I know the department are working towards that with some of their reform work, but we are clearly failing our children at that point. It is the same with the youth justice kids and what they are saying. It is the families that they come from that are responsible for where they end up, and we need to be doing a lot more to break that intergenerational pattern that is emerging in many of those families.

[11.10 am]

**The CHAIR:** Dare I say the parenting program that just got cut was a good thing and it should not have been cut, but there you go; that is a political statement.

**Hon SALLY TALBOT:** Just to take up right where you got to there, I do not know whether we are talking about the same inquiry process, but there is a document that contains recommendations from a Kimberley working group on juvenile justice. Are we talking about the same thing? I notice that one of the comments that was made in the aftermath of the Four Corners program was that none of those recommendations had been taken up, not a single one—there was something like 19 of them—from that report.

**Ms Heath:** No, I was not talking about that report previously. This was a Kimberley Aboriginal children-in-care committee group that we had attended. I am not sure which report you are actually speaking about.

**Hon SALLY TALBOT:** Maybe we can do something apart from this hearing—if I can contact you and give you a copy of the report and perhaps when you come back in later months, we can discuss it.

I wanted to take up another issue. I am looking at your third priority in the five-year plan, which is the one that says, “Investigate the overrepresentation of Aboriginal children and young people in the youth justice and child protection system.” It seems to me that we have dropped the ball a bit on the follow-up to the previous commissioner’s mental health inquiry. I understand from some questions that I have asked in the house that there was no follow-up funding. It was always envisaged that there would be follow-up work to that report and the funding has never been made available. I think there was a bit of duck shoving between Health, Mental Health and Attorney General’s about who was supposed to be paying for that, so that has not happened. Have you made any specific approaches to government about getting that funding? Have you got a plan?

**Mr Pettit:** Yes. It is one of the questions I ask the staff: what is the next step that we do? Certainly, I met with Minister Mitchell only last week to progress that, given that she was recently appointed to that particular function. We did discuss that report and the recommendations within the report and how that would be progressed. Also, we are still meeting with the Mental Health Commission and also the regional services reform group and trying to progress all those issues. We do promote the report very widely. In fact, last Sunday I was at the WACSSO conference, a parent conference, and talking about mental health to that group. Two of the recommendations in that report were around having whole school approaches through mental health around resiliency and also making sure that they were funded. I talked to the WACSSO group about how they could become advocates for that role, and they were going to take that up. We have not forgotten it. We do as much as we can to promote it. It is resting pretty much with where government and agencies are at the moment. Obviously, in the lead-up to an election, some of those things get put on the side, but we are still trying heavily to promote it.

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**Hon SALLY TALBOT:** It would be a very sad thing, I think, if that work done by the previous commissioner just sits there without the other half of the work—we do not know whether it was half, but that was only the beginning.

**Mr Pettit:** I fully agree. As I said before, I think it is an outstanding piece of work. It is outstanding because it identifies everything that needs to continue.

**Hon SALLY TALBOT:** In a sense, it has a finite life. Because it is a piece of empirical research, somebody needs to pick up the momentum before that becomes shelveable and you have to start again from the beginning. I am glad that is one of your priorities.

I just wanted to be slightly impertinent and make a suggestion to you. You may have already thought of it. It does occur to me that one of the ways into an investigation—I notice you actually do, as the chair has pointed out, use the word “investigate” in that second dot point, so you do have the 19(f) option open to you there. I wonder whether the way into looking at juvenile justice and child protection, as far as Aboriginal kids go, might be to look at the mental health aspects. It just seems to me that while I think OICS is fantastic and obviously if we had an OICS structure in the Northern Territory, you would like to think that things would not have got to the stage they got to, but I am not sure that OICS goes far enough because he does have a brief to look at the effect—how can I put this?—on the juvenile justice system of the mental illness of the children themselves.

**Mr Pettit:** It is very topical. We met with Professor Morgan yesterday on exactly that topic and with the chief forensic psychiatrist in mental health, and that was the exact conversation we had.

**Hon SALLY TALBOT:** That is awfully reassuring. I cannot actually describe how reassuring that is, because sometimes one feels awfully lonely out on this limb.

**Mr Pettit:** Yes. It is the view of all three of us, and certainly that is why we want to talk to the Ombudsman and the Auditor General as well about how these services are extended beyond what they are identified to do. If we are lucky enough to ensure that there are services around mental health in Banksia Hill, for example, what happens to that person when they leave Banksia Hill? Where is the support? There are gaps when you start having those conversations. That is the bit we are going to get together about, trying to see how we can reduce those gaps and improve the service, not necessarily seeking more resource, although that may be an outcome, but it is more about looking at where the resources are currently available and how that can be applied.

**Hon SALLY TALBOT:** As well as thinking about the sort of continuous care for those young people, I am thinking of the apparent blank spot in the system itself that does not actually—I mean, I know that everybody has a psychiatric evaluation done. I know adult prisoners and presumably juvenile prisoners as well—but I cannot see evidence that the result of that psychiatric evaluation then informs practice to a sufficient degree.

**Mr Pettit:** Yes, and that was the level of conversation that we had yesterday. We are looking at that.

**Hon SALLY TALBOT:** That is reassuring. One absolutely practical outcome of this, because recently we have revised the mental health legislation and we looked specifically at two new measures around legislation and regulation to—I do not want to necessarily say “restrict”—govern the use of restraints and seclusion amongst people who are being treated for mental illnesses. I know that part of the commentary post *Four Corners* was that we do not in Western Australia have similar legislation around restraint and seclusion of juvenile offenders. Have you got that on your radar to take up with people?

**Mr Pettit:** Yes, again, part of the conversation yesterday was looking at on the back of Don Dale and Cleveland, making sure that those sorts of things do not happen here. Certainly, Professor Morgan was looking at how he could influence that inside the custodial process. We are just making sure from other agencies, like, as I said, the Auditor General and Ombudsman, they also have a role in some of these functions. We need to just make sure that we are not all doing the same thing and it

is clear who is doing what. But addressing the issues around mental health is a major concern for us, not just in the corrections area, but right across the board.

**Hon SALLY TALBOT:** We had a couple of hearings in preparing the report where people were talking about the way that a young person might be treated by the system when they come into contact with it. Now it has reminded me, post *Four Corners*, of some of that debate around the Mental Health Act, when we are talking about the fact that often somebody who is an inpatient in a mental health facility will be there because of abuse that they have experienced as a young person, so that when they are subsequently restrained, it might be taking place in a context that the restrainers have never even contemplated. Of course, the new legislation makes people accountable. It is partly a consciousness-raising exercise. You have not named a mental health bureaucrat in your account of who you are talking to.

**Mr Pettit:** With the commission—we are certainly working with the commission.

**Hon SALLY TALBOT:** So is the Mental Health Commission part of this discussion, because you have talked about the inspector —

**Mr Pettit:** Originally, we were looking at the oversight agencies first and then we were looking at where else to go from there, but certainly the Mental Health Commissioner and the Commissioner of Corrective Services are two that I meet with regularly.

[11.20 am]

**Hon SALLY TALBOT:** It is going to be on their radar, after you have spoken to the oversight agencies.

**Mr Pettit:** I wanted to have a look at the oversight agencies first to make sure that we were covering all the things that we needed to cover to give confidence to the community that this could not happen. That was the first thing, which is about the safety of young people. Then, thereafter, the next step was: what else do we need to look at, including mental health?

**Hon SALLY TALBOT:** So you are at the next step shortly?

**Mr Pettit:** Yes.

**Hon SALLY TALBOT:** Because the reality is we only stopped using spit hoods a couple of weeks ago and we do still restrain children.

**Mr Pettit:** Yes.

**Hon SALLY TALBOT:** The fact that we do not have legislation around a way to regulate that is of great concern.

**Ms Heath:** In April, the commissioner published a paper that our office had written on behalf of the Australian Children's Commissioners and Guardians, around the country, that looked at the use of these practices in youth detention centres compared to a human rights standard. I can provide a copy of the paper to the committee.

**Hon SALLY TALBOT:** That would be good. Is it on the website?

**Ms Heath:** It is on the website. It is looking at what are all these standards we should be achieving and what legislation and policy applies in each of the detention centres.

**Hon SALLY TALBOT:** Excellent. I am sure Renée will be able to dig that out.

**Ms Heath:** That was a piece of work that we had—it had taken us a year before —

**Hon SALLY TALBOT:** So that was your work?

**Ms Heath:** — that our office led. The commissioner's work with the oversight mechanisms is about saying that. It is about: Do we have the oversight mechanisms? Are we looking at the right things? Are they resourced in the right way? Because you are absolutely right; it is the mental health that is

not managed well that gives rise to the situations where we end up having to restrain people, which are actually re-traumatising to these people who have histories of abuse and being this way. It is part of that cycle that we have to interrupt.

**Mr Pettit:** It is one of our most downloaded documents. It is a piece of work that we did on behalf of the ACCG, which is the national body, but it was done through this office and I think it is a great piece of work.

**Hon SALLY TALBOT:** I bet it has been downloaded a bit recently.

**Mr Pettit:** Very much recently, yes.

**Hon SALLY TALBOT:** It is good that it shows up on somebody's google search. I just wanted to say, by way of conclusion, I thought that your comment piece was excellent.

**Mr Pettit:** Thank you.

**Hon SALLY TALBOT:** Absolutely spot on. We had to address this business of "These are not children, these are evil creatures" and I thought you did that very, very well—very effectively.

**Mr Pettit:** Thank you. If I may, I would like to table our work plan for the next three years, which will give some substance to the strategic plan, if that is okay, and I may pick up very quickly some things around mental health, how we see the connection to the mental health report, which, hopefully, will give you some confidence that we are not going to let it lie.

**The CHAIR:** That is fantastic, thank you.

**Mr Pettit:** If I may just whizz through these and then if you have any questions —

**The CHAIR:** Sure.

**Mr Pettit:** The current projects—we have the two that I mentioned—are the out-of-home care and youth justice. They will be out in the near future, as I said, in the next two to three months. We are already working with both agencies in that space to see how we can improve their practice and policies.

Child safe organisations we have already identified. We are having great success with that. We are having a lot of impact right around the state. The Thinker in Residence—I think you have been invited to the Thinker in Residence; and, if not, it is certainly on the way. Jane Burns—again, linking with mental health around the online world and mental health—Jane's work is world leading in this space. She will also be joined by Donna Cross and we are also trying to negotiate with the eSafety Commissioner to be here in that that week. They will come for a week. It is a little bit different this year. They will come for a week; we will then work with all the agencies that she works with. They will refine what they need and she will come back for a week in early next year. That way we, hopefully, get better targeted information.

The engagement and education program is one of the biggest projects we have tackled. We are talking to children and young people from year 3 to year 12, and that information we are hoping to have out by April next year. It is quite a unique opportunity for them to talk about their education and, hopefully, we will pick up some of the issues you have already raised. In terms of the monitoring framework that we have talked about, we are keen to develop a monitoring process that is far more open and transparent. Perhaps we will keep a little bit more honesty around where agencies report et cetera.

The ATSI project is one that we are really working hard on. That is to keep faith with the report in 2014 that the previous commissioner has done, which was, as I said, a fabulous report. We are looking at identifying three or four communities that we can work with so that they can help us to build the capacity of communities and families on behalf of children and young people, and through their eyes. We are also paralleling that work with the reform group. We have offered that we will sit

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outside the reform group, but talk to children and young people about the impact of the reforms being rolled out, which they have taken up.

A couple of other projects: our family reunification, you can see that we have already engaged Edith Cowan University. This is around mental health particularly of children and young people in that space and how we can support families to be better connected once they overcome their addictions and so forth. The Horizon projects: there are three that we are looking at and have started a little piece of work around children and young people in the legal process. That has come from children and young people themselves in that process, but also the courts themselves and obviously the champions like Denis Reynolds, about where the voices of children and young people sit in that whole process. We are keen to support that. Homeless is one that has come up again through the mental health process. We are hearing a lot of concern around younger children, sub-16, who are couch surfing and are therefore homeless but are not counted in any stats. We believe that number to be quite significant. We have again partnered with Edith Cowan University, and we think that will be a very big piece of work around mental health as well.

The last one is one we would like to have your response to down the track. We have a range of reports that the previous two commissioners have overseen, as well as the reports we are now developing around out-of-home care, youth justice, education et cetera. We know, and I think you identified earlier, what is wrong for vulnerable people, particularly children and young people, and yet there has been no report about the state of vulnerable children and young people in this state. We think we will collate virtually all our reports about what services are provided; how that can be supported through the voice of those who are vulnerable, particularly children and young people; and how they think it can be fixed. We think that that would be a significant piece of work to hand back to the state by the end of next year. That fits underneath the strategic plan that you have. It is not the full issue and we get daily requests—can we do this and can we do that—so this will be added to as we go, but this is where we are going with the resources we have.

**The CHAIR:** Fabulous—it is really great to see the work plan. I think all our committee will be very happy with it. I have two comments in relation to the Horizon projects. The first is, with homelessness and young people under the age of 16, I think one of the issues we have is that most of the homeless services require no presence of alcohol or drugs in order to get in them. This is a huge problem, which most developed countries realised a long time ago and no longer apply that and have a very different way of doing that. I would suggest that Ireland is one of the places that has got on top of this issue. The homelessness agency in Ireland has done some amazing work around this. One of the criticisms I have with all the homeless strategies in Western Australia, probably Australia, is that we have this stupid law that says that if you are drunk, you cannot come in. Well hello!

The final point, on vulnerable children, will that include LGBTI?

**Mr Pettit:** Absolutely.

**The CHAIR:** Great.

**Mr Pettit:** It is for all groups, and, you know, for CALD children. As I said, we have a range of reports that the office has done since it opened. There is a wealth of information inside those that needs to be collated in a way that it can be reported back to the Parliament to say this is the state of where we are.

**The CHAIR:** Is this publicly available?

**Mr Pettit:** It is public.

**The CHAIR:** I will find a spot to talk about it in Parliament then.

**Hon SALLY TALBOT:** The only comment I was going to make in relation to the document is on the engagement in education project. I am sure that you would be familiar with the statistic that says



that the largest cohort of university dropouts is young men from private schools. It has long seemed to me—I spoke to the previous vice-chancellor at Curtin about this—that there is so much work to be done with that cohort. The Inspire Foundation did a report a couple of years ago costing the budgetary outcome—the cost to the state—of these young men dropping out.

[11.30 am]

**Mr Pettit:** It is a hidden problem, as a result of that—not only that but a range of other things that we have been told from children and young people—the education project covers all three sectors. We have buy-in from all three sectors and all the responses are anonymous, so we will not be disaggregating in terms of sector. We want to, in the first instance, give a report to the state about what children and young people think about education currently. There will be some really terrific things in amongst that, but I am sure there will be some challenges as well.

**Hon SALLY TALBOT:** It is a real challenge.

**The CHAIR:** I think we might call halt to this. Thank you both so much for coming. Thank you for your evidence before the committee. A transcript will be made available to you for minor corrections. Any such corrections should be made and returned within 10 days from the date of the letter attached. If not, we will deem it to be correct. New material cannot be added and the sense of your evidence cannot be altered. If you wish to give us any further information, please go ahead with a supplementary submission for our consideration when you return your transcript. Thank you both so much.

**Hearing concluded at 11.31 am**

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