

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

INQUIRY INTO STATUTORY OFFICE HOLDERS



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 6 MAY 2019**

SESSION FOUR

Members

**Hon Adele Farina (Chair)
Hon Jacqui Boydell (Deputy Chair)
Hon Ken Baston
Hon Kyle McGinn
Hon Darren West**

Hearing commenced at 2.51 pm

Mr CHRIS FIELD

Ombudsman, examined:

Mrs MARY WHITE

Deputy Ombudsman, examined:

Ms REBECCA POOLE

Assistant Ombudsman Strategic Policy and Projects National and International Relations, examined:

The DEPUTY CHAIR: Thank you for your attendance this afternoon. On behalf of the committee, thank you for taking the time to join us. Today's hearing will be broadcast. Before we go live, I would like to remind all parties that if you have any private documents with you, to keep them flat on the desk to avoid any cameras in the room. I am Jacqui Boydell, the Deputy Chair of the committee; to my left is Hon Kyle McGinn, member for Mining and Pastoral Region; and to my right is Hon Ken Baston, member for Mining and Pastoral Region. I will table the apologies of the Chair, Hon Adele Farina, and Hon Darren West. I will be conducting the initial introduction for the committee, and I will then defer to Hon Kyle McGinn to conduct most of the questions on behalf of the committee. Purely the reason for doing that is we have had three other hearings today and I am just about talked out. That is just to inform you about how we are going to conduct the hearing. We are ready to begin the broadcast. I now require you to take either the oath or the affirmation.

[Witnesses took the oath or affirmation.]

The DEPUTY CHAIR: Thank you. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

The WITNESSES: Yes.

The DEPUTY CHAIR: These proceedings are being recorded by Hansard and broadcast on the internet. Please note that this broadcast will also be available for viewing online after this hearing. You can advise the committee if you object to the broadcast being made available in that way. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of the hearing for the record. Please be aware of the microphones and try to talk into them. Ensure that you do not cover them with papers or make noise around them, because it is difficult for Hansard to hear. Please try to speak in turn, as there are a number of you. I remind you that your transcript will be made public. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in private session. If the committee grants that request, any public and media in attendance will be asked to leave. Until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Would you like to make an opening statement to the committee?

Mr Field: No, but I simply want to thank the honourable members of the committee for this opportunity to appear before you this afternoon. We have met a many number of times in the time that I have been Ombudsman. I have appeared before this committee in previous iterations in

previous Parliaments. In fact, I think, with the exception of the estimates committee and appropriations hearings, this would be the committee before which I have appeared the most. I do think this is a committee that is highly aligned with the work of the Ombudsman, the committee's work in terms of ensuring public administration is as effective and as efficient as it can be and, of course, the Ombudsman's role in relation to the effectiveness of public administration is central to its mandate. So, to be able to appear before a committee where we have, of course, such a significant confluence of interests is particularly pleasing. I also say, as I always say before committees, that of course we are not equals. I serve you. I have a service role to Parliament as an officer of the Western Australian Parliament, and a service role to all of the committees of Parliament, Parliament, of course, being defined as Parliament and its committees. So I am here today to serve you to the best of my abilities as I can.

The DEPUTY CHAIR: Thank you, and I will pass to Hon Kyle McGinn.

Hon KYLE McGINN: Thank you, Madam Deputy Chair.

We have quite a few questions, so we will try our best to get through them today. Thank you very much for your time.

Complaints finalised in the 2017–18 report, of the 2 212 complaints finalised during the year, 1 693 were about public authorities in the Ombudsman's jurisdiction and, therefore, 519 were outside the jurisdiction; 953 were finalised at the initial assessment, and 427 of these were finalised as investigations not warranted. How is it determined whether complaints are within jurisdiction; and how does the office assess whether complaints warrant investigation?

Mr Field: Excellent question, honourable member. In relation to the first, the decision about whether a complaint is within jurisdiction is very much an application of the facts of the complaint to the legislation itself. The legislation has a range of matters which we must consider as to whether something is within jurisdiction. For example, is it a matter that is a complaint about a department or authority that otherwise would be within our jurisdiction. So speaking very broadly, departments within our jurisdiction are most state government departments, local governments and universities, but there are some agencies that are scheduled out of the legislation; they appear both in the legislation and a schedule to the legislation. For example, Parliament, courts, tribunals, and other certain agencies, they would be an agency that would be outside of jurisdiction. There would also then be a question of do they fall within the jurisdiction of the act in terms of the parliamentary commissioner's mandate, which is to examine matters of administration. For example, if they were matters about corruption, then they would more properly fall within the jurisdiction of the Corruption and Crime Commission. Are they matters to which a person may have a legal remedy? Are they matters a complainant has known about for more than 12 months before making a complaint? There is a range of matters which the act sets out which says these are the matters to which I and my delegate staff must turn their mind in terms of whether an organisation is within jurisdiction or outside jurisdiction.

[3.00 pm]

That is how you get those numbers there of matters which are in or outside of jurisdiction. Without labouring that point, because I am mindful of time, one of the things that ombudsmen have tried to do—I am going to say my office but also ombudsmen more generally, both nationally and internationally—is try to do as much education and awareness work about what is in and what is outside of jurisdiction. What we would like to see over a period of time, and all ombudsmen would generally like to see, is a reduction in those complaints which are considered outside of jurisdiction. That is really about the concept of citizens having one-stop shops or not having to forum shop between a range of places, so it is both more efficient and effective for our agency. Efficiency for us

is less taxpayers' money that we need to spend and effectiveness of course for complainants, where they are going to the right place the first time round. In relation to the second, you have to remind me, member, I went so deeply into that.

Hon KYLE McGINN: That is okay. It was: how does the office assess whether complaints warrant investigation on pages 31 and 32? This one refers to page 32.

Mr Field: The warranting of investigation really will be a question of discretion that is applied as to whether a matter in and of itself should be investigated. Now, that is the very nature of an ombudsman's jurisdiction and it is very similar all around the world, honourable member, that there will be a capacity for an ombudsman to examine a particular matter that is made as a complaint to them and determine whether a matter is warranted to be investigated or not. Generally speaking, if that is the case, there will be reasons provided to the complainant. Sometimes that may be indeed reasons for other things that they ought to pursue or could pursue in relation to the complaint. But there may well be matters where we look at the totality of our resources, the totality of the complaints before us, the overall intent of Parliament in terms of our legislation and say, "Look, that's just not a matter that we think overall is warranted."

Hon KYLE McGINN: Also on page 32, in 2017–18, 236 remedies were provided by public authorities. This is less than the previous year, 270; and 2015–16, 245. Why has the number of remedies provided decreased in 2017–18?

Mr Field: They will vary from year to year, honourable member, and it will not necessarily be anything to do with a difference in approach by my agency. Indeed, if you were to make an overall comment about our approach to achieving remedies for complainants and achieving improvements in relation to public administration improvements which are intended to make systemic changes to the way that administration in this state is undertaken, that has been significantly increased during the last several years. But it will ebb and flow, and it will change from year to year, and that very much really comes down to what complaints are coming before us in any given year and what own-motion investigations we are undertaking as well. We may in one particular year, for example, undertake major own-motion investigations and we will see a very significant number of recommendations, but different investigations in a different year may produce lesser recommendations. It does not mean that the issues were not less substantive, and certainly does not mean that there has been any material change to the way we have been undertaking our work.

Hon KYLE McGINN: The public sector complaint issues and outcomes is on page 38 of the report. The graph on page 38 indicates that corrective services complaints have significantly increased over the past two years. Has your office undertaken any analysis as to the reasons for this increase or is it similar to before with the ebbs and flows?

Mr Field: That is an excellent question, honourable member. We absolutely do look at changes over time in relation to complaints received and whether there is indeed a pattern or a trend developing. At this stage, for those particular numbers I think we would be disinclined to necessarily say that we are absolutely certain that there is a pattern or trend there. What I can say is this: they are always monitored and they are monitored year on year and they are monitored in a totality. We would look back over three to five years if we start to see a significant trend upwards and also into the granularity of those complaints, too. You can, for example, in the area of corrective services have a number of complaints about a very similar issue. It may well be that that in and of itself is important but it is not showing a widespread or significant change across a range of corrective service deliveries. But we would look at both an overall increase in the complaints and also what the complaints were about, and we would certainly monitor those. There is no question that in any good system the complaints being received by an office like mine—of course, the complaints being

received by the departments themselves can be early warning triggers and early signs in relation to things that might be going wrong on a systemic basis as well. Certainly, we would always look at those. We will be keeping a close eye on those and we have historically seen complaint variations and complaints going up where we have looked much more deeply and determined whether we think there is actually a reason for that.

To take you back, honourable member, without making the answer too long, many years ago when there was a significant spike in complaints, we did a lot of work as to why that might be and we isolated the GFC and a number of other factors for that at that time. I would always be one of the view that complaint increases can be a window into potential maladministration and to potential things going wrong, but I also have a level of caution about year-on-year movements or only one or two years, too. We would not want to jump to conclusions, perhaps without sufficient evidence; we want to identify appropriate issues.

Hon KYLE McGINN: I understand. We will move to page 50 of the report. The number of complaints by overseas students about public education and training providers doubled from 30 in 2016–17 to 61 in 2017–18. Again, has there been any analysis undertaken as to the reasons for this increase?

Mr Field: No. It is an interesting observation, honourable member, because you have figures now going back to the 2013–14 period where they are very, very similar and then you see a reduction down in 2014–15, 2015–16 and 2016–17. Once again, on the face of it that would be something that would at least give us a cause for concern, when you are seeing what is effectively more than double those numbers in that period of time. I would be very interested in tracking those over the next year or so to see whether that is a trend that continues and is sustained. If it is, can I assure you that we will look at it closely.

Overseas students, that is a very significant area for not just this state, but this country. I think it is our second-biggest export. It is a fundamental issue of economic welfare for this country, and the productivity and the things that we can do with that money, but also it is about the wellbeing of those students. Australia is a great neighbour to its great South-East Asian neighbours and to other neighbouring countries who put their trust in us to send students here. We very much take the overseas student jurisdiction very seriously and we look at those complaints. They are subject to a national code and they are subject to some very strong procedures in my office in relation to making sure that they are examined carefully. Remember, too, on a practical and day-to-day basis, for a student that can be the difference between staying here and not staying here, depending on their visa. It is a serious issue. What I can say to you, honourable members, is that we will look at that very closely over the next year or so and if we see an upward trend, a trend that continues on from there, I think that will be a matter of concern. What you are always looking for, for complaints, is that if they go down over time, you do not want to see them going down and then come back up again. I think that is always worthy and warrants some consideration from an office like mine.

Hon KYLE McGINN: Okay, we will keep an eye on that.

Mr Field: Thank you. We will and we will let you know.

Hon KYLE McGINN: We will move to page 85 of the report in regard to sleep-related infant deaths. The annual report refers to ongoing monitoring of the recommendations of the 2012 report “Investigation into ways that State Government departments can prevent or reduce sleep-related infant deaths”. At the May 2018 hearing, interagency collaboration was identified as the major implementation issue in relation to the recommendations of this report. The transcript, if you have it available, is pages 14 and 15. If you require it, we can provide. Please provide an update on the issue of interagency collaboration in relation to this issue. Have any changes in collaboration been

noted? Have the interagency issues been impacted by the MOG changes—machinery of government—which were implemented in 2017?

[3.10 pm]

Mr Field: All excellent questions, honourable member. To make one generic comment, interagency relationship data sharing between them, the ways that agencies discuss and work together, is one of the most significant issues for good and effective public administration. It is certainly a matter that is one that has been identified in an ongoing way by the Ombudsman in this state over all of my term and in relation to the areas of child death reviews and family and domestic violence fatality reviews. So, yes, we have identified those issues in those cases and what we actively do now, both in relation to the consideration of any further own-motion investigation work but also in relation to other reviews of individual child deaths, is to look very closely as to whether those recommendations that we have made in relation to data sharing are actually resulting in better and more effective data sharing and more systemic policy and practical changes in relation to them. This is a thematic now of all of the work in this area, so I will just foreshadow, without in any way moving away completely from that particular own-motion investigation, that my office is currently deep in the process of finalising a major investigation in relation to the tragic issue of youth suicide in this state. That is an issue where we had previously done a report in my office, in 2014, and made a number of recommendations in relation to ways to prevent or reduce youth suicide. Once again, they came and flowed around issues around—not exclusively, but in areas of interagency collaboration, coordination and data sharing, and we are looking very closely at those areas in our follow-up report. That is a three-volume report, and two of those volumes are dedicated to, in the first instance, a brand-new investigation with new recommendations in relation to prevention and reduction, and the second volume in relation to following up on recommendations made previously.

You have also just, and I want to make sure I —

Hon KYLE McGINN: In respect of that, while you are mentioning that, is there an update on when the recommendations will be tabled from the youth suicide report?

Mr Field: It will certainly be this year, honourable member, and I am hopeful in anticipating. These matters are subject, obviously, to procedural fairness requirements, both in Australian common law and also in my act. What I can say is that I understand I will have a very close to finalised draft on my desk as of this evening, I think it is. I have already done considerable work on that. I have an exceptional team of people who work on those for me, and I would expect that that would be produced for procedural fairness in the very short future. There is the procedural fairness time and then after that, of course, tabled in Parliament. Remember that when I table those in Parliament, I table them in Parliament directly, not through a minister of course, but directly to Parliament. Our office does not report to a minister, of course, but to Parliament and its committees directly, and I will also make myself available to brief parliamentarians in relation to that matter. I think the last time I undertook one of those briefings, we had 30-plus members of Parliament at that briefing.

In relation to the MOG matter you raised, and I know you raised MOG, I hope I have been largely over the time that I have been Ombudsman the most utterly bipartisan officer in this state, but what I would say is that I make no comment broadly on MOG, other than to say there has clearly been some very positive developments that seem to be aligned with some of the MOG changes in this state. I take as one particular example the case about major investigations in relation to the prevention and reduction of children drowning in this state—a report that we tabled—and then a follow-up piece of work in relation to that. It was fairly evident to me—in fact it was incontrovertible, I think, on the evidence—that some of the MOG changes had led to better data and information sharing between relevant departments or hitherto separate departments, and departments and

local governments, such that that was having a material impact upon beneficial outcomes in that area. As I say, I make no broader comment upon MOG because I think MOG in and of itself has been a matter of some at least modest if not political contest, and that is not a matter for me to be involved in. But what I will say is this: is it the case that what we want is government agencies to not work in silos, to work together, to share information and to ensure that when I am saying to three or four departments, “You must work together and must identify a leader between you; these issues are too important”? As I have said to a previous committee, a children’s committee, recently, if you are just building widgets, we might all have some patience, but here we are talking about the prevention and reduction of child suicide. I do not want an answer that will be too hard for four or five departments to work together on, and we cannot identify one leader amongst them to drive that change. I have noticed through the MOG process that there have been some improvements in that area, and in that sense, I think MOG has been—I speak exclusively in terms of the research—we have done the evidence-based work that I could point to where I think that has been positive.

Hon KYLE McGINN: Okay. Referring to page 87 of the report, “Deaths from drowning”, the 2017 report, “Investigation into ways to prevent or reduce child death by drowning” made 25 recommendations about ways to prevent or reduce deaths of children by drowning. Subsequent to the annual report in November 2018, the report on giving effect to the recommendations arising from the investigation into ways to prevent or reduce deaths of children by drowning was tabled. Will the office continue to monitor the implementation of the 25 recommendations in the 2017 report?

Mr Field: Yes, unquestionably, honourable member. I want to answer that in these ways. There are many, many ombudsmen, and many offices like the Ombudsman around the world, that make recommendations. We could think of coronial jurisdictions, we could think of Auditors General, we could think of ombudsmen. In fact, the list would go on very significantly in today’s environment, both in Western Australia, Australia and around the world. Making recommendations, as long as they are scrupulously based on evidence, that they are procedurally fair, that they are proportionate to the problem identified, that we think about the costs and benefits, that the benefits outweigh the costs, that we have thought through the unintended consequences, potentially, all of those matters are ones to think through. If we get to the end and we make a recommendation, then that is a recommendation that we think ought to be accepted and ought to be implemented. In my particular case in the time that I have been Ombudsman, every single recommendation that I have ever made has been accepted by every government agency. I think that might be the only Ombudsman in the world, but I am on *Hansard* and I have taken an oath, so you will have to forgive me if that is a slight error. It would be close to that.

Hon KYLE McGINN: You have the opportunity to correct that!

Mr Field: I will come back and correct it if I can. Can I say, therefore, with a dose of very important humility, most ombudsmen are in that 90 per cent to 100 per cent range; that is the general view.

We have always taken the view that if we do all the work to get to a point where we think a recommendation is absolutely evidence-based and absolutely in the public interest and the correct thing to do and absolutely in accordance with our legislation, that it ought to be accepted and ought to be implemented. One of the things that the Ombudsman and other agencies like ours have not always done as well is that we have done those reports—take, for example, the report on the prevention and reduction of family and domestic violence that we did. It was a 300-page report with many recommendations. You cannot have that sit on the shelf. Now, it has some value just on the shelf, and that value is this: policymakers, academics and others in the state can use that piece of work, and we see lots of evidence of government departments, on a day-to-day basis, using our

work to inform good public policy development. We see academics and researchers using it as well. But really what I want Parliament to be confident about is that if the recommendations have been accepted, they have been implemented.

[3.20 pm]

Some years ago—once again, I make this an entirely bipartisan comment—but the then Leader of the Opposition, Hon Mark McGowan, and the then shadow Treasurer, Hon Ben Wyatt, both said to me, and I am paraphrasing, something along the lines of, “These reports are quite good that you’ve done, Ombudsman, but how can we know that the recommendations are going to be implemented and have an effective change?” I did go back to my office and I did talk at length to my staff about that, and I said, “We need to implement a new procedure here. We need to make a commitment that after every single report that we table in Parliament, in no more than 12 months we will extensively examine the evidence for the implementation of those recommendations and report back to Parliament.” That has two virtues; Parliament can keep to account the public authorities in this state in relation to how they are implementing changes of the Ombudsman because, remember, I am your officer doing your bidding. What you want is the laws of Parliament administered effectively and well, and this is a way of keeping further testing in relation to that. Of course, the other thing it does is it keeps me to account. If I am making recommendations that are never being implemented, you might call me before you and say, “What are you doing?” It has that, if you like, dual virtue.

We do, and we did in that particular case, honourable member and honourable committee members, as we have in every case, undertaken a major follow-up piece of work where we table that in Parliament in relation to the recommendations. I was very pleased to see a number of recommendations implemented very effectively. Hon Bill Johnston had taken matters to COAG directly arising out of that report after accepting recommendations, and we have seen some terrific developments in that area, I have to say, since that report, particularly in relation to portable pools but also in relation to other areas. What I can certainly say to you is that we will continue to follow-up those recommendations. We will continue to follow-up every recommendation arising from every own-motion investigation.

Lastly, it is not just the own-motion investigation recommendations that we follow through on; it is the recommendations that arise from every individual review. My office also has the function to review every individual family and domestic violence fatality in this state and certain child deaths, and arising from those investigations, we also make recommendations. I have now made a commitment that every year, to Parliament through our annual report, I will do a full follow-up on the recommendations and their follow through as well. As I say, there are other ombudsmen around the world that do follow-up reports. We have, however, made it systematic; we will do it on every single occasion and, as I say, I think it has an effect in keeping me to account, which is a positive thing. I have very few people that oversight my function, but Parliament is, and is critically, the oversight function, and I want you to keep me to account in relation to my work. Second of all, in relation to, and perhaps even more importantly again, public authorities accepting my recommendations and then just doing nothing about them would be a serious issue for you. This is a way of letting you know they are either taking it seriously or they are not taking it seriously. When we are talking about issues like preventing men’s abhorrent violence against women, children dying in tragic and potentially preventable circumstances, there can be no more important matter that parliamentarians could be apprised about in relation to the work of government departments.

Hon KYLE McGINN: We will move to stakeholder liaison regarding Aboriginal child deaths. The 2016–17 annual report advised that a regional visit had taken place in Geraldton to listen to and

engage with the Aboriginal community about ways to prevent or reduce Aboriginal child deaths and that further regional visits would be undertaken in 2017–18. Page 120 of the annual report for 2017-18 since then advises that a senior Aboriginal adviser was appointed in January 2018 to assist the principal Aboriginal liaison officer. Regional visits are not mentioned in the 2017–18 report other than in the year in a brief section on page 11. What regional visits were undertaken in 2017–18 and what specific purposes were they for?

Mr Field: Let me just find the relevant page for that.

Hon KYLE McGINN: Page 120.

Mr Field: Yes, and we have also got some referencing there on page 182, I think, in relation to some visits for that regional program to Bunbury, Busselton, Collie, Harvey in the south west region and also to Geraldton in the midwest region in June 2018. Can I go back one step? We can quickly circle back to that and give you a bit more detail. This is a critical issue, honourable member. There is a tragic overrepresentation, as honourable members would know, of Aboriginal Western Australians in certain cohorts statistics for part of my work in relation to both family violence, child death and other areas. Some years ago, we really identified that that was simply a matter to which this office could and should do more, and we decided on a few things. We decided on having a full organisational examination of all which we could do in relation to becoming more, having a greater sensibility and greater awareness and access for Aboriginal people. This was the appointment of a principal Aboriginal liaison officer and another Aboriginal officer to support that officer with the principal Aboriginal liaison officer reporting to both myself and my deputy.

We took the view that we would undertake a range of training in relation to our own staff, a whole raft of events, which we would participate in. We hold a smoking ceremony to welcome us to Albert Facey House in Forrest Place each year. But it was also about ensuring that we could make ourselves more aware and more accessible to Aboriginal Western Australians, Whadjuk Noongar people in of course our region but more generally across Western Australia through our regional awareness accessibility program. It is a program that is intended to really help those working and living in the regions but also with Aboriginal people as well, so we do take Aboriginal representatives to those visits. We also employ and engage as consultants Aboriginal people on those visits. We do so when we visit, for example, places like the Kath French Centre and other places like prisons where we engage consultants to attend those prisons with us from Aboriginal and Torres Strait Islander backgrounds, particularly Whadjuk Noongar people in those areas.

As I say, it is an area of great and significant issue to us, so much so that I am very much hoping in the second half of this year, and subject to some further work with some funding, that I will make an announcement that we will appoint for the first time ever in our state an assistant Ombudsman for Aboriginal policy, who will work in our office, joining our corporate executive. There is no other state in Australia who has done so, apart from New South Wales, with a deputy Ombudsman dedicated to that function, but that was tied to—I am not in any way criticising it; it was an excellent idea—a range of other new functions they got. This would simply be a function in a manner of importance in and of itself. We would expect that officer to, and we know that officer would, work very closely with a range of co-located agencies in Albert Facey House and also of course with any potential Aboriginal commissioner that would be established in Western Australia as is currently suggested.

Yes, we have taken regional visits in 2018 and Aboriginal members have been members of those visits. With your indulgence, honourable member, my deputy is very heavily involved in the engagement of those programs. Did you want to speak at all to that, Mary?

Mrs White: Only to say that the regional visits are fairly widespread in what we look at. We try and make sure that we deal with people who are potential complainers to let them know about what the Ombudsman does and indeed to take complaints at that time. We do regional visits to the non-government agencies who support members of the community in making complaints going forward, things such as financial counsellors. We talk about our role as the energy and water Ombudsman with them as well. We also have a prison visit on each occasion where we take, as the Ombudsman said, a local Aboriginal person on the visit with us to try and assist in ensuring that people feel comfortable to talk to us. We do training with government agencies about good decision-making and complaint handling to cover off the regional people who do not necessarily get to that training on a regular basis, and they find it very productive and are very positive about that training. We really cover a gamut of opportunities to make sure that we get to as many people as we can, and we do that collaboratively with other agencies who have a complaint-taking function, such as the Health and Disabilities Services Complaints Office and the Commonwealth Ombudsman. On trips down to and from the regional centre, we stop off on country towns along the way, so that, for example, our next visit is next week in the Peel area and we will be going to Waroona and Boddington to talk to people in those locations, as well as the main centre of Mandurah.

[3.30 pm]

Mr Field: I think, honourable member, in terms of just clarifying the differences between pages 120 and 182, 120 is really referencing to particular work we are doing with Aboriginal regional communities in relation to the child death review jurisdiction and then the broader discussion about the RAAPs that we have. We try to do two a year that are there and of course working with our colleagues and friends in the Aboriginal community. That is really set out on page 182. Then there is a separate referencing to our Aboriginal engagement on page 183. Perhaps, we ought to slightly expand out those references on page 120 so that becomes clearer. But that was the intent of the difference between 120 and 180.

Hon KYLE McGINN: I understand. Thank you very much for that. On page 121, the annual report advises that —

... the Principal Aboriginal Liaison Officer and Senior Aboriginal Advisor ... communicating with:

- Key public authorities that work in regional areas;
- Non-government organisations that provide key services, such as health services to Aboriginal people; and
- Aboriginal community members and leaders to increase the awareness of the child death review function and its purpose.

How does this communication take place?

Mr Field: The answer is both my deputy and my senior Aboriginal officer meet with those relevant parties and really talk about that which we could be doing better to serve them and how we might do that. Would you like to elaborate, with your indulgence, honourable member?

Mrs White: When we go on the regional visits, one of the things that we do, which I perhaps did not mention fully before, is we have a meeting with Aboriginal community members and we make visits with Aboriginal non-government organisations that support the Aboriginal community. Indeed, in our Mandurah visit we are going to have a session where we meet with the local non-government organisations that service the Aboriginal community and talk to them about what the Ombudsman does and how they might bring complaints to the Ombudsman. At that time we also cover off our full range of functions, which includes our child death review and family and domestic violence

fatality review functions and talk to people about the issues that are important to them—what might be contributing to those very tragic deaths that are occurring for people in that particular region and what are the local things that matter to them and that they think may have an impact. We make it a multifunction community meeting with Aboriginal people, but also specifically with the service providers, because we believe that they are the people who will be seeing them on the ground, so to speak, when they have a problem and will be able to inform them about the role of the Ombudsman and how we might be able to assist, and indeed it might be they that contact us and then we start to communicate with the person concerned.

Mr Field: Without wanting to, in any way, make this an inappropriate long answer, there are just two other points I would make. Largely speaking, that community consultation is around, but not exclusively, complaint handling, receiving complaints and of course resolving complaints on the spot when we are in those regional areas. Effectively, we are bringing the Ombudsman's office to the region. Indeed, that can be in very remote regional Western Australia. But there is something else we do that is very important too, and that is that we make consultation with Aboriginal Western Australians absolutely central to a range of our own motion investigation work. We will employ panels, consultants, specific consultants who will consult on sensibility of issues and the way that they have being described and the substance and how they resonate with Aboriginal Western Australians. There is a number of extraordinarily talented Aboriginal academics in this state who can provide those services. We avail our services to almost all of them.

We also will use a particular focus—say, for example, our major report on Criminal Code infringement notices when Parliament asks us to do a review after several years of the effect of Criminal Code infringement notices. That involved very extensive consultation with the Aboriginal community, Aboriginal focus groups and a range of other matters to ensure that we were having as much possible high quality information and feedback about its impact upon Aboriginal Western Australians, which was a particular concern that Parliament had when they gave me that function.

The DEPUTY CHAIR: I just want to touch on a couple of things you have said over the course of our hearing today about agencies working together and being able to respond in a bipartisan way to manage particularly these sensitive issues we have been talking about around suicide by young people and particularly within Aboriginal communities. Given the independent coroner's report into the suicides of 13 young people in the Kimberley, is there a role for the Ombudsman's office to play considering this is a second coroner's report, given that Alastair Hope's report also found similar findings and made similar recommendations, and your own report making comment on recommendations to government on how to manage this issue. Can the Ombudsman's office work as an independent source to try to bring those agencies together or understand further some of the complaints by those families who are obviously neglected by government agencies? That is in the report? Do you have any comments to make on that?

Mr Field: Yes honourable chair, it is an excellent question. I think the answer in short is: yes, we can. The office of the Ombudsman obviously has full powers of a standing royal commission to compel any information from any department or authority within its jurisdiction, not in relation to the courts and properly not in relation to the courts. That would be an interesting question for the separation of powers, and no doubt the Chief Justice would probably want to chat to me too if I started issuing subpoenas to the courts, and quite properly so. But what we have been able to do is develop an outstanding working relationship with the courts in relation to these matters. For most of our major own motion investigations, they have been deeply, heavily informed by data provided by the courts. Say, for example, our family and domestic violence own motion investigation received a voluminous amount of information from the Magistrates Court as have other investigations that we have

undertaken received significant information by request from the courts. We work very closely with the Coroner's Court; we provide them significant levels of information in relation to our work and of course they assist in relation to the way that notification of death are also brought to our jurisdiction as well.

Is there a role for both the coroner's jurisdiction and Ombudsman's jurisdiction in this state? Almost assuredly, yes. The coroner's jurisdiction is one, of course, looking at causation of death, ultimately—that is its very historical and current nature—and ours is looking at the circumstances in which and why people have died, children have died, and what the role of government agencies specifically is in relation to that. Of course, with much of our work, it is often completed some years—with no criticism of the coroner at all; it is just the nature of the process that we will often complete ours many years before, some time before.

What we have found is that over a period of time there can be a real sense in which there can be a confluence between those two matters. You talk about those tragic deaths which the coroner examined and of course issues that the coroner has identified may well be issues that we can identify as well or have identified, and then we can use our mechanisms, reporting to Parliament, to amplify those issues, to work very closely with government agencies. One of the things that is different from an Ombudsman jurisdiction to a court or tribunal jurisdiction, and they both have an incredibly important place within our Westminster system and our rule of law, is that the Ombudsman jurisdiction is an ongoing one, it is a proactive one and it can, by its own motion, undertake—we do not have to wait to receive an issue. We can, by our own motion, instigate a full royal commission investigation.

[3.40 pm]

We can be looking at things on a permanent or recurrent basis, both in terms of issues but also how those issues are being addressed as well. We have a capacity to do considerably more work in relation to the follow-up of those recommendations as well to ensure that recommendations are having an effect over a period of time. There are a number of jurisdictions in the state that have some form of potential overlap. You had the terrific Public Sector Commissioner in here beforehand, and her role. The Auditor General absolutely has some—the Auditor General's role is largely in relation to the efficiency of the public sector and the effectiveness, but her performance audits can have some overlap in relation to mine. The trick is that we never duplicate our roles and we are never inefficient, but we work together in such a way as it is a complementary whole and the sum of all of those parts is the greater than one of them acting alone. We have always found that we have, as I say, an outstanding working relationship with both Alastair and our current terrific Coroner and the working together of those jurisdictions has had a more prophylactic and palliative effect than otherwise, had there only been one or the other.

The DEPUTY CHAIR: Is that something that your office is undertaking to review—the recommendations?

Mr Field: We would think it would be not a matter for the executive branch of government to necessarily review a judicial branch of government's recommendations, but what we would do and what I can promise we do is we absolutely take on board whether they have been and we absolutely consider those in terms of our recommendations. So what I can say to you without in any way foreshadowing the conclusions of the current youth suicide investigation, which of course has not yet—those parties who may be adversely affected have not yet had the benefit of procedural fairness but it may well be, for example, in that particular piece of work, that we are referencing matters that arise out of the coroner's report and matters that arise out of previous coroner's reports and, indeed, matters that arise out of our own reports and of Auditor General reports and

other reports and, indeed, parliamentary committee reports. There was a terrific committee report done by this Parliament in relation to youth suicide just a few years ago. They asked questions about our reports. We would not see it as our place to say, “Why haven’t you implemented this committee’s report?” but we would say, “We note it might not have been implemented? And we wonder what that says about one’s commitment in this area.”

Hon KYLE McGINN: Moving to page 123 of the report, referring to the 10-year state strategy to reduce family and domestic violence, could you give a brief summary of the development of the state’s strategy to date?

Mr Field: My fantastic assistant ombudsman has been very much involved in that matter, both as an observer—we do not generally participate in any form of government bodies, but we can from time to time see it as appropriate and fit given our utter independence and impartiality and have an observer role, and where it is for matters that are absolutely squarely and fairly within our jurisdiction and go to matters, for example, of creating safer spaces for women in this state, we do believe it is appropriate that we can provide a level of expertise from an observation role. That is largely, of course, a government initiative and, in that case, I will not speak particularly to it. Do I support initiatives that seek to make this state safer for women? Well, I am afraid I will not say anything other than unambiguously yes. How that is done, of course, can be done through a range of mechanisms. The state strategy has been absolutely intended to design, as I understand it, alongside a range of other strategies, including strategies in relation to the advancement of women generally, which is about reducing family and domestic violence in the state.

Our role then is to do two things: to play an observer role in relation to those sorts of developments, to input that which we have learnt from our evidence and our knowledge that we have gathered, our recommendations we have gathered into those processes; and the second is to hold to account the execution of that—the strategy, the administration of that strategy. We want to see that any strategy put into place is making a positive difference. I think it is a completely anodyne statement for me to make and not a political statement for me to say we support any strategy that can reduce the vile and contemptuous violence that militates against women in this state. How that is done may differ from government to government, but what I can say is this: my role will always be to keep to account the administration of those sorts of policies and strategies and to report to Parliament on their effectiveness.

Hon KYLE McGINN: How will they directly contribute to the development of the strategy?

Mr Field: Do you mean the staff observers or to the actual strategy itself?

Hon KYLE McGINN: Sorry, to the office of domestic violence fatality reviews?

Mr Field: In a very material way. The strategy in that sense is an overarching policy document that also should flow from and connect and always be consistent with any legislative mandates of Parliament in relation to these matters, both Criminal Code matters and other criminal matters specific to family and domestic violence and violence restraining orders and various other range of matters that are otherwise contained in legislation of Parliament. We would then expect the strategy to be implemented by the relevant departments, and that could be departments like the Department of Communities, WAPOL, Education and a range of others—police of course. Then we would be holding to account that those strategies are being implemented and are being administered correctly as it was otherwise envisaged as they would be administered, and if they are not making recommendations about how they ought to be—for example, you ought to be complying with that policy and you need to provide a report to my office within three months about what actions you are going to take to comply with that policy—that is reported to Parliament because every single recommendation we make is reported to Parliament and then 12 months later, we will

report further to Parliament about what the department has done about implementing that recommendation we made.

Hon KYLE McGINN: I will move on to pages 138 and 139—collection of data about communities over-represented in family and domestic violence. How is the 10-year plan expected to contribute to the process of data collection about communities over-represented in family and domestic violence?

Mr Field: Noting that the strategy is ultimately a strategy of the government of the day as opposed to a strategy of our office, but that does not mean that it is a strategy to which we are not engaging and I think we ought to and we ought to engage in a way that we are both observers and participants in the strategy. Of course, we always have to have a certain arm's length from that strategy because we have to hold it to account in relation to its effectiveness so we cannot be an author but at the same time then go and hold it to account either so that is a matter that has to be balanced very carefully.

But what we would expect to see in the strategy is very much a focus on some very clear understandings about what is and is not the best practice in 2019 going forward of how one prevents family and domestic violence in this state, the work that needs to be done with men and the work that is done to protect women and make them safe and empower women. We would also expect that we would then have a role in holding to account how departments oversight, implement, oversight and conduct themselves in relation to that strategy. The nuanced difference is this: whilst the strategy is a strategy of the government of the day, and in that sense I cannot or will not speak for it specifically in that this is my expectation of what it will achieve, I think the honourable Minister McGurk would be the appropriate minister to speak to that. What I can say is this: do I think that a strategy, and I will not speak specifically about any given effective strategy, and left it as a political comment but as a bipartisan comment, to try to improve men's behaviour, to try to make women safer in this community from men's violence is a good idea? Yes, I do. Do I think my office can have a role in ensuring that that can be the most effective strategy it can be? Yes, I do. When that strategy is then adopted by agencies, do I have a role to ensure that the adoption of that strategy is correct, and that it is being administered correctly, in terms of otherwise executing their responsibilities under their respective legislation? Yes, I absolutely do. I think that is where we have a role in that strategy.

[3.50 pm]

Hon KYLE McGINN: Excellent. We have quite a number more questions, but if it is okay with you, we may put them on notice.

Mr Field: Honourable member, I am delighted to take any question on notice that you wish to put on notice.

Hon KYLE McGINN: Excellent. I was here last time. Once again, you are very full of information. It is a pleasure to do these hearings and hear directly from you what is happening. I get a better understanding each time.

Mr Field: You have humbled me with your comments, honourable member. Thank you.

The DEPUTY CHAIR: Thank you. I concur with the honourable member's comments. It is always exceptionally informative to have yourself and your colleagues come and have a hearing with the committee, and for us to continue to try to collaboratively work together to sort some of these delicate issues that we all deal with.

Thank you for attending today. We will at this point end the broadcast. A transcript of this hearing will be forwarded to you for correction. If you believe that any correction should be made because

of typographical or transcription errors, please indicate those corrections on the transcript. Errors of fact or substance can be corrected by a formal letter to the committee. When you receive your transcript of evidence, the committee will also at that point advise you of those further questions on notice. I do apologise that we have run out of time. If you want to provide additional information or elaborate on particular points, you may provide that supplementary evidence to the committee for their consideration when you return the corrected transcript of evidence at your convenience. Thank you again for attending. As usual, it has been very enjoyable.

Mr Field: It is a privilege and a pleasure to appear before you, honourable members. Thank you.

Hearing concluded at 3.51 pm
