



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

ANNUAL REPORT 2008-2009

**Report No. 2
in the 38th Parliament**

2009

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Joint Standing Committee on the Commissioner for Children and Young People

Annual Report 2008-2009

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AND YOUNG PEOPLE***

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Report No. 2

Presented by:

Ms A.R. Mitchell, MLA and Hon H.H. Bullock, MLC

Laid on the Table of the Legislative Assembly and Legislative Council
on 10 September 2009

COMMITTEE MEMBERS

Chairman

Ms A.R. Mitchell, MLA
Member for Kingsley
(From 18.06.09)

Mr M.P. Whitely, MLA
Member for Bassendean
(From 22.05.09 to 18.06.09)

Hon B.M. Scott, MLC
Member for South Metropolitan
(Until 21.05.09)

Deputy Chairman

Mr M.P. Whitely, MLA
Member for Bassendean
(Until 21.05.09 and from 18.06.09)

Members

Hon H.H. Bullock, MLC
Member for Mining and Pastoral
(From 4.06.09)

Hon N.P. Goiran, MLC
Member for South Metropolitan
(From 4.06.09)

Hon C.A. Burton, MLC
Member for North Metropolitan
(Until 21.05.09)

COMMITTEE STAFF

Principal Research Officer

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COMMITTEE'S FUNCTIONS AND POWERS

On 26 June 2008, the Joint Standing Committee on the Commissioner for Children and Young People ('the Committee') was established pursuant to Section 51 of the *Commissioner for Children and Young People Act 2006* ('the Act'). The Committee was re-formed in the 38th Parliament on 26 November 2008. In accordance with the Act, the Committee's functions and powers were agreed to between the Houses.

It is the function of the Joint Standing Committee to:

- (i) monitor, review and report to Parliament on the exercise of the functions of the Commissioner for Children and Young People;
- (ii) to examine Annual and other Reports of the Commissioner; and
- (iii) to consult regularly with the Commissioner.

Otherwise, the Standing Orders of the Legislative Assembly relating to Standing and Select Committees are also to be followed as far as they can be applied.

The Joint Standing Committee comprises two members of the Legislative Assembly and two members of the Legislative Council.

CHAIRMAN'S FOREWORD

I am pleased to present the first Annual Report of the Joint Standing Committee on the Commissioner for Children and Young People. This Report focuses on the activities of the Committee of the 38th Parliament and, with the exception of the concluding financial statement, represents an abridged reporting period (26 November 2008 to 30 June 2009).

The Committee's initial efforts focused largely on establishing its role. This involved regular consultation with the Commissioner for Children and Young People to assist the Committee's familiarisation with the Commissioner's functions and main activities. The Committee also travelled to Sydney to meet with the New South Wales Children's Commissioner, and the equivalent parliamentary committee tasked with overseeing the Commissioner in that state. New South Wales was a logical choice as it has the closest parallels to Western Australia and the added advantage that both the Commissioner and Committee in that state have been operating for some time. As a consequence, the Committee was able to gain a valuable insight into the roles and functions of both entities as well as the interrelationship between the two.

In the period under review the Committee tabled its first report into its examination of the 2007-2008 Annual Report of the Commissioner for Children and Young People. The Committee reviewed the Commissioner's main activities in the first seven months following her appointment and identified a number of matters for follow up in its next review. Examining the Annual Report of the Commissioner is an important and ongoing aspect of the Committee's monitoring and review function. Looking ahead as both the Committee and Commissioner further consolidate their respective roles, the Committee will continue to consult regularly with the Commissioner to identify matters for follow up. It is anticipated that the Committee's review functions will expand as the Commissioner's own role continues to develop and as the Commissioner undertakes new initiatives and/or activities to fulfil the functions required by the Act.

I would like to acknowledge the ongoing cooperation of the Commissioner for Children and Young People, Ms Michelle Scott, and her staff. I thank Hon Barbara Scott, MLC for her important work as Chairman of the Committee until May 2009 and also Hon Carolyn Burton, MLC (Member for North Metropolitan) for her contribution as a member of the Committee over the same period. I thank Mr Martin Whitely, MLA (Member for Bassendean) for his sustained contribution to the Committee and welcome new members, Hon Helen Bullock, MLC (Member for Mining and Pastoral) and Hon Nick Goiran, MLC (Member for South Metropolitan). Finally, I would also like to acknowledge the ongoing assistance provided by the Committee's Principal Research Officer, Ms Dawn Dickinson.



MS A.R. MITCHELL, MLA
CHAIRMAN

CHAPTER 1 COMMITTEE ACTIVITIES

1.1 Introduction

The Committee was first established on 26 June 2008 during the 37th Parliament but conducted only one deliberative meeting before dissolution of the Legislative Assembly and prorogation of the Legislative Council in August 2008. Membership of the inaugural Joint Standing Committee on the Commissioner for Children and Young People comprised Hon Dr Judy Edwards, MLA (Chairman), Hon Barbara Scott, MLC (Deputy Chairman), Hon Ken Travers, MLC, and Dr Elizabeth Constable, MLA.

The Committee was re-formed in the 38th Parliament on 26 November 2008. It should be noted that this Report focuses on the activities of the Committee of the 38th Parliament and as such, references made to the ‘reporting period’ and ‘period under review’ relate to the period from the Committee’s re-establishment in the 38th Parliament (26 November 2008) to the end of June 2009. However, the financial statement at Chapter 2 details expenditure for the full financial year (1 July 2008 to 30 June 2009) in accordance with the Standing Orders of the Legislative Assembly and therefore also captures the limited operations of the Committee of the previous Parliament.

During the course of the reporting period (Table 1.1), the Committee:

- Tabled one report;
- Held 13 deliberative meetings;
- Heard evidence from/or was briefed by 10 persons;
- Undertook investigative travel to New South Wales; and
- Hosted an Information Seminar for all Members of Parliament on the role and functions of the Commissioner for Children and Young People (‘the Commissioner’) on Thursday 14 May 2009.

Table 1.1

Summary of activities of the Joint Standing Committee on the Commissioner for Children and Young People, 26 November 2008 to 30 June 2009

Description	Activity
Briefings	6
Deliberative meetings	13
Formal evidence hearings	1
Witnesses appearing	2

Description	Activity
Reports tabled	1
Report findings tabled	2
Report recommendations tabled	2

1.2 Public Hearings

Pursuant to Assembly Standing Order 264, the Committee has the power to send for persons, papers and records. During the period under review, the Committee conducted one public hearing, taking evidence from two witnesses to assist with its investigations (Table 1.2).

Table 1.2

Public Hearings of the Joint Standing Committee on the Commissioner for Children and Young People, 26 November 2008 to 30 June 2009

Date	Witness	Position	Organisation
18 March 2009	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
	Ms Amy Tait	Principal Policy Officer	Commissioner for Children and Young People WA

1.3 Briefings

In addition to gathering evidence during the formal hearings, the Committee received a number of informal briefings. The briefings were used to assist the Committee's familiarisation process following establishment as well as gain information with respect to the Committee's monitoring and review functions (Table 1.3).

Table 1.3

Briefings provided to the Joint Standing Committee on the Commissioner for Children and Young People, 26 November 2008 to 30 June 2009

Date	Name	Position	Organisation
19 December 2008	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
	Ms Amy Tait	Principal Policy Officer	Commissioner for Children and Young People WA

Date	Name	Position	Organisation
4 February 2009	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
	Ms Amy Tait	Principal Policy Officer	Commissioner for Children and Young People WA
10 February 2009	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
	Ms Amy Tait	Principal Policy Officer	Commissioner for Children and Young People WA
25 February 2009	Mr Robert Coombs, MP	Chairman	New South Wales Joint Committee on Children and Young People
	Hon Kayee Griffin, MLC	Deputy Chair	New South Wales Joint Committee on Children and Young People
	Mr Steve Cansdell, MP	Member	New South Wales Joint Committee on Children and Young People
	Reverend the Hon Fred Nile, MLC	Member	New South Wales Joint Committee on Children and Young People
	Mr Mel Keenan	Committee Manager	New South Wales Joint Committee on Children and Young People
25 February 2009	Ms Linda Carruthers	Chief of Staff	Office of the Hon Graham West, MP, New South Wales Minister for Youth
	Ms Ann Holland	Policy Advisor Juvenile Justice	Office of the Hon Graham West, MP, New South Wales Minister for Youth
26 February 2009	Ms Gillian Calvert	Commissioner for Children and Young People	Commissioner for Children and Young People, NSW

1.4 Investigative Travel

The Committee undertook investigative travel to Sydney during the period under review. Between 24 and 26 February 2009 the Committee met with the New South Wales (NSW) Commissioner for Children and Young People, and the Joint Committee on Children and Young People of the NSW Parliament.

NSW was selected as it has the only other parliamentary committee in the country tasked with overseeing the exercise of functions of the Children's Commissioner. While the role of the Western Australian Children's Commissioner and her NSW counterpart do not coincide exactly, they both have similar core advocacy functions. Likewise, the functions of the parliamentary committees in both states are not identical but the emphasis on review and monitoring is the same. As a recently established Committee, the trip was valuable for members to hear about the experiences of the Children's Commissioner and Joint Committee in NSW, particularly as both have been operating in that state for approximately a decade. It was also beneficial for the Committee to learn more of the working relationship that exists between the two entities in NSW as it is so similar in form to what has recently been established in Western Australia.

While in Sydney, the Committee also met with staff from the Office of the NSW Minister for Youth, Hon Graham West, MP. This meeting provided an opportunity to hear about initiatives implemented or proposed by the NSW government in relation to children and young people.

Table 1.3 (above) lists the individuals the Committee met with during its visit to Sydney.

1.5 Reports Tabled

The Committee tabled one report during the period under review. The Committee's first report, 'Review of the 2007-2008 Annual Report of the Commissioner for Children and Young People' was tabled in the Legislative Assembly and the Legislative Council on 14 May 2009.

As one of the Committee's functions is 'to examine Annual and other Reports of the Commissioner', one of the Committee's first tasks was to review the Commissioner's first Annual Report, which covered the period immediately following the Commissioner's appointment. The Committee's examination comprised a series of briefings from the Commissioner to assist understanding of the Commissioner's functions, and a public hearing with respect to the Commissioner's activities. The Committee reviewed the Commissioner's main activities as reported in her Annual Report and identified a number of matters for follow up when the Committee reviews the Commissioner's next Annual Report.

The Committee's Report made two findings, specifically that: proclamation of Schedule 1 Clause 3 of the *Commissioner for Children and Young People Act 2006* which will transfer responsibility for Working with Children Checks to the Children's Commissioner will unduly impact on the Commissioner's other functions; and that a report should be developed on how Western Australian children are faring. The two recommendations arising from these findings related to: amending Schedule 1 of the Act; and adequately resourcing the Children's

Commissioner to enable development of a wellbeing indicator framework for Western Australia's children.

1.6 Work in Progress

(a) Monitor, review and report to Parliament on the exercise of the functions of the Commissioner for Children and Young People

A particular matter which came to the Committee's attention during its review of the Commissioner's Annual Report relates to the establishment of advisory committees. Part 8 of the Act provides for the establishment, membership and functions of advisory committees and reference groups to assist in the performance of the Commissioner's functions. Significantly, Section 52(2) of the Act requires the Commissioner to establish advisory committees consisting of children and young people although at the hearing, the Commissioner advised the Committee that this had not yet occurred but it was being considered. The Committee is keeping a watching brief on this matter and anticipates further consultation with the Commissioner in this regard. The outcome will be reported to Parliament in due course.

As well as the Committee's monitoring and review powers defined by its terms of reference, the Committee has a number of other functions under the Act. Under Section 19(1) of the Act, the Committee can refer any written laws, draft laws, reports, policies, practices, procedures or other matters relating to the wellbeing of children and young people to the Commissioner for the Commissioner's consideration and recommendations. In the period under review, the Committee made one such referral and sought the Commissioner's comment on the *Parliamentary Commissioner Amendment Bill 2009*. The Bill sought to enable the Ombudsman to review and investigate certain child deaths, and the Commissioner raised the matters of information exchange with the Ombudsman, and exemption from the Ombudsman's investigatory functions. As the Bill was before the Legislative Council at the time, the Committee wrote to the Minister responsible for the Bill in the Upper House in support of the comments made by the Commissioner. Amendments were eventually made to the Bill in line with the Commissioner's recommendations. Given the positive outcome achieved, the Committee will maintain a watching brief on other draft laws introduced to Parliament relevant to children and young people, with a view to seeking the Commissioner's comments and taking further action where necessary.

Under Section 57 of the Act, the Treasurer is to have regard to any recommendation made by the Committee with respect to the budget for the Commissioner for a financial year. In the year under review, the Committee consulted with the Commissioner regarding the Commissioner's budget for 2009-10 and made a recommendation to the Treasurer that the Commissioner's requested budget be approved. The Committee intends to follow a similar process in relation to the Commissioner's budget for 2010-11.

(b) Examine Annual and other Reports of the Commissioner

The Committee will review the Commissioner's next Annual Report (for the period 2008-2009) and will table a report on the process in 2010. The review will follow up matters carried over

from the first review including but not limited to: the development and implementation of the Commissioner's five year strategic plan, assessment tool for evaluating new legislation, and participation guidelines for agencies; and the establishment of advisory committees by the Commissioner consisting of children and young people.

Part 5 of the Act empowers the Children's Commissioner to initiate and conduct special inquiries however the Commissioner has not exercised this function as yet. The Committee has the capacity within its terms of reference to examine other reports of the Commissioner, including reports of any special inquiry, should this arise in the future.

(c) Consult regularly with the Commissioner

The Committee will continue to meet regularly with the Commissioner and has opted to pursue minimum, quarterly meetings and any additional meetings as required.

1.7 Information Seminar for Members

On 14 May 2009, the JSCCCYP hosted an Information Seminar for Members on the Role and Functions of the Commissioner for Children and Young People. The seminar was presented by the Commissioner and was open to all interested Members. The hour-long event was attended by a total of 16 Members from both the Legislative Assembly and the Legislative Council.

The Committee has resolved to host a similar information seminar for interested Members in 2010 to assist understanding of the Commissioner's role and important work. The Committee considers this would be useful given that the Commissioner's role is still relatively new in Western Australia.

CHAPTER 2 FINANCIAL STATEMENT

The Joint Standing Committee on the Commissioner for Children and Young People does not have a nominal administrative budget funded out of the budget of the Legislative Assembly unlike other Standing Committees of the Legislative Assembly. This is because the Committee was appointed after the budget was compiled. Approval for major expenditure occurs on a case-by-case basis and is subject to the approval of the Speaker.

The Committee is required in accordance with Standing Order 276 to detail expenditure for the financial year 1 July 2008 - 30 June 2009. As mentioned in Chapter 1, the Legislative Assembly dissolved on 7 August 2008, therefore two Committees operated during the full financial year. While the current Committee of the 38th Parliament tenders the financial figures below, the Legislative Assembly has provided the figures pertaining to the Committee of the 37th Parliament.

Table 2.1

Expenditure Items of the Joint Standing Committee on the Commissioner for Children and Young People of the 37th Parliament for the period 1 July 2008 to 7 August 2008, and of the 38th Parliament for the period 26 November 2008 to 30 June 2009

Expenditure Item	37 th Parliament (\$)	38 th Parliament (\$)
Travel	-	17 000
Protocol	100	200
Printing	-	200
Miscellaneous	-	100
TOTAL	100	17 500

Notes:

- The total figure for the financial year 1 July 2008 - 30 June 2009 is \$17 600.
- Figures rounded off to nearest \$100.
- Salaries of committee staff are not included.
- Costs of shared administrative expenses, including lease costs for committee accommodation, not included.

Andrea Mitchell

MS A.R. MITCHELL, MLA
CHAIRMAN