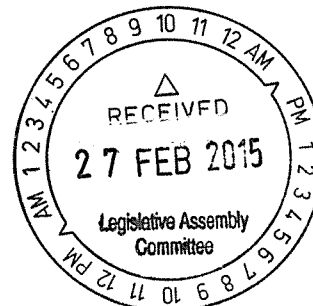




Government of **Western Australia**
Department of **Education**

Your ref :
Our ref : D15/0053184
Enquiries :

Ms Lisa Baker MLA
Chair
Joint Standing Committee on the
Commissioner for Children and Young People
Parliament House
PERTH WA 6000



Dear Ms Baker

lsa

Thank you for your letter dated 10 December 2014 inviting the Department of Education to make a submission to the inquiry by the Joint Standing Committee on the Commissioner for Children and Young People.

The attached submission addresses the recommendations of the Public Sector Commission's statutory review, concluded in May 2013, of the operation and effectiveness of the *Commissioner for Children and Young People Act 2006*. I understand that the inquiry has a particular focus on how the Commissioner's proposed child abuse complaints support function should operate and the impact this function may have on the Commissioner's existing functions.

Recommendations 1 to 11 and 13 to 16 were considered by the Department and the Department concurs with these proposals. The submission's focus, therefore, is on Recommendation 12, in regard to granting provision under the Act, for the Commissioner to provide a child abuse complaints support function.

The submission was prepared with input from relevant operational areas within the Department, guided by the information provided by the Committee.

The content of the submission may be quoted in the published report and attributed to the Department of Education.

Yours sincerely

SHARYN O'NEILL
DIRECTOR GENERAL

23 FEB 2015

Att.



Department of
Education

**JOINT STANDING COMMITTEE ON THE COMMISSIONER FOR CHILDREN AND
YOUNG PEOPLE INQUIRY INTO THE FUNCTIONS EXERCISED BY THE
COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE
SUBMISSION BY THE DEPARTMENT OF EDUCATION**

FEBRUARY 2015

INTRODUCTION

The Department of Education (the Department) has considered the recommendations of the Public Sector Commission's statutory review, concluded in May 2013, of the operation and effectiveness of the *Commissioner for Children and Young People Act 2006* (Act) and submits the following for consideration.

This submission is focused on how the Commissioner's proposed child abuse complaints support function should operate and the impact this function may have on the Commissioner's existing functions.

Recommendations 1 to 11 and 13 to 16 were considered and the Department supports these proposals.

The following information addresses Recommendation 12, in regard to the provision under the Act, for the Commissioner to provide a child abuse complaints support function.

The table below lists the dot points under Recommendation 12 on page 88 of the Review of the Commissioner for Children and Young People Act 2006 (May 2013) and the Department's comment.

Recommendation 12 The Commissioner should be given appropriate powers under the Act to provide a child abuse complaints support function that consists of:	
<ul style="list-style-type: none"> • education and outreach programs for children and young people about how to disclose any child abuse that occurs while they are in the care of a government agency or service provider; 	<ul style="list-style-type: none"> • The Department agrees with this recommendation. • The Department's <i>Child Protection</i> policy mandates the implementation of preventive curriculum for all students. • The Department has developed prevention education curriculum (protective behaviours) for schools to access. • Professional learning in teaching protective behaviours is available statewide, through online and face-to-face training for school staff. • The Department has contracted two external training providers to deliver training in teaching protective behaviours.
<ul style="list-style-type: none"> • receiving complaints from children and young people, or adults acting in good faith on their behalf, about abuse alleged to have occurred in a government agency or service provider; • referring such complaints to the relevant investigative authority/s; 	<ul style="list-style-type: none"> • During the execution of the Commissioner's role, it is very likely that complaints or disclosures about alleged abuse will be received. It is imperative that all complaint details are captured accurately and referred in a timely manner to the appropriate investigative agency. • There would be no requirement for the Commissioner to triage or conduct a formal assessment of the alleged complaint. • Complaint information will require secure handling, management and release to the appropriate agency, with consideration given to the legislated authority to manage the release of the information. • It is considered essential that clear protocols are developed for the receipt and referral of all complaints and disclosures. • It is important that the Commissioner's role does not duplicate that of other complaints handling or investigation agencies. Note: Section 20 (1) (g) of the <i>Commissioner for Children and Young People Act 2006</i> – states that "<i>In performing the Commissioner's functions, the Commissioner must – take reasonable steps to avoid the duplication of functions performed by other government agencies.</i>" • The Department's Standards and Integrity Directorate has an existing process for receiving, assessing and investigating staff misconduct complaints.

	<ul style="list-style-type: none"> • Agencies currently involved in child protection services, inquiries and investigations employ professional personnel with the required expertise to deal with disclosures e.g. Western Australia Police (WAPOL) Child Assessment and Interview Team for child interviewing. • Existing organisations provide counselling and support for children and young people e.g. Kids Helpline, which offers a 24/7 telephone and online service. • Section 36 (c) of the <i>Evidence Act 1906</i>, and the broad implications of other relevant sections within the <i>Act</i>, should be taken into consideration when there are disclosures by children of offences committed against them. The relevant agencies must have policies and procedures which are consistent with the provisions of the <i>Act</i>.
<ul style="list-style-type: none"> • providing information and referrals to children and young people in relation to the support services available for victims of child abuse and their families and referrals to children; and 	<ul style="list-style-type: none"> • The Department agrees with this recommendation. • The Department supports this function through the teaching of prevention education in schools.
<ul style="list-style-type: none"> • monitoring the way in which government agencies deal with complaints of child abuse referred by the Commissioner or otherwise received by them. 	<ul style="list-style-type: none"> • The Department is currently overseen by a number of independent accountability agencies, including the Corruption and Crime Commission (CCC), the Ombudsman and the Public Sector Commission. • The CCC is notified by the Department when there is any alleged misconduct by a public officer. The role of the CCC is to ensure that allegations are dealt with by the relevant agency appropriately and ethically. The CCC also has the power to monitor the way in which the agency takes action in relation to allegations. • The Department's procedural fairness is also overseen by the Western Australian Industrial Relations Commission, which can review any industrial decision made by the Department for employees who have been subject to the disciplinary process. • The Department considers that it would be inappropriate for the Commissioner to develop into another oversight body, as this would duplicate the functions of other agencies already performing that role. • It is reasonable that the Commissioner may follow up on the progress of complaints referred to the Department. The Commissioner may be provided with a status update. • There may be instances, however, when it is not viable for information concerning the investigation to be released. It is important that there is a caveat in place that allows the Department to withhold information, if the investigation necessitates. The withholding of

	<p>information may be due to a number of reasons, including the involvement of WAPOL in the investigation, the imminent interview or arrest of the alleged perpetrator or the possible loss of evidence.</p> <ul style="list-style-type: none"> • In fulfilling their role, the Commissioner will not have any mandate over how the investigation is conducted. It may not be appropriate for the Commissioner to be involved in the conduct of the investigation, nor should they influence the outcome.
The Commissioner should not have a role to play in investigating the substance of individual complaints that are received.	<ul style="list-style-type: none"> • The Department agrees with this recommendation.