

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

SUBMISSION FROM THE HON. PETER BLAXELL

1. This submission is made at the invitation of the Chair of the Joint Committee, Ms Lisa Baker, MLA, and primarily focuses on the first term of reference, namely:

“(1) the manner in which the Commissioner’s proposed child abuse complaints support function should operate”

My submission also has regard to the Committee’s priority that: “the proposed child abuse complaints support function allows the Commissioner to become a trusted avenue for people to be made aware of the issues surrounding child abuse – and to raise their concerns about child abuse.”

2. My starting point is Recommendation 2 of the *Blaxell Inquiry Report* (the BIR) which is referred to in para 5.7 of the *Review of the Commissioner of Children and Young People Act 2006* (the Review), and is partly as follows:

*“That the State Government develop a function and role within or across central and independent agencies to fulfill **a robust child focused central complaints system** that is a ‘one stop shop’ for any complaint concerning child abuse regardless of the public sector agency that the matter relates to”. (emphasis added).*

3. **The “One stop shop”:**

In my opinion, the fundamental requirements for ‘a robust child focused central complaints system’ are that it should offer to child sexual abuse victims:

3.1: A “one stop shop” in the sense that the victims can go to one place where all aspects and consequences of their complaints of sexual abuse will be properly and appropriately dealt with. (In other words child victims need to know that if they make a complaint they will not have to attend upon a succession of agencies and officials for it to be acted upon, or for any problems arising from the complaint to be appropriately addressed).

3.2 a friendly place where they will receive a sympathetic hearing, and where their complaints of sexual abuse will be dealt with confidentially (i.e. without the agency or institution where the abuse occurred being told). Child victims should also be allowed some control over what is done in response to their complaint, and have their views about that issue taken into account.

4. The name “One stop shop”.

I note that the authors of the Review preferred the terminology “child focused complaints support” to “one stop shop”, and I accept that the latter term is perhaps a little clumsy. Nevertheless, it is a name of a type likely to reduce the barriers to child sexual abuse victims coming forward to make a complaint and to seek help for their situation. It is also an informal description of the nature of the response that the victim is likely to receive, and suggests a friendly rather than a bureaucratic response.

However whatever term is ultimately adopted it must convey to child complainants of all ages (and in language that they understand) that they will not have to go anywhere else to receive a sympathetic hearing and to have all of the negative consequences of their complaint attended to. In my opinion, the term “child focused child support” does not meet that test.

It may well be that an alternative and more simple name for the Commissioner for Children and Young People (CCYP) would in itself convey the appropriate messages to young people, and I deal with this issue below.

5. Other requirements for a “One stop shop”:

In my Report I summarized some other features of the proposed “one stop shop” that will be necessary if it is to function effectively (BIR 340). Without repeating these in detail, I submit that the essential manner in which the CCYP’s “one stop shop” should operate is as follows:

- 5.1 The CCYP must be independent of all other Government agencies from where sexual abuse complaints could potentially emanate. This independence must not only exist in fact, but must also be widely perceived by the public (and particularly by children) as a fundamental feature of the CCYP. At present there does not appear to be a widespread public understanding of the role and function of the office of the CCYP, and in my opinion this situation is due not only lack of publicity, but also because of its name. Most members of the public, if asked, would not understand the functions of the “Parliamentary Commissioner for Administrative Investigations”, but mention the term “Ombudsman” and they immediately know what that means. Similarly with the CCYP there is a need for a simple and child friendly name which will signify to children what the office of the CCYP is all about. I cannot suggest an appropriate name other than perhaps “The Young Peoples’ Friend”, but I am sure that more creative minds could come up with something better. Over time, with a change of name and appropriate publicity, I am confident that the CCYP would become widely recognized by potential child complainants as the independent agency that it is.

5.2. The CCYP must have a system in place which makes it easy for a sexually abused child (or any other child or adult who knows of or suspects the abuse) to report that abuse. Obviously publicity about the CCYP's role (particularly to children) will be necessary if complainants are to feel comfortable about coming forward. They also need to know that they will not face any hurdles, and that they can report the abuse either in person, or by phone, e-mail, letter, SMS (or by any other means that future technology might make available).

5.3. The CCYP should in consultation with each child complainant (and with the child's and/or parental consent) refer the complaint to an appropriate agency (e.g. Police Child Abuse Squad or Department of Child Protection). The CCYP should then oversee the processing and outcome of that referral which would entail only a "central oversight role" (BIR 341) and would not involve any investigation of individual complaints (a subject I address below). I also envisage that the CCYP (as part of its 'support' role) would become the main channel of communication between the investigating agency and the child in reporting on progress with the referral.

5.4. In this regard a vital function of the 'one stop shop' is to ensure that children who make complaints that are referred for investigation receive ongoing support to help them through the inevitable aftermath. (Part of that aftermath is the response of the alleged offender and /or his family and associates once it is known that the complaint has been made). It is also highly desirable that each child should have some input or choice on how that support is to be delivered.

5.5. It is also necessary that all bona fide complainants (i.e. those who report sexual abuse with a genuine belief that it has or may have happened) be protected from liability for defamation or any other civil or criminal liability.

6. The support role for the CCYP (as recommended in my report).

My recommendation (at BIR 340) that the 'one stop shop' "provide or facilitate support for the individual making the complaint" seems to have been misunderstood in some quarters. It was never my intention to suggest that the proposed support role would involve any investigation of complaints. All of my recommendations were designed to minimize demands on the public purse, and the CCYP would have to be very heavily resourced if it was to take on investigations of sexual abuse complaints. In any event I consider that this would be an inappropriate function for it to undertake.

6.1 Sexual abuse offences are one of the most difficult categories of crime to investigate because the wrongdoing almost always occurs in secret and there is usually little in the way of corroborative evidence. As the outcome at trial will turn on one person's word against another, the credibility of the complainant is all important. For this reason it is best that the CCYP not become involved in investigations and that the gathering of evidence be left to the experts. (In this regard the current video -interviewing procedures at the Child Abuse Squad are internationally regarded as world's best practice).

CCYP staff would require very intensive training before they would be in the position to conduct video interviews of complainants to a standard that would be admissible in evidence. This would entail huge expense and would unnecessarily replicate the very high standard service already available at the Child Abuse Squad.

6.2 Furthermore, an investigative role would be inconsistent with the proposed support role for the CCYP which requires that it accept a child's complaint at face value. (Police officers cannot do this because they are required to conduct their investigations objectively and without any assumption that the alleged victim's complaint is true. They have to keep an open mind about the veracity of the complaint, and to test it against whatever the alleged offender may have to say. This is a major reason why child sex victims need a separate support person who can "hold their hand" and show empathy for the stresses they are undergoing).

6.3 There are many reasons why most child sexual abuse victims suffer significant stress (and sometimes psychological trauma) as a result of making their complaint. In this regard it has been long recognized that the aftermath of the complaint often causes greater harm to the victim than the sexual abuse itself. When the alleged offender denies the offence there is usually an 18 month – two year wait until trial. Two years is a long time for child victims to have their life to be put on hold, and during this period they tend to be overwhelmed by the fear and prospect of the future proceedings. This delay often comes at a critical time in the child's development and can affect their academic progress at school. The reactions of family members to the alleged abuse, and to any changed behavior of the complainant can also cause stress.

6.4 In small communities or in institutions catering for children, child sex abuse victims sometimes experience social isolation or stigmatization once the fact of their complaint becomes known (which it usually does after the alleged offender is interviewed by police). This is particularly so if the alleged offender is very popular or a widely respected member of the community or institution to which the child belongs (which is often the case

with entrenched paedophiles: see BIR Chapter 9). Ostracism can also occur when members of an alleged offender's family turn the community against the child complainant. (This has happened in some remote aboriginal communities where children are reluctant to report sexual abuse because they have seen previous victims suffer retribution from relatives of alleged offenders).

- 6.5 Another factor that commonly causes stress is that many child victims feel shame and blame themselves for the fact that the offences occurred. This phenomenon is usually associated with circumstances where the victims willingly participated in the offences, but lack enough insight to realize that they were groomed, taken advantage of, and/or exploited by the adult offender.
- 6.6 For all of these reasons it is highly desirable that children complaining of sexual abuse should receive unconditional support (in the form of mentoring and encouragement) from someone with whom they feel comfortable in talking through their difficulties. That person might be an older friend, a favorite teacher, a youth group leader, a DCP employee, or even a relative. Ideally the person providing support should be someone local who is readily available after hours. However in the event that the complainant is unable to identify some appropriate person who can act in that capacity, then the support person should perhaps be a social worker employed by the CCYP.
- 6.7 Accordingly the role that I recommend for the CCYP is that it take on responsibility for identifying a suitable support person already known to the complainant, or failing that, organizing another person capable of performing that role, or providing the required support from within its own resources. The CCYP would also need to monitor the performance of each external support person from the time of complaint until the finalization of all legal proceedings.

7. Other Matters:

- 7.1 The CCYP is a highly appropriate agency to undertake the proposed 'one stop shop', but currently lacks the resources that would be necessary for it to do so. (It was for this reason that I suggested in my report (BIR 341) that the Parliamentary Commissioner for Administrative Investigations, which then had sufficient resources, might be a preferable option). Obviously there needs to be a very careful assessment of the additional staff and other resources that the CCYP will require in order to effectively perform the role. Allowance should also be made for a very substantial publicity campaign directed at children who are in schools or other State Government institutions, or who are likely to come into contact with other

State agencies or contractors in circumstances where sexual abuse could occur (e.g. hospitals). The aim of the campaign would be to make the “one stop shop” known to all children who might one day need to use it and to explain its special child friendly and non-bureaucratic nature.

7.2 In my opinion the Commissioner for Children and Young People Act 2006 will require only minor amendments to enable the CCYP to take on the ‘one stop shop’ role. Those amendments should include a specific provision protecting from criminal or civil liability any person who in good faith makes a disclosure of child sexual abuse to the CCYP .

7.3 If the Joint Committee so desires I am willing to attend a hearing to elaborate on the above submissions.

A handwritten signature in black ink, appearing to read 'P Blaxell', written in a cursive style.

Hon. Peter Blaxell.

3 March 2015