



Our Ref: 2014/0568~1
Your Ref:



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

Dear Ms Baker,

RE: INQUIRY INTO THE FUNCTIONS EXERCISED BY THE WA COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

I thank you for your invitation to a make submission to the Inquiry relating to the functions exercised by the WA Commissioner for Children and Young People (WA Commissioner). I note your Inquiry's particular focus is on a proposed complaints handling function and therefore will frame my response around that particular issue. Under section 10 of the *Children's Commissioner Act 2013* (NT) (the Act) the Children's Commissioner (NT Commissioner) has the following six core statutory functions relating to the wellbeing of vulnerable children:

- undertaking Inquiries related to the care and protection of vulnerable children;
- monitoring the implementation of any government decisions arising from an inquiry conducted by the Commissioner or any other inquiry relating to the care and protection of vulnerable children;
- monitoring the response of the Department of Children and Families (DCF) to allegations of the abuse of children while they are in out-of-home care;
- promoting an understanding of and informing public discussion about the rights, interests and wellbeing of vulnerable children;



- monitoring the administration of the *Care and Protection of Children Act* (NT) (the CAPCA) insofar as it relates to vulnerable children; and
- dealing with complaints about services provided to vulnerable children and monitoring service providers' response to any reports by the Commissioner. The Commissioner also has an 'own-initiative' investigative capacity.

The term 'vulnerable child' includes children who have had interaction with the NT child protection system (this includes not just those in out-of-home care but throughout the entire child protection continuum), those involved in the Youth Justice System, those who are seeking a child-related service such as a social service, a child under a Volatile Substance Treatment Order and a child who has a mental illness, is mentally disturbed or has a disability. The definitions of the last three categories are found in the *Mental Health and Related Services Act* (NT) and the *Disability Services Act* (NT).

When the NT Commissioner's role first commenced in 2007 the category of child that could be dealt with in a complaints capacity was restricted to only those involved in the child protection system. However, in 2011 after implementing recommendations of the *Growing them strong, together* Report (the Report) that, among other things, was broadened to its current definition of a 'vulnerable child'.

The grounds of the complaint must be that a service provider failed to provide services that were reasonably expected to be provided or the services provided did not meet a reasonably expected standard. The meaning of 'services' under the Act is not clearly defined, but it includes any services relating to the care or wellbeing of the child. A service provider under the Act is a NT public authority (e.g. a NT Government Department) or a body acting for or under an arrangement with a NT public authority (e.g. a funded NGO service) which is taking an action in relation to a vulnerable child.

Certainly out of all of the NT Commissioner's statutory functions, the complaints function is the most resource intensive. Under the Act, the complaints have to be dealt with in a prescribed way to allow a natural justice process for all the parties involved. This process as well as the time taken to conduct interviews, request and analyse information, formulate reports and recommendations and manage party relationships and expectations contributes to this resourcing demand. I would approximate that 75 to 80 per cent of the Office's resourcing goes towards dealing with these complaints.

Perhaps the biggest consideration that the Inquiry should keep in mind when examining the possible implementation of a complaints function is the broadness of scope of the function. The Board of Inquiry that produced the Report was certainly of the view that the NT Commissioner's function should extend to those other categories of vulnerable children, but not to all children.

From an operational perspective a large majority of complaints the NT Commissioner deals with relate predominantly with the child protection system. This is largely due to the relatively large number of children involved in this system and the contentious and high

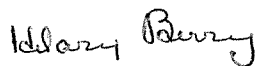


risk nature of those dealings. This is followed by children who are in youth detention. Even though the other categories are not as common they have been the subject of previous complaint matters.

As previously mentioned given the nature of a complaints management framework of this type it will have a significant impact on resourcing. There would need to be serious consideration to additional funding being provided or re-shaping the execution of current functions the WA Commissioner has carriage over.

Please feel free to contact Mr Adam Harwood, Senior Policy Officer on 8999 6065 to discuss this matter.

Yours sincerely



Ms Hilary Berry
Acting Children's Commissioner
9 January 2015

