



Treasurer; Attorney General

Our ref: 35-12549

Your ref: 381.20101123.Min Resp Report 5 2010

Ms Andrea Mitchell MLA

Chair

Joint Standing Committee on the Commissioner for Children and Young People

Parliament House

PERTH WA 6000

Andrea

FUNCTIONS AND POWERS OF THE JSCCCYP – REPORT 5, 2010

Thank you for the opportunity to respond to the above report ("the Report"), tabled in the Legislative Assembly on 25 November 2010.

The Government has noted the findings and recommendations of the Report.

The Report made two recommendations, the first of which was to the effect that the terms of reference of the Joint Standing Committee on the Commissioner for Children and Young People ("the Committee") be expanded to include a power to:

[E]xamine trends and changes in services affecting children and young people in the context of reviewing the scope of the role of the Commissioner.

The second recommendation was:

That the functions and powers of the Joint Standing Committee on the Commissioner for Children and Young People be incorporated into the Standing Orders of the Legislative Assembly.

As the Report itself observes, the primary intent behind the Committee's establishment was for it to monitor and review the performance, functions, and ensure the independence of, the Commissioner for Children and Young People. The Report also observes that expanding the powers of the Committee to include an all-encompassing inquiry function into any matter relating to children and young people would represent a significant duplication of the work conducted by existing government agencies, most notably the Commissioner for Children and Young People.

The Government acknowledges that the expansion in ambit which the Committee has proposed is more limited than a general power to inquire into matters relating to children and young people, in that it applies only the examination of trends and changes in services affecting children and young people, and would only be applicable in the context of reviewing the scope of the role of the Commissioner. The Government also acknowledges the general desirability of ensuring that all commissions in government remain relevant and effective; and the unique role parliamentary committees have to play in this process.

However, having considered the Report's findings, the Government is of the view that the new function proposed may nevertheless represent a duplication of jurisdiction with respect to inquiries which existing government entities are capable of conducting. As the Report observes, two of three portfolio based standing committees of the Legislative Assembly have conducted inquiries into matters pertaining to service delivery to young people during the term of the present Parliament. Further, the Auditor General and the Ombudsman have wide ranging jurisdictions to examine the manner in which government agencies deliver services, and have previously exercised these powers in connection with topics concerning children and young people.

Also, it is of course the case that the Commissioner for Children and Young People is legislatively empowered to conduct inquiries into matters affecting the wellbeing of children and young people, which often results in inquiries touching upon trends and changes in services affecting children and young people. Reference to reports produced by parliamentary committees in other jurisdictions with a similar ambit to the proposed additional term of reference supports the contention that this additional term of reference would result in duplication of the nature of work presently undertaken by existing agencies.

Consequently, the Government is concerned that if the proposed expansion of the Committee's role were to occur in isolation, it may result in some duplication of work presently undertaken by other government entities, and could also be seen to represent a dilution of the functions which the Committee was established to undertake, which functions will likely become more onerous if the Commissioner's activities continue to expand. It is noted that the Committee is of the view that additional term of reference of the nature proposed would require additional staffing to allow it to undertake the proposed new function.

The Government will bear in mind the Committee's proposals for an expanded function in mind during the next statutory review of the *Commissioner for Children and Young People Act 2006*, which is presently scheduled to occur in 2011. Key elements which must be considered during that process will be whether legislative amendment would be necessary to avoid any duplication of jurisdiction between the Commissioner and the Committee. The action to be taken with respect to the Committee's second recommendation will also be determined following the review process, as the functions and powers of the Committee should be settled prior to any decision to incorporate them into the Standing Orders of the Legislative Assembly.

Thank you again for the opportunity to respond the Report.

Yours sincerely



Hon C. Christian Porter MLA
TREASURER; ATTORNEY GENERAL

28 FEB 2011