



**Commissioner for Children and Young People**  
Western Australia

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Dear Michelle

**Terms of Reference - Review of Department of Communities' policies, practices and services regarding children with harmful sexual behaviours living in residential care**

Please find attached the Terms of Reference agreed to by the Minister for Communities regarding my review of the Department of Communities' policies, practices and services regarding children with harmful sexual behaviours living in residential care.

I would also like to express my gratitude for the efforts of the Department of Communities staff who have been assisting my team in the early stages of this review. Their work has been greatly appreciated.

Yours sincerely,

COLIN PETTIT

Commissioner for Children and Young People WA

12 November 2020

## Terms of Reference

### **Review of Department of Communities' policies, practices and services regarding children with harmful sexual behaviours living in residential care<sup>1</sup>**

#### **Background information**

Section 19(g) of the *Commissioner for Children and Young People Act (2006)* (the Act) provides the Commissioner with the function to monitor and review policies, practices and services affecting the wellbeing of children and young people. Section 23(2)(c) empowers the Commissioner to deal with a matter affecting the wellbeing of children and young people generally which has been raised through a matter relating to a particular child or young person.

In light of recent media articles about the Department of Communities' management of placement decisions of young people with harmful sexual behaviours in residential care, the Commissioner will be undertaking a review of Departmental policies, practices and services regarding children with harmful sexual behaviours in residential care<sup>11</sup>. The Commissioner recognises the courage of Ms. ..., a young woman in the care of the Department, speaking out about her experience in residential care.

Consistent with the Commissioner's statutory functions and principles with the Act the Review will:

- have regard to the best interests of children and young people as the paramount consideration in accordance with Section 3 of the Act,
- in accordance with Section 20 of the Act, will have special regard to the interests and needs of
  - Aboriginal children and young people and Torres Strait Islander children and young people; and
  - Children and young people who are vulnerable or disadvantaged for any reason; and
- ensure that the views and experiences of children and young people are taken into account pursuant to Section 19 of the Act.

The Commissioner recognises that Departmental policy and practice occurs within a context of in broader government policy and initiatives and is interdependent with multiple other government agencies and service systems including health, mental health, education, justice and police. While the terms of reference for this review are contained to the Department of Communities, through the course of the review the Commissioner may identify and make recommendations for independent review of relevant interdependencies.

In undertaking this project, it is the Commissioner's intention to work constructively with the Department of Communities and the Minister for Child Protection. The

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<sup>1</sup> Residential care services comprise residential group homes, non-government family group homes and the Kath French Secure Care centre (Department of Communities: Case Practice Manual Section 3.4.24) retrieved October 2020

Commissioner will also engage with young people with residential care experience to hear their views and to inform the Review.

### **Terms of reference**

The Review will:

1. Identify systemic issues arising from the experience of Ms ... that affect the wellbeing of children and young people in residential care more broadly, including:
  - a. The extent to which the Department's own policy and practice settings regarding harmful sexual behaviours and the safety of children and young people in residential care were met in the case of Ms ...
  - b. The extent to which any systemic issues, including Departmental policies, practices and services regarding harmful sexual behaviours of children and young people in residential care, are consistent with recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission)
2. Identify short, medium and long term changes that may be required based on findings of the Review.

### **Scope of the Review**

A framework for analysing the Department's policy, practice and services related to the case of Ms ..., will be developed by the Commissioner's office based on the:

- Identification of the current policies, practices and expectations of the Department, and the
- Identification of key recommendations from the Final Report of the Royal Commission.

Using this framework the Commissioner's office will review a variety of evidence to understand the application of current policies, practices and services and those which the State Government agreed to implement through its acceptance of Royal Commission recommendations in 2018.

The Commissioner will deliver a report outlining the systemic issues arising from the case of Ms. ..., any inconsistencies in implementation of the Department's policies and practices and recommendations to improve future practice.

In doing so, the Commissioner's office will review the following non-exhaustive list of evidence through both desktop review of supplied information and direct engagement with Departmental staff and children and young people and if appropriate family members and other carers.

Desktop review:

- Case files of relevant children and young people
- Residential care site-based documentation including complaints data, incident reports, meeting minutes and policies and procedures specific to particular residential care homes
- Relevant Departmental policies and procedure specific to residential care
- Relevant legislation, policies, frameworks and initiatives

Direct engagement:

- Engagement with young people with residential care experience

- Interviews with relevant Department of Communities staff and carers

## **Timeframe**

The Review will begin immediately. Consistent with the *Commissioner for Children and Young People Act 2006*, an interim report will be supplied to the Minister for Child Protection by the end of 2020. A report on the findings of the Review will be finalised in 2021 following receipt of the Minister for Child Protection's response to the interim report.

## **Roles and Responsibilities**

The **Department of Communities** will in good faith:

1. Provide all necessary assistance to support the Commissioner to fulfil the terms of reference for the Review, including seconding a Communities staff member, to the Review. The seconded staff member will be selected in consultation with the Commissioner's office.
2. Make available and respond in a timely manner to all requests for information by the Commissioner's office relevant to the Review.
3. Ensure appropriate support is available to any children and young people in care who are engaged in the Review.

The office of the **Commissioner for Children and Young People** will:

1. Provide support to the seconded Communities staff member.
2. Provide regular updates to the office of the Minister for Child Protection and the Director General of the Department of Communities on findings as they arise.
3. Apply the Commissioner's policy regarding Ethical Consultation with Children and Young People and all other relevant policies to the conduct of the Review.