

JOINT STANDING COMMITTEE ON THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

**EXAMINING THE EXERCISE OF THE FUNCTIONS OF THE COMMISSIONER FOR
CHILDREN AND YOUNG PEOPLE — 40th PARLIAMENT**



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 16 SEPTEMBER 2020**

SESSION ONE

Members

**Hon Dr Sally Talbot, MLC (Chair)
Mr K.M. O'Donnell, MLA (Deputy Chair)
Hon Donna Faragher, MLC
Mrs J.M.C. Stojkovski, MLA**

Hearing commenced at 9.51 am**Mr COLIN PETTIT****Commissioner for Children and Young People, examined:****Mrs NATALIE HALL****Director, Policy, Monitoring and Research, Commissioner for Children and Young People, examined:**

The CHAIR: On behalf of the committee, I would like to thank you, Commissioner, and your assistant, for agreeing to appear today to provide evidence in relation to this committee's review of the functions exercised by the commissioner's office. I think you are very familiar with us—at least you are, Colin. Natalie, I am a member for the South West and I have been Chair for the whole of this parliamentary session. I was on the committee in the last Parliament as well. I ask committee members to introduce themselves.

Mr K.M. O'DONNELL: My name is Kyran O'Donnell, member for Kalgoorlie.

Hon DONNA FARAGHER: I am Donna Faragher and I am a member for the East Metropolitan Region.

Mrs J.M.C. STOJKOVSKI: Jessica Stojkovski, member for Kingsley.

The CHAIR: It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything you might say outside of today's hearings. This is a public hearing. Although we do not have any public in attendance, they may walk in at any moment. If during the hearing you feel that the evidence you are about to give should be provided confidentially, let us know and we will respond appropriately. Before we start, do either of you have any questions about your appearance here today?

The WITNESSES: No.

The CHAIR: Would you like to start with an opening statement?

Mr PETTIT: Just a very brief one if I can, thank you, Chair. First of all, thank you for the opportunity. You have now met Natalie Hall. Natalie comes with a whole range of experience in terms of particularly child protection, and worked exclusively for us with the royal commission into child sexual abuse, and so is intimate with all of the information that the royal commission handed down. We have been very fortunate to have her. She has actually been almost the lead person in Western Australia in terms of the development of resources around child safe organisations. We are very privileged to have Natalie here and really pleased that she is in the role that she is in.

Can I thank you for your report—it was very timely. I know it has been a long time coming, for you, but it is a very timely report. Obviously, we are going to talk about that through this particular session. But I did think that it did provide us all with a clear way forward and, hopefully, we can use that as a catalyst to bring about the change that the royal commission has actually put in place. Throughout this presentation I am happy to provide you with a discussion paper that we have sent to the Premier recently, and we sent a copy to you, through the Chair, last week. It ties very nicely into your report and into the way we think child safe organisations and oversight can be managed within the state. Hopefully, that discussion paper will be an add-on to your particular paper. We developed it in response primarily to your report, but also because I am a little bit concerned, and I would like to put on record, that the royal commission recommendations have not gone away.

COVID has, rightly, taken up a great deal of everyone's time. The concern is that some of those issues may be lost to us, so I just wanted to make sure that the debate was still public and that we still move forward for the sake of the safety of our children and young people in this state. That was the reason we put that paper together. The other reason we put it together was that we felt it was time to be very definitive, from our point of view, of how we think it should happen in the state. If there is going to be debate about where to from here, we just believe that we need to be very clear about our position. The discussion paper is out. We have sent it, as I said, to the Premier and also to you, as Chair, just to get an initial response, and we will send it more broadly as of tomorrow. I think I will leave it there, thanks, Chair, and we will go to questions.

The CHAIR: We do have several questions to put to you about the discussion paper, as you would expect, but before we get to that, of course we cannot but help notice that the commissioner's term is coming to an end. My colleague Donna Faragher has some questions that she would like to put along those lines.

Mr PETTIT: Sure.

Hon DONNA FARAGHER: Thank you. Look, I appreciate that the intent of me asking a couple of questions is not with respect to you personally in that regard, but just in terms of your understanding of the process. It is my understanding that under section 7, there is quite a clear process that needs to be followed. With regard to, I suppose, a reappointment, it is silent on that. On my reading of the legislation, at the end of any term, the process under section 7 should be followed. Would that be your understanding as well?

Mr PETTIT: It is very topical, obviously. My term finishes on 15 November—the first five years. I have been in discussion with the Public Sector Commission, who manages and oversees this on behalf of government. We have had discussions and they have carried those discussions into government. As you know, it is now within the cabinet process and therefore it is very difficult for me to actually speak too much more about it. In terms of your question around the legislation, one of the issues that we all face is that the appointment process is very clear. The reappointment process is somewhat more ambiguous, so it probably does need some redefining in time. I think that is where the government is working through at the moment.

Hon DONNA FARAGHER: Are you aware as to whether or not any advertising has gone out with regard to expressions of interest?

Mr PETTIT: To my knowledge, there has been no advertisement.

Hon DONNA FARAGHER: Right; okay. I asked a question in Parliament with regard to this matter late yesterday, and the answer that was provided was that it was currently subject to cabinet and Executive Council. I would take that as meaning that an announcement may or may not be imminent, whether it relates to you or not. I am not wanting to put that position with regard to you. I suppose what I am wanting to get some clarity on is your understanding of the process. You are telling me that it is ambiguous, and I would not necessarily disagree with you, but the process is clear within the act. It would seem clear within the act that that process needs to be followed whether it is for a reappointment or a new appointment. I suppose that is what I am trying to get some perspective from you on, because that process obviously does require consultation with a whole range of people through different mediums and forms, as well as advertising. To my knowledge, that has not occurred, certainly with regard to the advertising. I cannot speak with regard to the other matters.

Mr PETTIT: I certainly cannot comment on where the process is at in terms of the cabinet process.

Hon DONNA FARAGHER: I want to be clear that I am not asking for that.

Mr PETTIT: What I can do is discuss the section under the act that you are referring to around reappointment. The reappointment process is not as clear as perhaps I would think all sides of government would want, so that needs to be reviewed, I think.

Hon DONNA FARAGHER: It is my understanding—maybe, Chair, you might confirm this—that previous iterations of this committee have actually made recommendations for amendments to the act to make it clearer.

The CHAIR: I think it was actually the statutory review of the act that made that recommendation.

[10.00 am]

Mr PETTIT: Certainly, from the committee's point of view, I think that would be something that you might want to revisit, because it should be much clearer than it is in the act itself.

The CHAIR: Thanks for that. Let us go back to the main issue at hand, which is where we go now following the tabling of the committee's report. We received your discussion paper, which I circulated to members. Can we just be clear: first of all, you said you sent it to the Premier?

Mr PETTIT: Yes.

The CHAIR: Have you sent it to other stakeholders as well, at this stage?

Mr PETTIT: Yes, I should have clarified that; thanks, Chair. What we have done in the first round is send it to the Premier and to the Treasurer, because it has implications around Treasury. We have also sent it to the AG because it does have implications to legislation and, obviously, to Minister McGurk because she is the person responsible for the royal commission's recommendations more broadly. That is the first group we sent it to other than yourselves. It was really to create a discussion at that level first and then, more broadly, as I said, as of tomorrow it becomes more public.

The CHAIR: Are you happy if we accept it as a public document and we will refer to it as such during this hearing?

Mr PETTIT: Absolutely.

The CHAIR: Can you tell us a little more about what the intended purpose of the paper is? I guess we have a slight concern about the way the paper sits alongside a process that involves the committee report and a government response, which, of course, we are waiting for; it will come sometime during November.

Mr PETTIT: The paper was written prior to your report being produced, and we thought it was prudent to include elements of your report, mainly because it is the most recent piece of work that we have been able to find, and a very detailed and heavily researched piece of work. So we felt it was important to incorporate that. The real aim was—I suppose I am a little bit frustrated that there has not been as much action in this area. Oversight, as you know—we have reported this and had discussions on this in this room before—is critical to ensure confidence for the community, but also to ensure that every child is safe and well. The royal commission was extremely clear about the need to have strong oversight put into play. I know that we have had a range of concerns about how this would be implemented and who should do it and why et cetera, and we tried to steer that course with as many stakeholders as possible. I just felt that on the back of the timing, because of COVID and a lot of the royal commission things, while it is still happening, it is not happening at the same pace, and that is understandable. I just felt that it was time to resurrect the discussion about where this should happen and how it should happen quickly. But it needs to be done within the government frameworks, and so we felt that a discussion paper was the best way forward at this point in time.

The CHAIR: Certainly, I remember that back in February we had some extended discussion about how the processes that the government has set up were wending their way through all the issues. Is that discussion group, which I think you were a member of—I think you chaired it, did you? The oversight working group set up by DPC?

Mrs HALL: Yes.

The CHAIR: Has that been meeting this year?

Mr PETTIT: It is being coordinated through DPC, but the meetings are far less frequent. In fact, most of it is done out of session. To be fair to DPC, there has been a range of other issues, in particular around COVID, that have forced pressure on all agencies, so I am not being critical of it; it is just the fact that we have a very important piece of information before us that needs to not be lost, so that was the reason why we wanted to resurrect the discussion paper. We will send this discussion paper back to that group when it re-forms later this year, to get into its work, as we hope it would do.

The CHAIR: So when you say it re-forms later this year, it is effectively —

Mrs HALL: It has been meeting. There was a time when it was just providing written updates to group members on the work, but it has met. There was a meeting recently to look at the report of this committee. The commissioner's office—I did not attend that meeting in particular because it was looking at a whole-of-government response, and they have plans in place for that whole-of-government response, but I am not a party to those discussions at this point.

The CHAIR: Did you have to absent yourself because of a perceived conflict of interest?

Mrs HALL: Yes. I discussed that with the commissioner and decided not to attend.

The CHAIR: Look, I will be frank. You have been frank; I will be frank, too. I had a couple of concerns about some specific points in the discussion paper. One of them is that you refer to the need for further discussions with key stakeholders. That is the phrase that we keep seeing coming up—"we have got to bring everybody with us"—and it is part of what we were collectively complaining about back at the beginning of the year. What level of urgency have you placed on that process and why do we need to do it all again?

Mr PETTIT: It is a really good question. In terms of developing an oversight process, whenever we have discussed this with a working party, and certainly in our proposals to government around who should do it and how they should do it et cetera, we always believe that there should be a very strong educative process at the front end, because if we are not actually getting a good understanding across the organisations that are going to be required to do the work, it is going to be very difficult to then make significant changes to actually deliver what we believe should happen. In the original discussion that we had with a range of groups, we felt that there needed to be almost a co-design process in terms of how we would manage not only oversight, but accreditation of child-safe organisations so that that level of understanding becomes your basis of the standard to move forward.

The CHAIR: That is really interesting. So, really what you are saying is that a lot of that work has not started yet?

Mr PETTIT: Because of the nature of the royal commission and the way it has been rolled out, and because as a state, even though we have accepted the recommendations, we have not been definitive about who should do what in many respects, we have taken a role of lead educative people in that space. I use the royal "we" because it is Natalie who has done most of that work. We have done it in a very voluntary way because unless it is put in through legislation or made mandatory in some way through government, there is no way that we can make it mandatory

ourselves. So we have taken a role that it is voluntary. We are trying to educate as many organisations as we can. There is a thirst for knowledge out there. People keep coming to us and asking for us to do seminars and support documents and the like, because they know we are a very good source of information. And so we just felt that the time is—if we are going to now turn around and say that it will now be mandatory, for all those groups that have not been in that patch, and there are lots of them, we need to actually start to bring them all into one location and start to educate what it is we are trying to achieve.

The CHAIR: So that is the 25 000 groups that DPC referred to?

Mr PETTIT: I did read that in one of the previous transcripts, but I do not have an accurate record to say that is what it would be, but I would imagine that is about the number. I would imagine that would involve many, many groups. But remember that this is around child-safe organisations that we are trying to do, so we would target those who, as your report said, are most child-related first, to ensure that we get the biggest bang for our buck.

The CHAIR: I guess the reason I wanted to pursue this with you is because—I know that I am now going to caricature slightly and I am sure that if any individual groups read this, they would perhaps dispute it on an individual level, but, overall, I think I can say that our impression was that the organisations were saying, “Look, we’ve been talking about this for years. We just want someone to do something.” They did not feel that they needed to be involved in a lot more roundtable stuff about what the principles might look like. That has all been done; they just wanted some certainty about —

[10.10 am]

Mr PETTIT: Certainly, those who have been embedded in the royal commission process, like the larger organisations, whether it be Royal Life Saving or Girl Guides or whatever, have had a vested interest to jump in and try and improve their behaviours across the board, and that is nationally. But there are still large groups that were on the fringe of those recommendations or were not even involved in some of the findings that will now have to start changing their business to do the work that is required of them. Some of it will only need tinkering, and I think I have reported earlier to you that we believe there are large numbers of organisations that will not have to do a great deal, but will have to reshape some of their policies and practices to ensure they are child safe and they do pay attention to detail, where they may not quite do all of that just at the moment. There is an educative role for some, and for others it is about “We’re ready to go”, and they are waiting for a decision from government about who is in charge, who does what, what do we have to do, and please can we get on with it.

The CHAIR: Your paper also makes specific observations. and you use the phrase “operating models”. Is there some more thinking going on about what different options might be available to the state?

Mr PETTIT: One of the things that DPC has done—and I certainly congratulate DPC for doing it—they did take a small team, including two from our office, to Victoria and New South Wales, which have already encountered a number of issues and they started to unravel some of the issues that are in both of our papers. We have learnt a great deal already from them about the different models and approaches they have taken. There will need to be different models applied, because I think if you thought there was one model to approach everything, we will fall over. I give you the example: we would want to, I am sure, as a group, know our most vulnerable children—whether they be in Kath French or whether they be in Banksia Hill, or some of our care schools—have very strong oversight, making sure that they are cared for in the manner in which we would want them to. Equally, though, we would want to make sure all of our schools are done in a very positive way. We

know schools are responsible and do a range of child safe activities, so they would be groups that we would do an oversight, but only by sampling rather than by doing the whole lot. There are different levels of approaches that we would take, depending on the need of the organisation. That is the kind of conversation we need to have with pretty much every organisation, about what demands are on them, how do we support them, how does it improve the lot for children and young people in particular and then how do we collectively monitor and support their development.

The CHAIR: Have you started the conversation about the additional resources that your office would require were your oversight role to be expanded?

Mr PETTIT: Again, I need to be cautious. There is still a live cabinet briefing on this and, as part of the DPC approach, we have certainly contributed to what we think if the organisation was to come to us, as described in this paper. We have quantified what we need within that process, but that is part of the cabinet process. It is fairly consistent with the Victorian approach and also the New South Wales approach, obviously proportionate to the size of the state and the needs et cetera. We are fairly confident that the models we put forward to government are robust enough to manage what we think needs to happen into the future. We are also very cautious to say, like any organisation—it is a little about the conversation we had around legislation—you need to review that practice fairly regularly to make sure it is meeting the target. We are confident, on the information we have, that we have a model that can work with the resource we think should happen. Once it was put in place and then it was trialled, if it did not work, then we need the ability and scope to adjust that.

The CHAIR: Your discussion paper talks about the Aboriginal commissioner for children and young people, which has been a live issue now for several years. Do you have any clear idea about how that role would work with the proposed office for advocacy and accountability? Have there been any discussions about that?

Mr PETTIT: We actually put a paper to the Treasurer suggesting ways of how that could happen. I am very keen to see, like in states such as South Australia, Victoria and Queensland, there is a position created for an Aboriginal commissioner for children and young people outside of the advocate, which I will come back to. The reason I am keen for that is that we certainly have enough evidence around Closing the Gap and issues around child protection in terms of the over-representation in that space and also in juvenile justice that there needs to be someone who is solely focused on some of those issues. In states like Victoria, where they have had a commissioner now for nearly seven years, we have seen dramatic changes to the way that out-of-home care is approached. For example, there are larger numbers of Aboriginal-led solutions, and in many places, like the Geelong region for example, they have seen dramatic decreases in the number of children coming into care. There is an approach that is working—that can work—and I think we do need it in this state.

In terms of how it would relate to the Aboriginal advocate, the position we put to Minister Wyatt is that if the Aboriginal commissioner for children was put in place in a similar way that Victoria is, so they would be a peer in my office and certainly have equal standing and all of those sorts of things, then they would be a conduit for the Aboriginal advocate over time to develop how you blend into those issues without solely looking at children's interests or solely looking at adult interests. The fear I think I have explained to this group was having solely an Aboriginal advocate, its focus, as we have seen with the Rio Tinto thing, will be around more mining leases than it will be around the effect on children. We need to have that blend and make sure that there is a real belief that we are going to move something for people before we do something for other activity.

The CHAIR: Yes. That paper that you wrote for the Treasurer, is that a private document?

Mr PETTIT: No, it was a letter to Mr Wyatt, just saying that we have an idea and if he would like to consider it.

The CHAIR: Would you like to share that with us?

Mr PETTIT: I am more than happy to send a copy.

Mr K.M. O'DONNELL: Would a director for Aboriginal children and young people be able to do the job with the commissioner—you have director for policy and director for this. You are a Commissioner for Commissioner for Children and Young People, then we have a commissioner for Aboriginal children and young people—it is just duplication.

Mr PETTIT: It is certainly a model we could entertain; in fact, through the generosity of the Department of Communities, we have had a secondment to our office, an Aboriginal woman who is a director, and she has picked up a role of Aboriginal engagement, but she does not have the authority under the act to do some of the things that I can do. Even though I can delegate it, it is not as clear as it properly should be. Having said that, we are making some enormous steps in that area and we are starting to get some great traction with Aboriginal groups, but it is going to take time. I think if there was an Aboriginal director, we could certainly make that work—if they were funded and we made sure that they had maybe more powers than what they currently have—but certainly I think the field would see an Aboriginal commissioner, as per Victoria, South Australia and Queensland, as almost an expectation. So, it can work, but it is entirely up to government how they make that work.

Mrs J.M.C. STOJKOVSKI: In the discussion paper, it is very strong on your statement of claim, I guess, or your wish to take on the role of oversight. I just have some concerns that the drive towards this might be at the cost of all of the great work that you do already around advocacy and research. I know, for my part, certainly the Speaking Out surveys have been really helpful in engaging with schools. How is that going to work, because I would hate to see you move towards oversight at the cost of advocacy?

[10.20 am]

Mr PETTIT: I would certainly share your fear, and it has been expressed by a number of stakeholders as well. We have been really clear that if we were to take on this role, it would need to be funded for the organisation to do that as well as what we currently do. In fact, that then created a bit of an issue with some stakeholders saying, “Well, some of these advocacies should not be alongside monitoring.” We have shown and demonstrated that you can do both. You can have, when necessary, a wall between the two organisations, but one actually supports the other. Your fear is shared by us. We certainly think that we can do the role, but we could not do it unless we were funded to do that role. If we were asked to solely do that role, then it would be a challenge in our legislation to see whether in fact we would take it on. Because as an independent officer, if there are no additional resources, we would consider changing our practice, but I would have to have a look at it in terms of the fear that you have expressed around our advocacy because there is a greater need for all children to make sure they have a voice. That has to be the primary thing that we focus on. There is an absolute need to have oversight clearly done for our most vulnerable children, but that needs to be separate from where we are at at the moment.

The CHAIR: That is probably a good segue into the last couple of questions I have to ask you about the discussion paper. You raised the conflict-of-interest question, which is one that has greatly taxed me over the years, because as you know, the pendulum seems to swing fairly rapidly between the benefits of acknowledging and working with those conflicts and the total avoidance of them. At the moment I am at one end of the spectrum, which says that you just acknowledge them and you get

on with it. You have talked about conflicts of interest. Can you first of all identify what those conflicts would consist of?

Mr PETTIT: I do not share that there is a conflict of interest other than the legislation is very clear that we cannot take individual cases. What we do find, though, when we get individual cases, is that they normally come in a wave and we then see them as a systemic issue that we can address. That is the first thing. The second thing is it has been proven, particularly in areas such as Victoria, which has both the advocacy and the oversight role, that one does actually support the other. In fact, what you get out of advocacy can then steer some of your oversight processes, and what you get out of oversight can actually steer some of your advocacy processes. I do not share the view that a few of the stakeholders had. It has been part of the debate inside of the DPC process about who should do what. We have been very clear that we have not sought independent advocacy, or individual complaint, because that would create a whole wave of other issues for us. But we still think there is a role for advocacy more broadly on behalf of all children, and you cannot divorce that just because you are doing monitoring. Our role is we do not believe there is a conflict. It has been expressed to us. We think we have overcome it. We have models around the world, particularly in New Zealand and Victoria, where that is—both there.

The CHAIR: You mentioned New South Wales, Victoria and New Zealand. What do they do specifically? Can you give us an outline of something concrete that we can get our heads around?

Mr PETTIT: Yes. I might get Nat to explain some things she has seen, particularly in Victoria and New South Wales. But, by and large, they have teams of people with specific roles. While they work together, they do not cross the boundaries. So, they share the information but they do not cross the boundaries. I might just ask Nat to —

Mrs HALL: The team in Victoria, for example, as Colin has outlined, have very separate roles, so they still undertake their monitoring functions. They also have a reportable conduct scheme there. The reportable conduct scheme and the child safety scheme are separated, as is the child safe monitoring from the child safe capacity building. So, they do all the educative functions that are at the lower end of the regulation triangle. But they have kept them separate for various reasons, such as organisations who might self-identify as struggling to implement the child safe standards do not suddenly end up in the monitoring part of the organisation; they are dealt with in that supportive capacity-building approach.

The CHAIR: So, the way you guard against the inspectors inspecting their own models is to have different teams with different functional reporting, all of which would end up with the commissioner, presumably?

Mrs HALL: Yes; everything does end up with the commissioner, but there are some very clear processes around that.

The CHAIR: Do any of those jurisdictions have an additional oversight measure? I know that there are more dissimilarities than similarities, but I am thinking of the way that the CCC commissioner has a parliamentary inspector as well as an oversight committee. Do any of those jurisdictions that have managed the perceived conflict of interest have that additional level of scrutiny?

Mr PETTIT: The one that springs to mind is New Zealand, but that is mainly because they are a national body as opposed to a state body like ourselves. They have a reporting function through to their Parliament, and certainly Andrew has a direct responsibility to a number of ministers. Responsibility is probably the wrong word, because he is independent, but he has an obligation to ensure they are informed et cetera.

The CHAIR: Does he report on implementation and oversight?

Mr PETTIT: He does report annually on juvenile justice and what he has found throughout the year, and also now home care. They are both tabled in Parliament and they are both serious reports in terms of what they find, both positive and negative.

The CHAIR: The only other area I wanted to ask you about, because you will remember in chapter 7 of the report the committee identifies two particular functions or resources that you do not have at the moment that would be required of an oversight body; one, obviously, is the resourcing question; the other one is the ability to compel information. Now, I know we have raised this in the past with you, but I think not in the situation of this committee. I thought it might be useful to ask you how you responded to that part of the committee's report. Is that, indeed, a function that you consider is lacking, and would you need it whether or not you become an oversight body?

Mr PETTIT: The legislation does allow me to compel some information, and is yet to be really fully tested because most people work quite collaboratively with us. I think where we stumble—the same as any other agency—is that people or agencies are not always clear about what they can and cannot share. If I was going to suggest anything, while it would be great to have it strengthened in terms of the ability for the commissioner to source data, I think it probably needs to be more inward-looking in regard to government agencies and what they are prepared and should be prepared to share in terms of data and who they share it with and how it is shared. You cannot do oversight unless you track individual children, particularly their journey in vulnerable locations. So, you need to have access to really high quality data that is available within agencies, and it needs to be readily available, not six months down the track.

The CHAIR: Are there examples from the other jurisdictions—you have mentioned New Zealand, Victoria and New South Wales, where that function has been increased as part of oversight—that would provide us with some sort of model that you think is working well?

Mr PETTIT: I would have to go back and check. I do know New Zealand has some very strong powers around the collection of data, but I am not sure about the other two. We will take that on notice.

The CHAIR: I will take that as question on notice 1.

In relation to your current functions is the power to compel information adequate?

Mr PETTIT: Until we test it, I am not really sure.

The CHAIR: So you have not had an opportunity to test it because they have been cooperative?

Mr PETTIT: Generally, people have been very —

The CHAIR: I am not wishing un-cooperation onto you.

Mr PETTIT: Can I just clarify that we also play within the boundaries that are set within us at the moment. For example, if we asked for data from the Ombudsman, who has specific data, he is normally very keen to share that information, but there are some bits that he is unable to share with us at the moment. Now, if we have oversight, we may want that data more readily. Again, until we are in that space, we probably will not know exactly how hard we need to go with that. It depends on what other changes are made to other people's legislation around what data they are allowed to share et cetera.

The CHAIR: What about NGOs—can you compel them as well under the existing legislation?

[10.30 am]

Mr PETTIT: It is pretty silent on the NGOs in terms of legislation, so it would help us to have that strengthened. When we did the school and learning consult that we did in 2018, when we were looking at the private school sector, the ability for us to harvest information prior to going on that

particular event was not as easy as getting it from government. But, again, goodwill was more the point that came forward. I think there will be elements of the non-government sector that we would need to test in terms of what would be good legislation so that we are not abusing power, but equally gaining the information necessary to overcome what we need in terms of oversight.

The CHAIR: We have talked a lot about oversight and one of the possible effective mechanisms is following the money, which of course is the Irish example, which has always impressed us. That is not going to work, of course, once we get into the innovative child safe principles because there might not be money involved and, in any case, we are not particularly advocating that way of tracking compliance. I think that is about all on the discussion paper.

We are going well for time. Can we go on now to the matter that the committee wrote to you about this week? We thought, in our remaining few weeks of this year, that we would do a little bit more thinking about the child-friendliness of parliamentary processes, which we have raised with you before. We have some interesting material from Britain, which I have sent to you. I do not know whether you have had time to have had a look at it.

Mr PETTIT: It actually has not arrived yet.

The CHAIR: Stuck in somebody's outbox—we will follow that up.

Mr PETTIT: That is fine. I am sure we will get it.

The CHAIR: The material we have got from the House of Commons is very, very good. We are quite impressed with it. There are basically three questions that we found were not answered and they are, I think, the questions we have raised with you in the letter—when you eventually get it. That will all become clear in the fullness of time. We are quite keen to at least provoke some reflection on the issue. We are not going to get any huge changes in the way the Parliament deals with the voice of young people in the next three or four months, but we might at least be able to plant the seed in people's mind that they ought to give thought to this in the next session. Do you want to just give us your general views about the whole question of the parliamentary interface with children and young people?

Mr PETTIT: One of the first things you learn in this job is how powerful the voice of children can be. I think that is an underestimation by many adults around what it is that young people want to tell us. For the most part, they are extremely reasonable in their response. In terms of where they sit with Parliament, probably in terms of the consultations we have had, it is not high on an agenda in terms of responding to us about what they are thinking et cetera. But that does not mean that they have not got an opinion on things that happen, particularly around specific issues. It may not be the Parliament itself, but what issues at the time Parliament is discussing does become very, very topical for children. When the same sex marriage debate was on, children and young people had a view, and they had a very strong view. The same with climate control; they had a very strong view on that. They had a very strong view on assisted dying, which was interesting. As we were going around, it is those sorts of topics they are hearing and they want to express some information.

I think your view of what is happening in England is pretty timely. It would be a great way for this Parliament to find a process that young people could contribute to, if they wanted to, with all the caveats that you will never get a representative sample of young people giving you responses. But that does not mean that whoever gives you a response should not be heard, so we need to have a look at how you do that. I think from a parliamentary point of view, there are some things that you currently do that could be explored. You certainly have enough children visitors coming through the Parliament, and maybe there is a process that could be put into that as they come through the door, or exit, or something. I am not sure what that could be, but we would be happy to support that. I

think there must be other ways and, as I say, I have not seen the English model that you talk about, but I am keen to have a look and see, in fact, if we can help build that process.

The CHAIR: The two issues that have arisen for us specifically in relation to taking this matter forward are capacity and permission. Is there a general view about how adults approach those two questions? They must arise all the time for you.

Mr PETTIT: Yes, they do. I take the second one around permission first. We take that very, very strongly and very importantly to every consultation we have. Permission needs to be not only from the children and young people involved but their carers or parents need to understand they are engaged in this process and are they happy for it to happen. By the way, most are really keen for their kids to have a say. Then, of course, the ultimate needs to be with the children themselves, so if they are not wishing to engage, then they should not be pressured to engage in that process. They are the two things that we strive very, very hard with in terms of getting information from children. In fact, we get to a point where they do sign a document saying they want to be part of this particular process that we have got in place, and we keep those on record. I think it is really important to have a process that allows children to have control, but there also needs to be knowledge from their carer or parent that they are part of that process. How that is translated into a parliamentary sense, it does take time, so it will need to be thought about—how will you do that?

The CHAIR: The thing that has always occurred to me in this discussion is that we have to be very careful that we do not end up with a set of double standards. You make the point that it will not be a representative sample of children that you hear from—the same point could be made about adults who make submissions to parliamentary committees.

Mr PETTIT: I am sure.

The CHAIR: Yet that does not seem to be particularly showing influence.

Mr PETTIT: I think it just needs to be, when you are using the information back the other way, it is important to say this is not a representative sample; these are people who have an interest in the topic and this is what they are telling us. What we found is that, particularly in the marriage equality debate, we certainly had a range of young people wanting to get into that debate. So, it does depend on the topic and how passionate they feel about it. Even then, I would not say that was a representative sample of children. This is a response from a thousand young people and this is what they have said. We get a little bit nervous when some of our researchers come out and say, “10 per cent of all children in WA said this”. Well, it is “10 per cent of the children who responded said this”. We have just got to be careful about how we declare what young people are thinking.

The CHAIR: Yes. How do you maximise that sample?

Mr PETTIT: It is the biggest issue we have, and COVID has actually forced us to rethink a couple of things. Not having the ability to get out and reach children where they are, predominantly through schools or activities, whether it be sporting or cultural events, has made us rethink about online et cetera.

[10.40 am]

For secondary children, we are actually looking at around about 60 high schools and targeting the English classes, and just a random range of English classes. Again, parent permission, child permission. We would write to them through email once a quarter. If they wish to respond, we would use that. So, for example, there was a lot of chat from children and young people about the Premier closing the borders, and it would be great to get a sense of what they really thought, both when it happened and probably now, and we would use that group to send out and say “What do you think about this?” and get that feedback. So we are just looking at a few models now that are a

little bit different to the way we would normally do business. We are still doing the planning for major consultations like SOS, we are still planning consultations for targeted groups, but we are just looking at a suite of other things that we can incorporate. Some of those could be used for the Parliament but it would need a resource in here to manage that.

The CHAIR: That is very interesting. We have now given you a hard copy, just in case it is stuck in your system somewhere.

Mr PETTIT: Thank you.

The CHAIR: Apparently it is marked as “sent” from our end.

Mrs HALL: I will have to check, sorry, because it went straight to my email.

The CHAIR: Anyway, I do not expect you to read it in the next two minutes. It is just so that you can take a hard copy with you.

Mrs HALL: We will have to get back to you on it.

Mr PETTIT: Do you want us to respond to this later?

The CHAIR: No, that is okay. Yes, we would like you to respond to it, to that paper specifically, as per the letter.

Mr PETTIT: Yes, not a problem.

The CHAIR: Sorry, I misunderstood what you meant. Can I ask, do you know when your annual report is likely to be tabled?

Mr PETTIT: Yes. I say “yes”; I apologise. We have sent it to the AG as normal process, and once it has cleared through the AG, which we are expecting any day now, we will have it printed and it will be with the AG to table at the nearest session, along with, I think, everyone else’s.

The CHAIR: Yes.

Mr PETTIT: It has certainly been completed; it is ready to go.

The CHAIR: Obviously, we would be interested in talking to you about that, if we get the opportunity.

Mr PETTIT: Sure.

The CHAIR: It may well be that we do. Look, I am happy to open up to some general discussion now, and then we might come back to some more things before we adjourn.

Hon DONNA FARAGHER: I am interested, you would be aware that there is some debate at the moment with regard to a bill that is currently before the Parliament, the Children and Community Services Amendment Bill, specifically in relation to the matters surrounding mandatory reporting, and the inclusion of ministers of religion but the non-inclusion of four other categories that were identified by the royal commission. I noted in your opening remarks and throughout today’s discussion about I suppose some concern to ensure that, despite what has been going on with regard to COVID, which is completely understandable, you would not like to see the implementation of the recommendations lag, for want of a better word. I appreciate and I have seen comments from you previously with regard to mandatory reporting and, I suppose, expressing some caution with regard to the time limits of implementation to ensure that it is done appropriately, and I accept that. But are you concerned that WA is the only Australian jurisdiction where none of the five recommended mandatory reporters are included?

Mr PETTIT: I am concerned that the recommendations have not been enacted at this point in time. I think the debate that you are having through the Parliament is an important debate to have. I think

the committee needs to understand that. But I will be more content when the whole bill is through in its entirety.

Hon DONNA FARAGHER: Okay. I am specifically interested with regard to the mandatory reporting aspect, and you will appreciate that the chair was chair of another committee report with regard to this matter. Through that, that committee has identified that I think at least three other professions should be included within this bill, and that priority should be given to consultation surrounding the two remaining ones, I think youth justice workers and school counsellors.

The CHAIR: Yes, that is right. If I can just interrupt, by way of explanation.

Hon DONNA FARAGHER: Yes, that would be helpful.

The CHAIR: There turned out to be a problem with the definitions, and so we were able to ascertain that there were three or four definitions that were actually ready to go.

Hon DONNA FARAGHER: Yes, so the three as I understand that are ready to go are “early childhood workers”, “out-of-home care workers” and “psychologists”, so they could be included within this bill. Would you be supportive of their inclusion?

Mr PETTIT: Absolutely.

Hon DONNA FARAGHER: Thank you. And then, with regard to the other two, “youth justice workers” and “school counsellors”, which I understand are the ones that have been identified as requiring some more consultation in terms of definitions, are you aware from the government as to whether or not any consultations have been undertaken with regard to that?

Mr PETTIT: Personally, no. No, I have not been involved with that.

Hon DONNA FARAGHER: Okay. I suppose there were some concerns raised with regard to needing to expedite the consultation process. I am not putting words in the committee’s report, but having read the report, it is my understanding that that was a conclusion made by the committee, that that needed to be expedited. Would you be of the same view?

Mr PETTIT: I would think that we have had nearly a year of debate on this, and it is time to get it moving, yes.

Hon DONNA FARAGHER: So even within the bill as it currently stands, if definitions could be included before the passage of the bill in the Legislative Council for those remaining two, I am presuming you would be supportive of that as well?

Mr PETTIT: Yes.

Hon DONNA FARAGHER: Have you raised any concerns with the government with regard to this matter?

Mr PETTIT: Through this process we have continually responded to feedback through to the minister.

Hon DONNA FARAGHER: Have they sought any advice from you with regard to mandatory reporting and the inclusion of these other five categories?

Mr PETTIT: They have sought advice on a range of things. Mandatory reporting—I may not specifically remember, but it is certainly a range of things in relation to this bill. We have been asked for feedback on a number of occasions and have certainly provided that.

Hon DONNA FARAGHER: All right.

The CHAIR: Just in a general context, I think you did make a submission to the CCS inquiry, which the committee made public.

Hon DONNA FARAGHER: Yes, thank you, and I appreciate that. I have read that, and that was helpful. But I was just keen to get some clarity from your perspective with regard to those categories and your position, because, obviously, there will be debate, and it will be helpful for me to understand what your position is with regard to the statutory form of amendments that have been put on the notice paper via the committee's recommendations, but also those other two categories that at this stage have not been included. Thank you.

The CHAIR: Perhaps we can come now—we have about 30 minutes left—to the remaining items we wanted to talk to you about, I think, because your office has raised the remaining things with us. Have we talked sufficiently about the project work underway related to young people's views on oversight?

Mrs HALL: We have not talked specifically, but we are looking at a collaborative project with the Department of Communities in this area to actually incorporate what children and young people think is effective for them in terms of oversight or monitoring—terms that they probably do not understand or have any real idea about, but they have experienced other types of assistance, I would say, like, perhaps, for example, contact with the Advocate for Children in Care. Some of them might be aware of the independent assessors who they have talked to over time, but we really want to start by asking them: if you are living in a residential care setting, how would you like to engage with the oversight process? So we have early discussions going with the department on that, and are looking to build that project over the next six to 12 months. We are doing some background research in terms of the models existing around Australia. It is interesting that, for the most part, oversight has started, and there has not been that input from children and young people in the development phase, so we are kind of treading new ground, and that is taking us some time to think through.

[10.50 am]

The CHAIR: Do you go into the juvenile justice system as well?

Mr PETTIT: OICS, as you know, has the oversight of Banksia Hill and a number of other settings in juvenile justice.

The CHAIR: You have access to Banksia, do you not?

Mr PETTIT: We do. We have been working with OICS, and have now embedded—it sounds impressive, doesn't it—one of our people in their next review of Banksia Hill, which starts next week. We are trying to learn how they do their business so we can oversight the justice approach, but also oversight OICS in terms of whether they are doing what they claim they are doing. It is mutual respect in terms of how we develop that process into the future.

The CHAIR: It might be the end of the complaints box outside the supervisor's office.

Mr PETTIT: Well, it could be.

The CHAIR: You wanted to talk to us about the strategic planning process.

Mr PETTIT: Yes, just to let you know that our strategic plan does run out at the end of this year. We have planned to do a strategic plan for the next five years, which, obviously, we will present back to the committee when we have finished it. The process we use is generally to look back on the last five years' consultation and see what young people have thrown up to us. We will have a look through SOS19, and there is some really clear information from that that we will embed into that process. We will also look at where the government is heading with the response to the royal commission and build that in. We will also then talk to our stakeholders and get a sense of what is happening for them, and we will build that into the process. But it all hinges back to the legislation,

because the legislation is really clear about the principles and functions that I have to follow. That is the premise that we follow.

The CHAIR: Is that planning process likely to be finished before the end of 2020?

Mr PETTIT: It will be finished before. We have it scheduled for the first week of December. We have already started some work on gathering information from previous consultations and the like. In the last six months, every time I have met with a stakeholder, I have actually asked them where they think we should be going. We have been gathering information for quite some time.

The CHAIR: You are moving very shortly.

Mr PETTIT: Yes, just to let the committee know that we have finally resolved issues about moving to Albert Facey House. The time line that we have been given is 15 December, so we are hoping to be shifted in there and settled before the end of the calendar year. Once we are established there, we more than welcome you to come down to at least have a look at how different it will be. One of the issues of moving into Albert Facey House was to have a tighter connection to many of the oversight agencies, such as the Ombudsman, the Auditor General and OICS, who are all in that one building, and we will just see how that plays out over time.

Mr K.M. O'DONNELL: Where is Albert Facey House?

Mr PETTIT: Directly over the road from the main railway station in Perth, at Forrest Chase. Over the road from Myer.

The CHAIR: Next to the post office.

Mr PETTIT: That is the one!

The CHAIR: The speaking out surveys; you were talking just now about SOS19.

Mr PETTIT: Yes. Just to inform the committee, really, with SOS19, we are still mining some of the information. I think I reported last time that there are four key issues that we are really concerned about, the first one being the response from females in particular. Particularly as females age through their growing process, the responses were quite alarming, even when you compare them to some national or international standards, so there was an issue there we are going to look at. Certainly safety, and particularly safety in the home, and it ties up very nicely with the royal commission findings. Kids were telling us really loudly about how they see the world around being safe. Mental health was a major issue for children and young people, particularly older young people, although younger ones did express it, and not having clear access to mental health services, so we are doing a bit of work with that. And, of course, there are a whole range of Aboriginal issues that came back to us from Aboriginal children that we are dealing with, both positive and negative. We are just doing those four. On the female aspect, we are starting a literature review on the impact of what young females have told us with projection into their future life, just to see what causal effects this could have if we do not do anything about it. We are looking at the impact of pornography, the impact of the web itself, the impact of the way they are dealt with in the community et cetera, and we think that will become a very big piece of work. At about this time next year, we are planning to have some form of consultation specifically around young girls' issues, and we will temper that with probably going to a few boys' schools and seeing whether in fact they have a similar or different viewpoint. While we have a community that says that equality is important, what the young girls have said to us in this is that is not being translated into practice, and so we need to challenge some norms for that.

The CHAIR: Is that going to change the way that the next speaking out survey is designed?

Mr PETTIT: No. In fact, as you know, we plan to do the speaking out survey every three years. I had written to the Premier and gave him a briefing, as well as offered briefings to a whole range of politicians, and I think, through your office, have offered that if it was appropriate, we are happy to present to members of Parliament, if that was an opportunity to do so. But in talking to the Premier and with COVID coming along, we are the only state in Australia, literally in the nation, to, just prior to COVID, have the richest dataset anywhere of how children and young people feel about their health and wellbeing. It was thought that it would be great, if COVID was finished, when we started this conversation, to go back in early 2021 rather than wait until 2022 and just see if there was any real differential about their health and wellbeing. We have had permissions from all ethics other than education—we are just waiting on the last sign-off from there. Catholic Ed will now join us in the next one, which we are thrilled about, so it will be a representative group. We will actually do a much greater sample.

Last time, we did almost 5 000 young people. We are aiming for a minimum of 10 000, but it is probably more likely to be about 12 500 young people across the state. We are doing it slightly differently; it will be population-based in schools, obviously, depending on permissions. So, instead of going in and taking 15 per cent of the population in those year levels, we will do the whole population. With that, we would then be able to give individual reports back to schools. They will all be de-identified information, and that will only be if they have more than 50 children. Anything less than that, we cannot give them back their information. But equally, Health have requested that we also provide regional data, so we have actually expanded the numbers and we will be able to provide region by region how children and young people are thinking. It will be probably the most comprehensive study of this nature about children and young people's wellbeing anywhere in Australia, and possibly the world, both pre and post-COVID, and then the aim would be that we would do the next one in 2024, so they would go into a three-year cycle.

The only other difference is that in the first pilot, we oversampled Aboriginal children. The reason for that was to make sure we had a good baseline and comparative dataset. We have decided to only do that every second time we go out, because otherwise these children will be asked the same questions probably four times in their schooling life, and we do not want to overburden them. We have explained that to WAAHEC and a few other Aboriginal communities, and they are quite content with that approach. What we are going to substitute with those is we are looking at how, post this particular survey group, we get to children with disabilities, which has always been a problem with a survey tool that we have, so we are looking at a different model to pick them up. That will probably happen just after this one closes, though. So that is where we are at with those two bits.

The CHAIR: One of the things you picked up in the school and learning survey was that children were talking about having disabilities that had not been identified by the schools.

Mr PETTIT: Yes.

The CHAIR: How would your focus on disability deal with that particular problem?

[11.00 am]

Mr PETTIT: The committee knows that we do not just do a particular survey and walk away from it. That school and learning survey had a number of recommendations. It had 14, actually. Two of them were around mental health or provision for children with disability. We have just completed three pieces of work where we surveyed schools and said, "Here are a range of questions about how you deal with children with disabilities or children with learning difficulties, what's your response to them?" We had 180 responses within a week, so we shut it down, because the data source was so big. That report is being finished. We then went to Catholic Ed, independents and government, and asked them how they fund children with disabilities. We tracked the funding from the

commonwealth through to individual children. That report has finished, so that is a complementary piece of work.

Then we have a third piece of work where we looked at those two recommendations out of “School and Learning” and two out of “Our Children Can’t Wait”, which are the recommendations around mental health. We did some research on that and those three reports sit alongside each other. We are just in the throes of now meeting with the executive of all three sectors and walking through what we found. We are trying to pick up the voice of children and say, “This is what they’ve said. This is what it looks like. How can we do something different?”

The CHAIR: Are you beginning to see the policy wheels connecting with the material that you are providing through the “Speaking Out” surveys?

Mr PETTIT: Not as much as I would like. But that said, we are certainly seeing a great deal more traction than we have in the past. The example I give you is that out of the vulnerability speaker series, we had a number of recommendations. One was to have a child impact statement and, hopefully, that was going to be picked up by government. DPC at the time felt that it was not something that they would do, so we created our own, which I think I sent a copy to you prior to this. We have sent it to all government ministers, we have sent it to all government agencies and we have sent it to, I think, all politicians on all sides of the house. We have been delighted that one minister has directed his agencies to ensure that it is used whenever they are developing policies. We have had traction from a number of DGs who have sent it to their policy people and said, “Build it into the process.” So, we are seeing some traction. People are starting to recognise that the importance of having a child’s voice in their process will actually add value to what they are doing. What we would like to see is greater traction across everyone, but we are working on that.

The CHAIR: You narrowed it down to about a dozen by saying “his” agency.

Mr PETTIT: Yes, I apologise.

The CHAIR: Can you tell us which minister it is?

Mr PETTIT: Yes, it was Minister Cook’s office who responded to that. Both Health and Mental Health are using it. I know from talking to DGs within those organisations, they have responded to me about how they are using it.

The CHAIR: There was no shortage of enthusiasm for the idea amongst the attendees in the vulnerability series discussions.

Mr PETTIT: No, none at all. As you know, that particular notion came from New Zealand. As part of that process it was raised as an issue and people latched onto it. The learning for us is back to New Zealand because I went back to them and said, “This is the traction we’re having.” They were a little bit embarrassed because theirs has gone off the boil, and the learning they have given back to us is that just doing the paper does not mean that you will get the action. It has to be constantly revisited, so we will make sure that happens.

The CHAIR: The jurisdiction that appears to have it solidly baked into their statutory provisions is Ireland, and you will have seen the reference to that in our report.

Mr PETTIT: Yes, and we did, and that would be the ultimate—that at some point, this would become part of legislation, like we do with environmental studies or other things that are mandatory within a government process. If we had this for children, I think it would overcome a large number of issues for government, no matter which government it is.

The CHAIR: I think that certainly brings me to the end of my questions. Is there anything else you would like to raise with us?

Mr PETTIT: No.

Hon DONNA FARAGHER: Sorry, I just want to go back to the questions that I asked with regard to mandatory reporting. You indicated that you have had discussions, no doubt with respect to the bill in its entirety, with the government. I just cannot recall, so please remind me. Did you indicate whether there has been any correspondence between you and/or the minister with regard to the bill? As you can tell, I am quite interested in the notion regarding mandatory reporting. Has there been any formal communication, and I include consultation around that as well—the terms?

Mr PETTIT: Off the top of my head, I cannot recall, but I certainly can be confident and say that we certainly have responded in writing to the process through to the department, but to the minister? I would need to go back and check.

Hon DONNA FARAGHER: Could we take that on notice?

The CHAIR: Sure. That is question on notice 2.

Hon DONNA FARAGHER: If there is anything that you are able to provide to us, I would not mind receiving a copy of that, thank you.

The CHAIR: Thank you for that. I will just do the formal closing. Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for the correction of minor errors. Any such corrections must be made and the transcript returned within 10 days of the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary document for the committee's consideration when you return your corrected transcript of evidence. We will also provide you with a copy of the questions. Thank you very much.

Mr PETTIT: Thanks for your time.

The CHAIR: That was extremely efficient. Thank you.

Hearing concluded at 11.06 am
