



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

ANNUAL REPORT 2009-2010

Report No. 4

in the 38th Parliament

2010

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Joint Standing Committee on the Commissioner for Children and Young People

Annual Report 2009-2010

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AND YOUNG PEOPLE***

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Report No. 4

Presented by:

Ms A.R. Mitchell, MLA and Hon H.H. Bullock, MLC

Laid on the Table of the Legislative Assembly and Legislative Council
on 16 September 2010

COMMITTEE MEMBERS

Chairman	Ms A.R. Mitchell, MLA Member for Kingsley
Deputy Chairman	Mr M.P. Whitely, MLA Member for Bassendean
Members	Hon H.H. Bullock, MLC Member for Mining and Pastoral Region Hon N.P. Goiran, MLC Member for South Metropolitan Region

COMMITTEE STAFF

Principal Research Officer	Ms Dawn Dickinson, BSc (Hons) MURP
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TABLE OF CONTENTS

COMMITTEE MEMBERS	i
COMMITTEE STAFF	i
COMMITTEE ADDRESS	i
COMMITTEE'S FUNCTIONS AND POWERS	v
CHAIRMAN'S FOREWORD	vii
CHAPTER 1 COMMITTEE ACTIVITIES	1
1.1 INTRODUCTION	1
1.2 PUBLIC HEARINGS	2
1.3 BRIEFINGS	2
1.4 INVESTIGATIVE TRAVEL	4
1.5 REPORTS TABLED	5
1.6 WORK IN PROGRESS	5
(a) Monitor, review and report to Parliament on the exercise of the functions of the Commissioner for Children and Young People	5
(b) Examine Annual and other Reports of the Commissioner	6
(c) Consult regularly with the Commissioner	6
1.7 INFORMATION SEMINAR FOR MEMBERS	7
1.8 BRIEFINGS WITH RELEVANT PERSONS	7
1.9 ADDING VALUE TO THE WORK OF THE COMMISSIONER	7
CHAPTER 2 FINANCIAL STATEMENT	9

COMMITTEE'S FUNCTIONS AND POWERS

On 26 June 2008, the Joint Standing Committee on the Commissioner for Children and Young People ('the Committee') was established pursuant to Section 51 of the *Commissioner for Children and Young People Act 2006* ('the Act'). The Committee was re-formed in the 38th Parliament on 26 November 2008. In accordance with the Act, the Committee's functions and powers were agreed to between the Houses.

It is the function of the Joint Standing Committee to:

- (i) monitor, review and report to Parliament on the exercise of the functions of the Commissioner for Children and Young People;
- (ii) to examine Annual and other Reports of the Commissioner; and
- (iii) to consult regularly with the Commissioner.

Otherwise, the Standing Orders of the Legislative Assembly relating to Standing and Select Committees are also to be followed as far as they can be applied.


The Joint Standing Committee comprises two members of the Legislative Assembly and two members of the Legislative Council.

CHAIRMAN'S FOREWORD

I am pleased to present the fourth report of the Joint Standing Committee on the Commissioner for Children and Young People and the Committee's second Annual Report in the 38th Parliament. The 2009-10 financial year saw further growth and development in the activities of the Commissioner as the role became more established, and saw a corresponding expansion in the activities of the Committee. The Committee's Review of the 2008-09 Annual Report of the Commissioner was broader in scope than the review of the previous year as it not only followed up matters carried over from the year before but also focused on a particular aspect of the Commissioner's functions, specifically activities undertaken to fulfil the legislative requirement to give priority to the wellbeing of Aboriginal children and young people. The Committee was satisfied that in 2008-09 the Commissioner exercised the functions required by the *Commissioner for Children and Young People Act 2006*.

The Committee will continue to review the activities of the Commissioner in the coming year. In doing so, the Committee has agreed to not only examine how the Commissioner exercises the functions required by the Act but also work towards a better understanding of the functions themselves in the broader context of what the role is intended to accomplish. The Committee's activities in 2009-10 and proposed work for 2010-11 are detailed in the sections that follow.

I would like to acknowledge the ongoing cooperation of the Commissioner for Children and Young People, Ms Michelle Scott, and her staff. I thank the other Members of the Committee for their sustained contribution: Mr Martin Whitely, MLA (Member for Bassendean); Hon Helen Bullock, MLC (Member for Mining and Pastoral) and Hon Nick Goiran, MLC (Member for South Metropolitan). Finally, I would also like to acknowledge the ongoing assistance provided by the Committee's Principal Research Officer, Ms Dawn Dickinson.



MS A.R. MITCHELL, MLA
CHAIRMAN

CHAPTER 1 COMMITTEE ACTIVITIES

1.1 Introduction

The Joint Standing Committee on the Commissioner for Children and Young People ('the Committee') was re-formed in the 38th Parliament in November 2008. The Committee is tasked with examining the exercise of the functions of the Western Australian Commissioner for Children and Young People ('the Commissioner') as defined by the *Commissioner for Children and Young People Act 2006* ('the Act'). Western Australia's inaugural Commissioner, Ms Michelle Scott was appointed to the role in December 2007 and is an independent advocate for children and young people in Western Australia aged 0 to 18 years. The Committee's oversight role is significant in preserving the Commissioner's independence given that the Commissioner does not report to a Minister.

This report details the activities of the Committee in the period 1 July 2009 to 30 June 2010 during which time the Committee adopted a similar approach to the previous financial year in the conduct of its oversight functions including regular hearings with the Commissioner and an examination of the Commissioner's Annual Report.

During the course of this reporting period (Table 1.1), the Committee:

- Held 16 deliberative meetings;
- Has taken evidence from/or was briefed by 22 persons; and
- Undertook investigative travel to the Kimberley, specifically Broome, Fitzroy Crossing, and the Dampier Peninsula communities of Ardyaloon, Lombadina and Djarindjin.

Table 1.1

Summary of activities of the Joint Standing Committee on the Commissioner for Children and Young People, 1 July 2009 - 30 June 2010

Description	Activity
Briefings	11
Deliberative meetings	16
Formal evidence hearings	3
Witnesses appearing	3
Reports tabled	2
Report findings tabled	3
Report recommendations tabled	1

1.2 Public Hearings

Pursuant to Assembly Standing Order 264, the Committee has power to send for persons, papers and records. During the period 1 July 2009 - 30 June 2010, the Committee conducted 3 public hearings, taking evidence from 3 different witnesses to assist with its investigations (Table 1.2).

Table 1.2

Public Hearings of the Joint Standing Committee on the Commissioner for Children and Young People, 1 July 2009 - 30 June 2010

Date	Witness	Position	Organisation
14 October 2009	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
	Ms Robin Ho	Manager Policy, Legal and Research	Commissioner for Children and Young People WA
10 March 2010	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
	Ms Robin Ho	Manager Policy, Legal and Research	Commissioner for Children and Young People WA
23 June 2010	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
	Ms Caron Irwin	Executive Director	Commissioner for Children and Young People WA

1.3 Briefings

In addition to gathering evidence during the formal hearings, the Committee received a number of informal briefings. The briefings were used to gain information to assist with the Committee's examinations as well as other matters (Table 1.3).

Table 1.3**Briefings provided to the Joint Standing Committee on the Commissioner for Children and Young People, 1 July 2009 - 30 June 2010**

Date	Name	Position	Organisation
19 August 2009	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
	Ms Robin Ho	Manager Legal, Policy and Research	Commissioner for Children and Young People WA
5 October 2009	Mr Neil Marshall	A/Regional Manager West Kimberley	Department of Indigenous Affairs
	Ms Layla Yu	Contact Programs and Festival Coordinator	Garnduwa Youth Sport and Recreation
	Ms Lorraine Lee	Dampier Peninsula Project Officer	Kimberley Mental Health Drug Service Team
	Mr Dean Holder	Kimberley Regional Manager	Department of Sport and Recreation
	Mr Paul Searle	Coordinator	Burdekin Youth in Action
	Mr Andrew Carter	Chairman	Ardyaloon Incorporated
6 October 2009	Ms Caroline Sibosado	Chief Executive Officer	Lombadina Aboriginal Corporation
	Mr Robert Sibosado	Member	Lombadina Aboriginal Corporation
	Mr Andy McGaw	Chief Executive Officer	Djarindjin Aboriginal Corporation
	Ms Audrey Shadforth	Member	Djarindjin Aboriginal Corporation
	Ms Valerie Hunter	Member	Djarindjin Aboriginal Corporation
	Ms Jill Cottle	Coordinator	Djarindjin Childcare Centre
7 October 2009	Ms Meredith Kefford	Volunteer	Indigenous Community Volunteers
	Mr Geoff Davis	Coordinator	Garnduwa Amboorny Wirnan Kimberley Sport and Recreation

Date	Name	Position	Organisation
	Ms Marmingee Hand		Garnduwa Amboorny Wirnan Kimberley Sport and Recreation
8 October 2009	Ms June Oscar	Chief Executive Officer	Marninwarntikura Women's Resource Centre
	Ms Emily Carter	Chairperson	Marninwarntikura Women's Resource Centre
16 October 2009	Sir Al Aynsley -Green	Children's Commissioner for England	Children's Commissioner for England
	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
11 November 2009	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA
	Ms Caron Irwin	Executive Director Corporate Development	Commissioner for Children and Young People WA
13 November 2009	Professor Dorothy Scott OAM	Director	Australian Centre for Child Protection
	Ms Michelle Scott	Commissioner for Children and Young People	Commissioner for Children and Young People WA

1.4 Investigative Travel

The Committee undertook investigative travel to the Kimberley during the period under review. Between 5 and 8 October 2009 the Committee visited Broome, Fitzroy Crossing and the Dampier Peninsula communities of Ardyaloon, Lombadina and Djarindjin. While in the Kimberley the Committee met with staff from state government departments and community leaders with a view to gaining an insight into the issues confronting children and young people in regional and remote Aboriginal communities. The Committee's briefings were used to inform its review of the Commissioner's activities in relation to Aboriginal children and young people.

Table 1.3 (above) lists the individuals the Committee met with during its visit to the Kimberley.

1.5 Reports Tabled

The Committee tabled two reports during the period under review, specifically the Committee's Annual Report 2008-2009 (tabled 10 September 2009), and the report, 'Review of the 2008-2009 Annual Report of the Commissioner for Children and Young People'. The latter was tabled in the Legislative Assembly and the Legislative Council on 22 April 2010.

In accordance with its terms of reference, the Committee examined the 2008-09 Annual Report of the Commissioner. This included following up a number of issues carried over from its previous review including the Commissioner's development of complaints guidelines, participation guidelines, and a legislative assessment tool, as well as progress in public policy areas. The examination also focused on a number of new issues. The Committee examined in particular the Commissioner's activities relating to Section 20(1)(a) of the Act, which requires the Commissioner to give priority to the interests and needs of Aboriginal children and young people. To assist in this regard, the Committee travelled to the Kimberley for a better insight into the major issues confronting children and young people in regional and remote Aboriginal communities.

The report made 3 findings and 1 recommendation. Findings pertained to the appropriate exercise of the Commissioner's functions in terms of investigating and advocating in relation to alcohol restrictions, services in regional and remote areas and access to activities by children and young people. Overall, the report found that in 2008-09, the Commissioner had exercised the functions required by the Act. The Committee found however that there was ongoing uncertainty regarding responsibility for Working with Children Checks given that Clause 3 of Schedule 1 of the Act (which transfers responsibility for administering Working with Children Checks to the Commissioner) remains in the legislation but has not been proclaimed.

The Committee recommended that the Attorney General should pursue amendments to the *Commissioner for Children and Young People Act 2006* as a matter of priority if the statutory review of the *Working with Children (Criminal Record Checking) Act 2004* recommends the Department for Child Protection retains responsibility for the checks. Although outside the period under review, the Attorney General tabled a response to the Committee's recommendation in August 2010 advising that the statutory review is forthcoming. The Committee will maintain a watching brief on this issue in the coming year.

1.6 Work in Progress

(a) Monitor, review and report to Parliament on the exercise of the functions of the Commissioner for Children and Young People

In the period under review, the Committee has continued to monitor, review and report to Parliament on the exercise of the functions of the Commissioner via regular hearings with the Commissioner and through its review of the Commissioner's Annual Report. Rather than limiting its monitoring role to what the Commissioner is doing to exercise the functions required by the

Act, the Committee agreed in late 2009 to adopt a more in-depth approach and seek a better insight into the functions themselves in order to gauge the Commissioner's approach to the role. To assist in this regard, the Committee will review the activities of similar Commissioners in other jurisdictions.

In doing so, this work will also build upon information gathered during the Committee's visit to New South Wales (NSW) in the previous review period (2008-09). On that occasion, the Committee received briefings from the NSW Children's Commissioner and Parliamentary Committee responsible for overseeing the exercise of functions of the NSW Commissioner. NSW was chosen due to the state having the most similar model to what exists in Western Australia.

The Committee has agreed to make a study of the Commissioner's functions a priority in 2010 and on 26 May 2010, resolved to undertake investigative travel to Melbourne and Wellington (New Zealand) to meet with the Children's Commissioners in both jurisdictions as well as relevant government and non-government agencies. The outcomes of this travel and the Committee's review will be reported to Parliament in 2011.

(b) Examine Annual and other Reports of the Commissioner

In 2010-11 the Committee will again review the Commissioner's Annual Report. The review will be conducted along similar lines to reviews to date, specifically a public hearing with the Commissioner, an examination of issues flagged for follow up in the Committee's review of the Commissioner's last Annual Report, and an examination of any new matters. The Committee will report to Parliament on its review of the Commissioner's 2009-10 Annual Report in early 2011.

In a public hearing with the Committee on 23 June 2010, the Commissioner indicated that she would be conducting an inquiry into the mental health and wellbeing of children and young people in Western Australia. The inquiry, to be initiated under Section 19(f) of the Act, will examine the 'full range of primary, secondary and tertiary interventions that may be required to strengthen the mental health and wellbeing of children and young people'¹. The Commissioner publicly announced the Inquiry on 30 July 2010 and intends to table the inquiry's report in Parliament in the first half of 2011. As the Committee is required to examine reports of the Commissioner, it is anticipated that the Committee will conduct its review in the second half of 2011 with a view to reporting the outcomes of its examination in late 2011 or early 2012.

(c) Consult regularly with the Commissioner

In the period under review, the Committee has continued to consult regularly with the Commissioner and has conducted quarterly progress hearings with the Commissioner as part of its examination of the Commissioner's Annual Report and review of the exercise of the Commissioner's functions. A number of briefings have also been conducted with the Commissioner including a briefing to explore the Commissioner's budget for the following financial year. In 2010-11 the Committee will continue with its program of quarterly hearings

¹ Ms Michelle Scott, Commissioner for Children and Young People, *Transcript of Evidence*, 23 June 2010, pp3-4.

with the Commissioner and undertake a similar briefing to discuss the Commissioner's proposed budget for 2011-12 with a view to making a recommendation to the Treasurer as per Section 57 of the Act.

1.7 Information Seminar for Members

While the Committee was not able to schedule an Information Seminar for Members during the review period, the success of the initial seminar (conducted on 14 May 2009) coupled with the development of the Commissioner's role since then makes it timely for another seminar to be conducted. The Committee will explore options for a seminar in 2011 to provide information to Members of Parliament on the role and functions of the Commissioner for Children and Young People.

1.8 Briefings with relevant persons

In the period under review, the Committee received briefings from persons who have distinguished themselves in the areas of policy and/or research relating to children and young people. At the recommendation of the Commissioner, the Committee was briefed by Sir Al Aynsley-Green (then Children's Commissioner for England), and Professor Dorothy Scott OAM (Director, Australian Centre for Child Protection). In 2010-11 the Committee intends to continue with briefings to assist with its understanding of significant and topical issues affecting the wellbeing of children and young people.

1.9 Adding value to the work of the Commissioner

On 23 June 2010, the Committee hosted a visit to Parliament House by a group of students and staff from Roseworth Primary School. The students had participated in the Children's Jury at the Perth International Arts Festival and the visit was an opportunity for the Commissioner and Committee to acknowledge the contribution of students and staff. The visit to Parliament House included a tour conducted by the Parliamentary Education Office and short reception for students and teachers in the courtyard of Parliament House. The Committee will continue to explore appropriate means of adding value to the Commissioner's work in 2010-11.

CHAPTER 2 FINANCIAL STATEMENT

The Joint Standing Committee on the Commissioner for Children and Young People does not have a nominal administrative budget funded out of the budget of the Legislative Assembly unlike other Standing Committees of the Legislative Assembly. Approval for major expenditure occurs on a case-by-case basis and is subject to the approval of the Speaker.

The Committee's expenditure for the financial year 1 July 2009 - 30 June 2010 (in accordance with Standing Order 276) is detailed below:

Table 2.1

Expenditure Items of the Joint Standing Committee on the Commissioner for Children and Young People, 1 July 2009 - 30 June 2010

Expenditure Item	\$
Travel	10 000
Protocol	400
Miscellaneous	100
TOTAL	10 500

Notes:

- Figures rounded off to nearest \$100.
- Salaries of committee staff are not included.
- Costs of shared administrative expenses, including lease costs for committee accommodation, not included.



MS A.R. MITCHELL, MLA
CHAIRMAN