



**Joint Standing Committee on the
Commissioner for Children and Young People**

2013-2014 Annual Report

**Report No. 4
October 2014**

Parliament of Western Australia

Committee Members

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Deputy Chair	Hon Robyn M. McSweeney, MLC Member for South West Region
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Joint Standing Committee on the Commissioner for Children and Young People.

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People**

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Presented by

**Ms L. L. Baker, MLA (Chair) and Hon Robyn McSweeney, MLC
(Deputy Chair)**

Laid on the Table of the Legislative Assembly and the Legislative Council on
16 October 2014

Chair's Foreword

As Chair of the Joint Standing Committee of the Commissioner for Children and Young People of the thirty-ninth parliament, I am pleased to present the Committee's 2013-2014 annual report.

Over this period, the Committee has held a number of hearings and briefings. Of particular note have been the final hearings with the inaugural Commissioner for Children and Young People, Ms Michelle Scott, before her resignation from the position in December 2013. I would like to take this opportunity to thank Ms Scott for the tremendous job she did as Commissioner. Her pioneering efforts developed the role of the Commissioner from scratch, and allowed children and young people in this state to be heard and considered in decisions that affect their lives. Ms Scott did some informative work around issues such as the early years, reducing alcohol-related harm, mental health, juvenile justice and the safety of children. Her Report of the *Inquiry into the Mental Health and Wellbeing of Children and Young People* was a fantastic example of how the Children's Commissioner can raise awareness about the issues and concerns of some of the State's most vulnerable children and young people to the highest levels of Government. The *Wellbeing Monitoring Framework* provided government and non-government agencies alike with a remarkable resource about what is working and what is not with respect to the wellbeing of children and young people in the state. The updated volumes of this framework will continue to be a legacy to her ground-breaking work.

I would also like to welcome Ms Jenni Perkins to the role of acting Commissioner. The Committee met with Ms Perkins in March of this reporting period and was pleased that Ms Perkins intended to carry on many of the projects instigated by the former Commissioner, and that the office of the Children's Commissioner would, while advocating for all children and young people in the state, continue to make Aboriginal children and Aboriginal young people a priority.

With respect to the operations of the Children's Commissioner, I would like to raise my serious concern over the delay in the release of the statutory review of the *Commissioner for Children and Young People Act 2006*. This review had been completed by the Public Sector Commission and provided to the Attorney General in January 2013. The report of the review was not tabled until 20 August 2014. The Attorney General is still to provide his Government Response to the Review. The substantial delay in the release of this report leant significant uncertainty to the role of the Commissioner. In particular, the proposed role of the Commissioner to

perform a complaints support function with regard to allegations of child neglect or abuse, remain unclear and deferred.

Two years have already passed since the St Andrew's Hostel Inquiry (Blaxell Inquiry) called for the creation of a 'one-stop-shop' in managing reports of child abuse. The recommendation stated '*That the State Government develop a function and role within or across central and independent agencies to fulfil a robust child focussed central complaints system that is a "one stop shop" for any complaint concerning child abuse regardless of the public sector that the matter relates to.*'¹

The Government, showing clear support for the Blaxell Inquiry's recommendations, promptly determined this role should be undertaken by the Children's Commissioner.² This proposal was then included as a term of reference for the statutory review of the Commissioner's Act. This is in part why the Committee has been following the review's progress so keenly.

Upon tabling the report of the statutory review, it was announced that the implementation of the Commissioner's complaints support function as recommended by Blaxell will be delayed a further two years. It will therefore be more than four years before the recommendations from this incredibly sensitive and challenging Inquiry can be realised. This is a concern.

The reason given for the delay is so the final recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse* can be considered. It is reasonable and expected to take into account the recommendations of work as important as the Royal Commission. This delay however will have a significant impact on the reporting outcomes of children and young people who have suffered abuse and neglect.

The Commissioner's most recent report *The State of Western Australia's Children and Young People* notes that during the 2011-12 period, 13,745 notifications of abuse or neglect of a child or young person were received by the relevant authorities in WA. This data is only based on those departments responsible for child protection, so notifications made to other organisations, such as police or non-government organisations, are not necessarily included.³ Therefore, the

¹ The Hon Peter Blaxell, *St Andrew's Hostel Katanning: How the system and society failed our children – A Special Inquiry into the response of government agencies and officials to allegations of sexual abuse*, Public Sector Commission, Western Australia, September 2012, p. 341.

² Hon Colin Barnett, MLA, Premier, Western Australia, Legislative Assembly, *Parliamentary Debates* (Hansard), 19 September 2012, p3 of pp6137b-6142a.

³ Reports to these organisations are only included in the data if they are also referred to the responsible departments. Jenni Perkins, A/Commissioner for Children and Young People WA, *The*

statistics, while upsetting, most likely underestimate the prevalence of child abuse and neglect in the State.⁴

The Commissioner's proposed child abuse complaints support role is thus critical to the safety and wellbeing of the children in Western Australia. Not only will the role have the potential to more accurately report on the number of child abuse notifications in the state, it could crucially develop ways to break down reporting barriers in the first place.

For this to occur, the role needs time to develop. It is therefore essential that the legislated change that will allow this to happen occur as soon as possible. I am strongly of the view that the proposed changes to the Act could happen and still allow for the recommendations of the Royal Commission to be considered when they become available. To this end, the Committee has agreed to make a formal response to the *Review of the Commissioner for Children and Young People Act 2006*.

The Committee is satisfied to note the announcement that the recruitment for a permanent Commissioner will start soon. The Committee will follow this process closely as it remains concerned about the delay in appointing a permanent Commissioner.

I would like to formally thank my fellow members for their dedication to the work of the Committee. I would also like to express the Committee's appreciation of the work performed by the Committee's Principal Research Officers over this time, Dr Loraine Abernethie and Ms Lucy Roberts.



MS L. L. Baker, MLA
Chair

State of Western Australia's Children and Young People - Edition Two, Perth, Western Australia, July 2014, p141.

⁴ ibid.

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Chapter 1

Committee Activities

Introduction

The Joint Standing Committee on the Commissioner for Children and Young People (the Committee) was established for the 39th Parliament on 22 May 2013. 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). The Commissioner is an independent advocate for children and young people under 18 years of age in Western Australia.

Ms Michelle Scott was Western Australia's inaugural Commissioner. She was appointed to the role in December 2007 until December 2012, and acted in the position until December 2013, when she resigned from the role. Ms Jenni Perkins was appointed in an acting capacity in December 2013, and remained in the role until the end of the reporting period for this report (ie 30 June 2014).

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 39th Parliament, from 1 July 2013 to 30 June 2014.

During the reporting period, the Committee:

- Held seven deliberative meetings;
- Held six public hearings; and
- Held private briefings on four occasions.

Table 1.1: Summary of Committee activities, 1 July 2013 – 30 June 2014

Description	Activity
Briefings	4
Deliberative meetings	7
Public hearings	6
Reports tabled	3
Report findings tabled	7
Report recommendations tabled	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 2013 to 30 June 2014, the Committee conducted six public hearings, taking evidence from 6 witnesses to assist with its investigations.

The Committee held public hearings with Ms Michelle Scott, Acting Commissioner, and then Ms Jenni Perkins, Acting Commissioner, on three occasions during the reporting period.

Table 1.2: Public Hearings of the Joint Standing Committee on the Commissioner for Children and Young People, 1 July 2013 – 30 June 2014

Date	Witness	Position	Organisation
7 August 2013	Ms Michelle Scott	Acting Commissioner	Commissioner for Children and Young People
	Ms Caron Irwin	Executive Director	Commissioner for Children and Young People
4 December 2013	Ms Michelle Scott	Acting Commissioner	Commissioner for Children and Young People
	Ms Caron Irwin	Executive Director	Commissioner for Children and Young People
26 February 2014	Mr Terry Murphy	Director General	Department for Child Protection and Family Support
19 March 2014	Ms Jenni Perkins	Acting Commissioner	Commissioner for Children and Young People
	Ms Caron Irwin	Executive Director	Commissioner for Children and Young People
7 May 2014	Professor Donna Cross	Children's Ambassador	Commissioner for Children and Young People
14 May 2014	Dr James Fitzpatrick	Senior Clinical Research Fellow	Telethon Kids Institute

Reports Tabled

The Committee tabled three reports during the period 1 July 2013 to 30 June 2014.

Report No. 1 – *Joint Standing Committee on the Commissioner for Children and Young People 2012-2013 Annual Report* was tabled in the Legislative Assembly and the Legislative Council on 21 November 2013.

Report No. 2 – *Review of Selected Reports by the Commissioner for Children and Young People: Changing Priorities in the post-Blaxell environment* was tabled in the Legislative Assembly and the Legislative Council on 10 April 2014.

Report No. 3 – *Sexualisation of Children: The Commissioner for Children and Young People's 2013 report on the Sexualisation of Children* was tabled in the Legislative Assembly and the Legislative Council on 26 June 2014.

Other Committee Activities

As previously stated, the Committee is tasked with examining the exercise of the functions of the Commissioner for Children and Young People. This reasonably includes the examination of any future or proposed changes to the functions of the Commissioner. As such, during this reporting period, the Committee maintained its interest in the statutory review of the *Commissioner for Children and Young People Act 2006* (the Act)⁵ and sought to contribute to the review process.

The Public Sector Commissioner, on behalf of the Attorney General, announced the statutory review of the Act in January 2013. This review was completed on 31 May 2013 and forwarded to the Attorney General.⁶ While these dates fall outside of this reporting period, it is relevant as the Attorney General did not table the results of this review through the subsequent reporting period—consequently the Committee followed closely the progress of the review over this period. It sought the advice of the Attorney General as to the outcome of the review; and the Committee recommended in its Report No 2 that the Attorney General table the report of the review into the Act prior to the 2014 winter recess.

The Committee remained seriously concerned about the lack of a permanent Commissioner and the uncertainty this introduced to the work and role of the Commissioner. The Committee expressed its belief that there was an urgent need for

⁵ Section 64 of the *Commissioner for Children and Young People Act 2006* required the Minister to review the operation and effectiveness of the Act as soon as practicable after five years of operation.

⁶ Public Sector Commission, *Review of the Commissioner for Children and Young People Act 2006*. Available at: <http://www.publicsector.wa.gov.au/public-administration/sector-performance-and-oversight/reviews-investigations-and-special-inquiries/reviews/review-commissioner-children-and-young-people-act-2006>. Accessed on 11 September 2014.

the position to be filled to the Attorney General and consulted him on the recruitment process to be put in place. The Committee reported to Parliament its concern that the position of the Commissioner be filled on a substantive basis as soon as possible.⁷

Work in Progress

The *Review of the Commissioner for Children and Young People's Act 2006*⁸ (the Review) was tabled by the Attorney General on 20 August 2014. It was announced that the recommendations of the Review will not be fully implemented for another two years, to allow for the final recommendations of *The Royal Commission into Institutional Responses to Child Sexual Abuse* to be taken into account.⁹ Specifically, it is the crucial implementation of the Commissioner having a child abuse complaints support function that is to be delayed. The delay in implementing the Review's recommendations may also mean that the subsequent changes to the Act are also delayed.¹⁰

The Committee recognises there is merit in examining the outcomes of the Royal Commission. It also recognises that any proposed changes to the Commissioner's Act and function need to be carefully considered to ensure that there is no duplication of other relevant agencies in receiving and referring allegations of abuse and neglect. Time also needs to be taken to ensure that the introduction of such a function for the Commissioner will increase the ability of children, young people and adults acting in good faith, to make allegations of abuse and neglect. Nonetheless—given two years have passed since the need for a child abuse complaints support role in WA was recognised in the St Andrew's Hostel Inquiry (Blaxell Inquiry)¹¹—and that considerable time will be needed to develop the role after the required legislated functions are in place—the Committee is concerned about the potential harm a minimum two year delay may cause to the meaningful reporting of children suffering physical, sexual, emotional, or psychological abuse and neglect.¹²

⁷ Joint Standing Committee on the Commissioner for Children and Young People 2014, *Review of Selected Reports by the Commissioner for Children and Young People, Report No. 2*, Legislative Assembly, Parliament of Western Australia, April 2014, p4.

⁸ Public Sector Commission, *Review of the Commissioner for Children and Young People Act 2006*, Western Australia, May 2013.

⁹ Hon Michael Mischin, MLC, Attorney General, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 20 August 2014, p1 of pp5532c-5533a.

¹⁰ Recommendations 10, 12, 13, 14, 15 and 16 of the *Review of the Commissioner for Children and Young People Act 2006*, pertain to establishing the Commissioner's proposed child abuse complaints support role; and could require significant changes to the Act.

¹¹ The Hon Peter Blaxell, *St Andrew's Hostel Katanning: How the System and Society Failed Our Children – A Special Inquiry into the response of government agencies and officials to allegations of sexual abuse*, Government of Western Australia, September 2012, p341.

¹² If the intent of Blaxell's recommendation 2 will not be implemented in this state until the conclusion of the Royal Commission and adequate time to review the Royal Commission's findings has occurred, it will be considerably longer than two years before the Commissioner is even initially

It is the Committee's premise that any changes to the Act should not prevent the Commissioner from being able to critically develop the role over time. It therefore suggests that consideration be given to implementing all of the recommended changes to the Act as soon as is practicable—and in such a way as to allow for a future examination—and application of—relevant royal commission recommendations when they are made public.

In support of this proposal, the Committee will investigate this matter further. In the first instance, it has invited the Attorney General to meet with the Committee to discuss the outcomes of the Review. The Committee would like to learn what changes to the Act will be implemented and when; and what operational impact these changes may have on the functions of the Commissioner. The Committee then intends to more broadly examine, review and report to Parliament on the best way in which the Commissioner's proposed child abuse complaints support function could operate.

Dovetailing this concern is that of the recruitment of a permanent Commissioner. This is a matter that is still outstanding. The lack of a permanent Commissioner, in conjunction with the outstanding review of the Act, has leant uncertainty to the operations of the Children's Commissioner. As much of the Act is concerned with defining the role of the Commissioner, the 'office holder' inevitably influences the interpretation, and therefore the operations, of the Act. The Committee's view therefore is that a permanent Commissioner is essential to the effective operations of the Act. To this end, the Committee was encouraged to note that the Attorney General recently stated that the recruitment process will begin shortly.¹³ The Committee will be following this process closely and continue to advocate for the appointment of a permanent Commissioner at the earliest opportunity.

operational in this proposed role. The Committee is additionally concerned that, based on the assumption that the Commissioner's proposed role will be helpful to those wishing to make reports of alleged child abuse , any delay may have a negative impact on such reporting.

¹³ Hon Michael Mischin, MLC, Attorney General, Western Australia, Legislative Council, *Parliamentary Debates* (Hansard), 20 August 2014, p1 of pp5532c-5533a.

Chapter 2

Financial Statement

Committee Expenditure

The Committee does not have its own formal budget and is funded out of the budget of the Legislative Assembly. Approval for major expenditures is required on a case-by-case basis and is entirely at the discretion of the Speaker.

Table 2.1: Committee Expenditure 2013 - 2014

Expenditure Item	\$
Staff and member amenities	324
Printing	470
Couriers	15
Travel	392
Total	\$ 1201



Ms L. L. BAKER, MLA
CHAIR

Appendix One

Joint Standing Committee on the Commissioner for Children and Young People - functions and powers

On 22 May 2013, the Joint Standing Committee of the Commissioner for Children and Young People (the Committee) of the 39th Parliament was established pursuant to Section 51 of the *Commissioner for Children and Young People Act 2006* (the Act). 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.

A report of the Joint Standing Committee will be presented to the Legislative Assembly and the Legislative Council by members of the Joint Standing Committee nominated by it for that purpose.

The Standing Orders of the Legislative Assembly relating to Standing and Select Committees will be followed as far as they can be applied.