



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

2014-2015 Annual Report

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**Joint Standing Committee on the
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People**

2014–2015 Annual Report

Report No. 5

Presented by

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

Laid on the Table of the Legislative Assembly and the Legislative Council on
22 October 2015

Chair's Foreword

The Joint Standing Committee on the Commissioner for Children and Young People (the Committee) is a Parliamentary oversight committee charged with monitoring, reviewing and reporting on the exercise of the functions of the independent statutory authority, the Commissioner for Children and Young People.

The point that this Committee is an oversight committee is an important one as it speaks to the accountability of this Committee to the Parliament and, ultimately, of the Parliament to the people of this state. It is this model of accountability that underpins the Committee's work, as detailed in this Annual Report for 2014-2015, which I am pleased to present to Parliament.

Over the period, the Committee has taken evidence or been briefed by 52 people, all of whom provided the Committee with information on contemporary issues faced by Western Australian children and youth. These briefings and formal hearings, held here and overseas, substantially contributed to the Committee's ability to monitor the activities of the office of the Commissioner; and, very importantly, helped inform the Committee about its review into the exercise of the functions of the Commissioner.

This review, which has particular regard to the recommendations contained within the statutory review of the Commissioner's Act, is of primary importance to the Committee, and sits at the forefront of the Committee's accountability role to this Parliament. To illustrate this, the recommendation that the Children's Commissioner be provided with the necessary powers to perform a child abuse complaints support role provides only limited detail as to how this complaints function should operate. The question then of what this role should entail is of clear interest to the Committee—and it has a responsibility to examine how the Commissioner will be able to make meaningful contribution in performing the proposed role.

The Committee also has a responsibility of ensuring that the core principles of the Commissioner's Act are upheld. These core principles include protecting children from harm and exploitation, and supporting parents, families and communities in carrying out their primary role in safeguarding and promoting the wellbeing of children.

These core principles are relevant to the Committee's current review. Any future response to the proposed role of the Children's Commissioner must include the Commissioner being able to effectively carry out these principles for all children and young people, and their families, in Western Australia.

From evidence it has received to date, the Committee is of the view that there is an important role for the Commissioner to play in accordance with these core principles that will ultimately assist and support vulnerable children and families impacted by

child abuse and neglect. The role however must be part of an integrated response, as the complexities and sensitivities surrounding child abuse do not sit in a one dimensional landscape. The issue impacts on all of the government and the community at its broadest levels.

The Committee has discovered that, in recent years, there is an increasing awareness of the impacts of complex trauma on children and families who have been exposed to traumatic life events such as abuse and neglect, and, that some agencies are working towards becoming more 'trauma-informed'. The research suggests that a focus on the recovery of traumatised children, together with the prevention of abuse, changes children's lives for the better.

The importance of this process cannot be understated. The Committee is aware that this recovery pathway is one that professionals of child and family organisations in this state are starting to head down. Nonetheless, more needs to be done.

There is a gap between what is demonstrated via research to be beneficial to children when trauma-informed practice is implemented, and the translation of this to the practical implementation of treatment programs and the organisation of service delivery. Western Australia is not alone in this. A recent report by Victorian Children's Commissioner found that the residential care system in that State needs to become more trauma-informed so that the system is conducive to recovery and operates in the best interests of the child.

Ensuring that the best interests of the child is of paramount importance to the work of the Commissioner. A continued focus of the Committee's review will be assessing how the Commissioner might be able to assist agencies and community groups in the effective application of recovery-orientated practice. The Committee expects to report its findings to Parliament about this important matter in the year ahead.

In other work, the Committee is continuing to advocate for the appointment of a permanent Commissioner. The recruitment process officially commenced with the Government advertising for expressions of interest to fill the position nationally on the 7 February 2015. On review of the wording of the advertisement the Committee was concerned that the independence of the Commissioner may be eroded through the recruitment process. As the independence of the Commissioner is a vital feature of the establishing legislation, the Committee queried the Attorney General about this. In his response, the Attorney General informed the Committee that the Commissioner's independence will be maintained. Nevertheless, with no permanent appointment in place, the Committee is not able to form an opinion about this. Furthermore, the Committee is hampered in its ability to review the future or long-term strategic goals of the Commissioner, because without a permanent Commissioner, no such strategic direction can be developed. Therefore, the Committee has once again written to the

Attorney General requesting immediate attention to the matter of recruiting 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 Officer and Research Officer over this time, Ms Renee Gould and Ms Vanessa Beckingham respectively.

MS L.L. BAKER, MLA
CHAIR

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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 Jenni Perkins was appointed in an acting capacity to the role of the Commissioner for Children and Young People in December 2013, and has remained in the role until the end of the reporting period for this report (ie 30 June 2015).

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 2014 to 30 June 2015. During the course of the reporting period (Table 1.1) the Committee:

- Held 15 deliberative meetings
- Initiated one inquiry
- Has taken evidence or been briefed by 52 persons
- Undertook investigative travel to Dublin, Scotland and London
- Attended 1 conference.

Table 1.1: Summary of Committee activities, 1 July 2014 – 30 June 2015

Description	Activity
Deliberative meetings	15
Formal Evidence hearings	19
Briefings	13
Witnesses appearing	30
Reports tabled	1
Report Findings/recommendations	Nil

Chapter 1 Committee Activities

Public Hearings

Pursuant to Assembly Standing Order 264, the Committee has power to send for persons, papers and records. During the period 1 July 2014 to 30 June 2015, the Committee conducted 19 public hearings, taking evidence from 30 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 2013 – 30 June 2015

Date	Name	Position	Organisation
20 August 2014	Judge Denis Reynolds	President	Children's Court of Western Australia
10 September 2014	Ms Jenni Perkins	Acting Commissioner	Commissioner for Children and Young People
	Ms Caron Irwin	Executive Director	
17 September 2014	Stephen Lund	Executive Manager	Wanslea Family Services Inc.
22 October 2014	Mr Gerry Walsh	CEO	Sids and Kids WA
19 November 2014	Hon. Michael Mischin	Attorney General; Minister for Commerce	Government of Western Australia
26 November 2014	Ms Jenni Perkins	Acting Commissioner	Commissioner for Children and Young People
	Ms Caron Irwin	Executive Director	
25 February 2015	Mr Duane Bell	Assistant Commissioner, Judicial Services	Western Australia Police
	Mr Paul Boulton	Inspector, Sex Crime Division	
	Mr Gary Dreierberg	Specialist Services	
25 March 2015	Ms Jenni Perkins	Acting Commissioner	Commissioner for Children and Young People
	Ms Patricia Heath	Acting Manager, Policy and Research	
13 May 2015	Hon Peter Blaxell	Retired Judge	
15 June 2015	Ms Sabina Leitmann	President	Australian Association of Social Workers, Western Australian Branch
15 June 2015	Hon. Barbara Scott	Retired Member of Parliament	
	Mr Chris Burger	Research Assistant to Hon. Barbara Scott	

15 June 2015	Ms Katherine Browne	State Coordinator WA	Create Foundation
15 June 2015	Mr Basil Hanna	Chief Executive Officer	Parkerville Children and Youth Care (Inc)
	Ms Natalie Hall	Director – Research, Quality and Development	
15 June 2015	Dr Melissa O'Donnell	NHMRC Research Fellow, University of Western Australia	Telethon Kids Institute
15 June 2015	Ms Victoria Williams	Senior Policy Officer	Aboriginal Legal Service
19 June 2015	Mr Richard Strickland	Director General	Department of Education Services
	Ms Joanne Taggart	Assistant Director, Education & Regulations	
19 June 2015	Ms Sharyn O'Neill	Director General	Department of Education
	Mr Lindsay Hale	Executive Director, Statewide Services	
	Mr Eamon Ryan	Executive Director, Professional Standards and Conduct	
19 June 2015	Ms Emma White	Director General	Department for Child Protection and Family Support
19 June 2015	Mr Chris Field	Ombudsman	Ombudsman WA
	Ms Mary White	Deputy Ombudsman	

Briefings

In addition to gathering evidence during formal hearings, the Committee received a number of informal briefings to gain information in relation to the Committee's inquiry as well as other oversight matters (Table 1.3).

Table 1.3: Briefings provided to the Committee, 1 July 2014–30 June 2015

Date	Name	Position	Organisation
8 April 2015	Dr. Niall Muldoon	Ombudsman	The Irish Ombudsman for Children
	Mr. Mánu deBarra	Policy and Human Rights Officer	

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8 April 2015	Ms Elizabeth Canavan	Assistant Secretary	Department of Children & Youth Affairs, Ireland
	Ms Michele Clerke	Social Work and Child Care Specialist	
	Mr Paul Harrison	Director of Policy and Strategy	Child and Family Agency, Ireland
	Dr James Reilly TD	Minister for Children and Youth Affairs	
9 April 2015	Ms Jackie Brock	CEO	Children In Scotland
9 April 2015	Mr Tam Baille	Commissioner; Chair	Scottish Commissioner for Children and Young People; European Network of Ombudsman for Children
10 April 2015	Mr Boyd McAdam	National Convener and Chief Executive	Children's Hearings Scotland
	Mr Nick Adams	Practice and Policy Manager	Scottish Children's Reporter Administration
10 April 2015	Ms Beth Smith	Director	WithScotland
	Ms Jane Scott	Development Manager	
14 April 2015	Professor Eileen Monro CBE	Professor of Social Policy	The London School of Economics and Political Science
14 April 2015	Dr John Dunford OBE	Independent Reviewer of the Office of the Children's Commissioner for England	Reporting to the Secretary of State for Education, UK.
14 April 2015	Mr Martin Howarth	Assistant Director – Children in Care; Children's Services and Departmental Strategy Directorate	Department for Education, UK.
14 April 2015	Ms Anne Longfield, OBE	Commissioner	Office of the Children's Commissioner for England
	Ms Anna Hendry	Director of Policy	
	Mr Gareth Edwards	Senior Data Analyst	

15 April 2015	Mr Murray Hunt	Legal Adviser	Joint Committee on Human Rights (UK)
15 April 2015	Mr Fergus Reid	Commons Clerk	UK Parliament
16 April 2015	Mr Chris Cloke	Head of Child Protection Professional Reputation	National Society for the Prevention of Cruelty to Children (NSPCC)
	Mr Jon Brown	Head of Strategy and Development for Sexual Abuse	

Investigative Travel

The Committee undertook investigative travel in support of its Inquiry into the exercise of the functions exercised by the Commissioner for Children and Young People, with particular reference to the recommendations contained in the *Review of the Commissioner for Children and Young People Act 2006* (the statutory review).¹

A particular focus for the Committee is the proposed amendment to the Commissioner's Act to provide the necessary power to perform a child abuse complaints support function. Given policy and legislative issues surrounding child abuse has gained considerable attention and focus internationally, the Committee travelled to Ireland and the United Kingdom and examined the recent changes to the social and operational (policy and legislative) environments in which their respective Children's advocates' operate, and the success or otherwise of their approaches.

Conferences

During its investigative travel, the Committee attended: the British Association for the Study and Prevention of Child Abuse and Neglect (BASPCAN) Congress 2015: New Directions in Child Protection and Well-being.

Reports Tabled

The Committee tabled one report during the period 1 July 2014 to 30 June 2015.

Report No. 4 – *Joint Standing Committee on the Commissioner for Children and Young People 2013-2014 Annual Report* was tabled in the Legislative Assembly and the Legislative Council on 16 October 2014.

¹ Public Sector Commission, *Review of the Commissioner for Children and Young People Act 2006*, Government of Western Australia, May 2013 (this report was tabled in Parliament on 20 August 2014).

Other Committee Activities

Review of the Commissioner for Children and Young People's Annual Report 2013–14

It is a function of the Joint Standing Committee on the Commissioner for Children and Young People to review annual and other reports of the Commissioner. In accordance with this, the Committee examined the acting Commissioner's report in detail, which was tabled in both Houses on the 24 September 2014. It also held a public hearing with the acting Commissioner dedicated to reviewing the Annual Report on 26 November 2014.²

The acting Commissioner's *Annual Report 2013–14*³ describes in considerable detail the work of the office of the acting Commissioner. It emphasises a range of activities undertaken by the acting Commissioner and her staff in their efforts to consult with children and young people and their work to highlight issues surrounding children and young people to the government and the broader community. It outlines the submissions made to attempt to influence policy and legislation relating to, and impacting upon, children and young people. The report also demonstrates the acting Commissioner's compliance with financial and legal requirements.

Points of interest for the Committee included the acting Commissioner's work in regard to youth health, youth justice, child safe organisations and child protection and Aboriginal children and young people. The Committee was particularly interested in how these might relate to the proposed new role for the Commissioner with regard to the recommendations in the statutory review.

The Committee had a focus on the outcomes of the work of the acting Commissioner and her office, and examined, firstly, the *Key Effectiveness Indicators* of the acting Commissioner's office and how these are measured; and secondly, it reviewed the efforts the acting Commissioner is making to follow up on, and evaluate, the impact the office of the Commissioner's previous reports may have had. The most notable reports in the Committee's view requiring this evaluation were two reports completed by the inaugural Commissioner Ms Michelle Scott. The first was the independent inquiry into the mental health and wellbeing of WA children and young people which made 54 recommendations on actions to strengthen mental health and wellbeing from birth to adolescence (the Mental Health Inquiry); the second is the Wellbeing Monitoring Framework, developed to monitor and report on the wellbeing of Western Australian children and young people.

2 The transcript of this hearing is available on the Committee's website at: www.parliament.wa.gov.au/jsccyp and navigate to the Other Proceedings tab.

³ Commissioner for Children and Young People Western Australia, *2013–14 Annual Report*, Perth, September 2014, available at <http://www.cyp.wa.gov.au/content/Annual-Reports.aspx>.

To this end, the Committee was pleased to note that in August 2014 the acting Commissioner commenced a project to review the implementation of the recommendations of the Mental Health Inquiry, which, as stated in the hearing by the acting Commissioner, will ‘review both the current status of those recommendations and identify where the priorities into the future will be.’⁴ The review was not completed within this reporting period and the Committee will maintain a watching brief on its progress.

The Committee was made aware that the acting Commissioner followed up the Wellbeing Monitoring Framework, firstly by publishing Edition Two of these reports in July 2014 and then by undertaking a program of circulating policy briefs that relate to the priority areas identified in Edition Two. Once more, the Committee will be following with interest the efforts of the acting Commissioner to amplify the impact of this framework.

Taking these efforts by the acting Commissioner into account, the Committee continues to seek evidence that tangible outcomes are being achieved in a public policy context as a result of the acting Commissioner’s work—and continues to encourage the acting Commissioner to ‘develop a substantive mechanism to track the use of reports published by the Commissioner and their impact on policy development.’⁵

In relation to the acting Commissioner’s advocacy activities, the Committee notes that the acting Commissioner has exercised the functions required by the Act, and will continue to monitor how effectively this is occurring.

Recruitment Process for the Commissioner for Children and Young People

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. 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 has remained acting in this capacity since that time.

The Committee has expressed its belief that there is an urgent need for the position to be filled. In the previous reporting period it consulted the Attorney General on the recruitment process to be put in place and reported to Parliament its concern that the

⁴ Ms Jenni Perkins, A/Commissioner for Children and Young People, *Transcript of Evidence*, 26 November 2014, pp10-11.

⁵ 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, p20.

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position of the Commissioner be filled on a substantive basis as soon as possible.⁶ The Committee was encouraged to note that the Attorney General, during his hearing with the Committee on the 19 November 2014, stated that the recruitment process had been initiated.⁷ On 7 February 2015, the Government of Western Australia advertised for expressions of interest throughout Australia, in accordance with Section 7(2)(a) of the *Commissioner for Children and Young People Act* (2006). The Committee subsequently wrote to the Attorney General seeking his view on the wording of the advertisement, as the Committee was concerned that the advertised position did not reflect the strength of the independence of the Office.

In reply, the Attorney General assured the Committee that while ‘this independence does not wholly exclude any accountability of the Commissioner to the Minister’⁸ it should not be understood as undermining the statutory independence of the Office of the Commissioner for Children and Young people. The Committee was advised that the recruitment process was thus proceeding. At the time of reporting the position of a permanent Commissioner remained vacant.

Other oversight activities

The Committee continued undertaking a program of hearings/briefings (see Table 1.2) with experts to inform itself on some of key contemporary issues faced by Western Australian children and youth, with a view to referring any necessary matters to the acting Commissioner under Section 19(l) of the Act.

Work in Progress

The *Review of the Commissioner for Children and Young People’s Act 2006* was tabled by the Attorney General on 20 August 2014. After maintaining a close watching brief on the progress of this review throughout the previous reporting period, the Committee resolved to undertake an in-depth review into the exercise of the functions of the Commissioner for Children and Young People, with particular reference to the recommendations contained in the statutory review.

A number of recommendations contained in this review will have an impact on the functions of the Commissioner. Of particular focus for the Committee are proposed amendments to provide the Commissioner the necessary power for the Commissioner to perform a child abuse complaints support function.

⁶ 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.

⁷ Hon Michael Mischin, MLC, Attorney General; Minister for Commerce, *Transcript of Evidence*, 19 November 2014, p2.

⁸ Hon. Michael Mischin MLC, Attorney General, Letter, 24 March 2015.

To assist with its examinations, the Committee invited the Attorney General to meet with them to discuss the outcomes of the statutory review. Since that time, the Committee has been conducting a range of hearings and briefings with the relevant experts and key agencies, undertook investigative travel to support its examinations, and received 25 submissions to date. Due to the complex nature of the issue, the Committee resolved to embark on an expanded program of public hearings and briefings, and expects to report its findings to Parliament in the year ahead.

In other work, the Committee is continuing to advocate for the appointment of a permanent Commissioner, and has written once again to the Attorney General requesting attention to this matter.

The Committee will also keep itself informed about key contemporary issues faced by Western Australian children and youth and continue to monitor the activities of the office of the Commissioner with the aim of ensuring both the Committee and the Commissioner's work—both established under the Act—are fulfilling the core principles to be observed in the administration of the Act.⁹

9 *The Commissioner for Children and Young People Act 2006 (WA)*, Section 4.

Chapter 2

Financial Statement

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

The Committee' expenditure for the financial year 1 July 2014–30 June 2015 (in accordance with Standing Order 276) is detailed below (Table 2.1).

Table 2.1: Expenditure items of the Committee 1 July 2014–30 June 2015

Expenditure Item	\$
Couriers	
Printing	605
Misc	24
Conference fees	907
Advertising	2 343
Video conferences	
Staff amenities	590
Travel	82 695
TOTAL	87 164

Notes:

- i. Salaries of committee staff are not included.*
- ii. Costs of shared administrative expenses, including lease costs for committee accommodation are not included.*

Appendix One

Committee's functions and powers

Joint Standing Committee on the Commissioner for Children and Young People

Terms of Reference

(As agreed by both Houses and correct as at 26 November 2008)

On 22 May 2013, the Joint Standing Committee on the Commissioner for Children and Young People of the 39th Parliament was established pursuant to section 51 of the Act.

- (1) Pursuant to section 51 of the Commissioner for Children and Young People Act 2006, a Joint Standing Committee on the Commissioner for Children and Young People be appointed by the Legislative Assembly and the Legislative Council.
- (2) The Joint Standing Committee shall comprise 2 members appointed by the Legislative Assembly and 2 members appointed by the Legislative Council.
- (3) 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.
- (4) 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.
- (5) The Standing Orders of the Legislative Assembly relating to Standing and Select Committees will be followed as far as they can be applied.