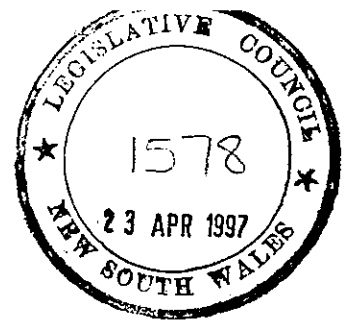




Premier of New South Wales
Australia



TCO/09803 - SPB

The Hon M R Egan MLC
Treasurer, Minister for Energy,
Minister for State and Regional Development,
Minister Assisting the Premier, and
Vice President of the Executive Council

Dear Minister Egan

As you would be aware, the Legislative Council Standing Committee on Social Issues tabled its report into Children's Advocacy in September 1996.

The Government has responded strongly to the report by establishing the Office for Children and Young People within The Cabinet Office. The Office for Children and Young People will oversee the development and coordination of policies affecting children, and will ensure that Government agencies co-operate and work together effectively to provide the best possible services for children and young people.

A preliminary response to the Committee's recommendations, based on advice received from relevant Ministers, is attached. It would be appreciated if you would arrange for the response to be tabled in Parliament as soon as possible.

Yours sincerely

Bob Carr
Premier

NSW GOVERNMENT RESPONSE
TO THE LEGISLATIVE COUNCIL STANDING COMMITTEE ON
SOCIAL ISSUES' INQUIRY INTO CHILDREN'S ADVOCACY

Recent evidence heard by the Wood Royal Commission has highlighted the need for both the Government and the community to redouble our efforts to protect our children and nurture their development. Children should be able to grow up in an environment that allows them to develop physically, intellectually and socially in conditions of freedom and dignity.

In August 1995, the Hon R D Dyer MLC, Minister for Community Services, asked that the Committee inquire into and report on:

1. *the degree to which the needs of children throughout NSW are being effectively advocated for and promoted in the areas of health, education, law and justice and care and protection;*
2. *the adequacy of the organisation and coordination of existing agencies responsible for children's advocacy such as the NSW Ombudsman, the NSW Child Protection Council, the Official Visitors Program, the Community Services Commission, the Health Care Complaints Commission, and the National Children's and Youth Law Centre; and*
3. *the adequacy of current mechanisms for redressing children's grievances.*

Children's advocacy is about ensuring children's voices are heard, listening to their concerns, and meeting their needs wherever possible. This is especially important for the most vulnerable children and young people - those without advocates, and who come into contact with the care and protection system and the juvenile justice system.

The Government welcomes the Report's recommendations. It puts forward compelling arguments for the improvement of Government services for children, and provides a blueprint for how this might be achieved across education and health services, the care and protection system and the legal system.

As a first step, and in response to recommendations 31 - 35 of the Report, the NSW Government has established the Office for Children and Young People within The Cabinet Office.

A preliminary response to the Committee's recommendations is attached.

The role of the Office for Children and Young People will be to oversee the development and co-ordination of Government policies for children and young people. It will ensure that Government agencies co-operate and work together effectively to provide the best possible services for children and young people. The Office will also function as a point of access for children and young people to explain their needs to Government.

The establishment of the Office for Children and Young People represents a major commitment by this Government to improving the quality of services for children and young people.

The Cabinet Office
24 March 1997

**PRELIMINARY RESPONSE TO THE RECOMMENDATIONS OF THE
LEGISLATIVE COUNCIL STANDING COMMITTEE ON SOCIAL ISSUES'
REPORT ON CHILDREN'S ADVOCACY**

- R 1** *That the Minister for Community Services ensure that caseworkers always conduct private discussions with children in foster care in addition to any discussions that they may have with foster carers.*

Supported in principle. Children in care should be entitled to private discussions with case workers so that they can raise any concerns about their care arrangements without fear of retribution.

The Office for Children and Young People (OCYP) will hold further discussions with the Department of Community Services (DCS) to establish how such discussions can be held both as part of the regular monitoring of children in care and at the request of the child. These discussions will need to take account of the financial implications of implementing this recommendation.

- R 2** *Augment the resources of the 24 hour advice and referral service provided by Kids Help Line to ensure that children, particularly those in care, have an effective information agency.*

OCYP will give this recommendation further consideration. However, it should be noted that other 24 hour help lines operate in NSW, and that the NSW Government already funds the State Network of Young People in Care (SNYPIC) to provide information and advice to children in care.

- R 3** *Implementation of Boards of Review under the Children (Care and Protection) Act 1987*

This recommendation will be given further consideration in light of the current review of the *Children (Care and Protection) Act*.

- R 4** *Meet the needs of children with a disability through a policy relating to support options for children (including respite care), ongoing family involvement with disability services, forms of shared care, and recognition of their individual needs through involvement in decision making*

This recommendation will be given further consideration by OCYP.

In relation to this proposal, it is noted that the Ageing and Disability Department is responsible for the Children's Disability Services package totalling \$5.5M for a range of children's services (including funding for an intensive family support pilot project). In addition, the Department has

recently completed a feasibility study on permanent supported living options for children with disabilities who have very high support needs, and is participating in the current review of the *Children (Care and Protection) Act* to ensure that issues relating to the adequacy of the Act for protecting children with disabilities are addressed.

- R 5 *Review after 3 years of DCS' Leaving Care Centres and regional teams of leaving care workers to assess the adequacy of support for young people leaving care.*

Supported. DCS has already agreed that its Leaving Care services will be evaluated after 12 months in operation.

- R 6 *Establish a Children's Section within the Legal Aid Commission, adequately resourced and staffed, to undertake matters in relation to juvenile criminal matters and care and protection matters brought in NSW. The Section should be staffed with both solicitors and social workers.*

While this recommendation is supported in principle, in the current climate of Commonwealth cuts to legal aid funding, it is unlikely that it will be implemented in the near future.

The introduction of youth justice conferencing should provide a better mechanism for the interaction of children and young people with the criminal justice process. OCYP will give further consideration to other options for improving legal services for children and young people.

- R 7 *That the proposed Children's Section establish, coordinate and monitor a children's duty solicitor and social work scheme, as currently operates at Cobham Children's Court, for all specialist Children's Courts throughout NSW.*

As for Recommendation 6.

- R 8 *That the proposed Children's Section establish, coordinate and monitor a scheme whereby children's solicitors and social workers travel on circuit to country areas where there are no specialist Children's Courts or specialist children's solicitors.*

As for Recommendation 6.

OCYP will give particular attention to improving legal services for children and young people in country areas.

- R 9 *That the proposed Children's Section establish, coordinate and monitor an expanded legal service for children in all detention centres throughout NSW.*

The Legal Aid Commission (through funding from the Department of Juvenile Justice) has established a visiting solicitor service to juvenile institutions within NSW.

OCYP will give further consideration to this recommendation. However, in the current climate of Commonwealth cuts to legal aid funding, it seems unlikely that this service will be expanded in the near future.

- R 10** *That the proposed Children's Section establish, coordinate and monitor a training and education program for all solicitors participating in the Children's Court duty solicitor scheme on issues relevant to the needs of the clients that they are to represent, and that such training and education be ongoing throughout their time on the roster.*

Supported in principle. However, in the current climate of Commonwealth cuts to legal aid funding, it seems unlikely that this service will be expanded in the near future.

- R 11** *That funding be extended to community legal centres so that broad based legal advocacy on a range of issues can be provided children and young people across NSW.*

Supported in principle. The Government recognises that community legal centres are experienced in providing a range of legal services for people with specific needs and are well placed to provide broad based advocacy services. However, in the current climate of Commonwealth cuts to legal aid funding, funding is unlikely to be available for this purpose in the near future.

- R 12** *That the Attorney General elevate the jurisdiction of the Children's Court to that of the District Court*

The Attorney General has advised that his Department is currently giving consideration to the various models of children's jurisdictions in other States and overseas. OCYP will liaise with the Attorney General's Department in giving further consideration to this recommendation.

- R 13** *All child sexual or physical abuse cases involving children to be expedited.*

The Attorney General has advised that, under existing diary rules for listing criminal matters for hearing, child sexual assault matters already receive second highest priority (after offenders in custody).

The Attorney has advised that consideration is being given to changing the diary rules so that child physical assault matters receive the same priority as child sexual abuse matters.

R 14 *Quarantine funds for children to have separate legal representation in family law proceedings.*

The provision for separate representatives for children in proceedings under the Family Law Act 1975 (Cwth) is a matter which the Commonwealth has indicated is a matter of priority in the proposed new funding arrangements. The Commonwealth has not yet indicated a detailed position on the matter, but has indicated that issues relating to the representation of children will be addressed over the coming months.

R 15 *That the Minister for Health establish an outreach program for vulnerable families at the time of the mother's confinement, with workers to conduct regular home visits to such families until the child reaches five years of age. Among the tasks of the workers would be to provide advice about nutrition, child development and parenting skills.*

The Minister for Health has advised that home visit services are available in some areas, although this service is not universal. The introduction of home visits will be considered in finalising a NSW children's health policy during 1997. OCYP will liaise with the Minister for Health on this matter.

In addition, the Child Protection Council is currently developing a Child Abuse Prevention Plan. The Plan, which will be developed by June 1997, will also address the concerns underlying this recommendation.

R 16 *Establishment of a separate Aboriginal Child Health Unit.*

NSW Health already has an Aboriginal Health Unit, which has developed strategies specifically aimed at Aboriginal children. In addition to the Aboriginal Health Unit, NSW Health is currently finalising a Children's Health Policy which will specifically respond to the health needs of Aboriginal children.

R 17 *Review the Mental Health Act to ensure its appropriateness to the needs of children*

The *Mental Health Act* was reviewed in mid 1996. Very few submissions elicited concerns about the treatment of young people with mental illness under the Act. Moreover, the Minister for Health has advised that the Act is very rarely invoked in order to treat children and young people with a mental illness.

The Government is strongly committed to improving mental health services to young people through the \$5 million Suicide Prevention Program announced in October 1996. The strategy comprises \$1 million for Adolescent Depression Intervention Programs, \$1 million to establish an Early Psychosis Program for young people, \$500 000 to expand monitoring,

outreach and counselling services for young people who have attempted suicide, and \$3 million for specialist child and adolescent mental health programs.

- R 18** *Investigation of the most appropriate body to provide mandatory education, training and professional development in the detection of and early intervention in mental illness (to cover health and allied professionals, teachers and school counsellors, psychiatrists and GPs, and early childhood workers)*

Supported in principle. OCYP will give further consideration to how this recommendation might be implemented in consultation with the relevant Ministers.

- R 19** *Introduction of legislation similar to the Victorian Infertility Treatment Act 1995, as soon as possible. As an interim measure, the Minister for Health should provide guidelines regarding the standardised collection of relevant donor program information for use by public and private clinics.*

The Minister for Health has advised that the concerns underlying this recommendation will be addressed during the review of the NSW *Human Tissue Act 1983*. In particular, the issue of permanent keeping of donor assisted reproductive technologies (ART) records and access to those records by donor offspring will be examined. A discussion paper will be released for public consultation by mid 1997.

- R 20** *That all records relating to donor insemination procedures be safeguarded and preserved when the Royal Hospital for Women is transferred to the Prince of Wales Hospital and that the 10 year rule relating to records be stayed in relation to donor insemination.*

The Minister for Health has advised that NSW Health is currently implementing a policy requiring records of assisted reproductive technologies (ART) to be kept for 35 years. This will bind all public hospitals, including the Royal Hospital for Women. This requirement is in line with the keeping of obstetric records.

The 10 year rule in relation to donor insemination will be examined as part of the review of the *Human Tissue Act* later this year.

- R 21** *That the Department of School Education report on: the adequacy of current numbers of school counsellors; the appropriateness of existing employment criteria which prevent the appointment of selected experienced psychologists without teaching diplomas to the position of school counsellor; the conflict between student confidentiality and access to guidance records; attitudes of students to school counsellors; and possible alternatives to school-based counselling.*

The Minister for Education has indicated that the matters raised by this recommendation will be reviewed. OCYP will liaise with the Department of Education in relation to the progress of this review.

- R 22 *That the Minister for Education ensure that Aboriginal students and students from a non-English speaking background are not being unfairly targetted by disciplinary procedures in schools by: providing adequate resources to schools with large Aboriginal and non-English speaking background student populations to enable full investigation of incidents, and appropriate welfare and counselling support; and advising principals to contact a nominated student advocate, such as a youth or community worker, to assist in any procedures for suspension, exclusion or expulsion, including appeal procedures for Aboriginal students or students from a non-English speaking background.*

The Department of School Education is implementing measures to meet the concerns raised by this recommendation. The Department is undertaking an analysis of case studies relating to suspension rates of Aboriginal students to identify the most effective practices in schools for reducing the rate of suspensions. This will form the basis for new training and development measures to be implemented across the school system. In addition, schools will be required to review their discipline procedures over the next 12 months. A process of review will also be included in the suspension policy.

NSW Government schools employ 227 Aboriginal Education Assistants to provide support for Aboriginal students, and 30 Aboriginal Community Liaison Officers to build links between schools and Aboriginal communities. In addition, programs such as the Koori Youth Program and the Circuit Breaker Program (for people from a non-English speaking background) are designed to encourage young people to stay at school and to assist in disciplinary problems.

- R 23 *That the Minister for Education address as a matter of urgency the informal exclusion of young homeless people from schools in NSW due to their domestic circumstances.*

The Minister for Education has advised that DSE cooperates with other agencies in developing initiatives to support homeless students, and schools work with community agencies to ensure that where possible school-aged homeless students continue to attend school. TAFE NSW also has an Outreach Unit and policies and procedures in place to encourage young homeless people to undertake its vocational education and training courses.

While this recommendation appears to be based on anecdotal evidence, OCYP will review this recommendation in consultation with the Minister for Education.

- R 24 *That the Minister for Education revise DSE's complaints procedures (dated 27 May 1994)*

A review of DSE's complaints procedures is supported. OCYP will liaise with the Department in relation to this recommendation.

- R 25 *Review the Special Education Policy to consider increasing the inclusion of children with disabilities in mainstream education.*

The McCrae Report, which considers the potential costs and long term benefits of greater integration and inclusion of students with disabilities, was provided to the Minister for Education in late 1996. Minister Aquilina has commenced an extensive consultation process with all stakeholders and will formulate a position once that process is complete.

- R 26 *That the Government provide the Office of the Ombudsman with on-going funding for: education and publicity campaigns, liaison with peak groups providing advice and services to young people; and the selection of staff with particular skills and interest in these issues to deal with their complaints.*

The Government has already recognised the need for the Ombudsman to be more accessible to young people. As part of the 1996-7 Budget, the Ombudsman's Office received funding for the appointment of a Youth Liaison Officer to implement programs to improve access to, and awareness of, the Ombudsman's Office among young people.

- R 27 *That the position of the Child Advocate be deleted when the Office for the Status of Children and Young People is created.*

Implemented.

- R 28 *Appoint a Children's Liaison Officer to the Community Services Appeals Tribunal for an initial period of 2 years*

OCYP will give further consideration to this recommendation.

- R 29 *Appoint a Children's Liaison Officer to the Health Care Complaints Commission for an initial period of 2 years*

OCYP will give further consideration to this recommendation.

- R 30 *That the Prime Minister be urged to create the position of a National Children's Commissioner within the Human Rights and Equal Opportunity Commission to ensure that governments meet their obligations under the UN Convention on the Rights of the Child.*

The need to protect and foster the interests of children should be recognised as a matter of national importance. A National Commissioner for Children would provide oversight of policies and services for children and young people, as well as monitoring Australia's obligations under the UN Convention.

- R 31 *That: the Premier establish an Office for the Status of Children and Young People to be located within the Premier's Department and report directly to the Premier; the NSW Child Protection Council and Child Death Review Team be re-located to the Office; and the Youth Branch of The Cabinet Office be disbanded and/or incorporated into the Office.*

The NSW Government is committed to improving the quality of its services for children and young people. To this end, it has established the Office for Children and Young People within The Cabinet Office.

The Office incorporates the former Youth Branch of The Cabinet Office. At this stage, no decision has been made to re-locate the Child Protection Council and the Child Death Review Team, although it is anticipated that the Office will have a close relationship with these two bodies.

- R 32 *That the Office be charged with the responsibility of leading Government efforts to ensure that Government and community resources create positive outcomes for children.*

The Office will oversee the development and co-ordination of Government policies for children and young people. It will ensure that Government agencies co-operate and work together effectively to provide the best possible services for children and young people. The Office will also function as a point of access for children and young people to explain their needs to Government.

- R 33 *That the Office be provided with adequate staff and resources to fulfil its role and functions independently.*

The Government will ensure that the Office is adequately staffed and resourced.

- R 34 *That the Office also pursue specific objectives including: advising the Government on relevant law reform and policy options and strategies for children and young people; participating in the Budget development process; liaising regularly with, and gaining input from, government and*

non-government agencies and a broad cross section of children and young people on issues and policies relevant to the needs and interests of children and young people; conducting research and inquiries into areas affecting children and young people; and establishing and maintaining a database of information regarding the needs of children throughout the State.

As noted above, the Office's primary role will be to oversee the development and co-ordination of Government policies for children and young people, and ensure that Government agencies co-operate and work together effectively to provide the best possible services for children and young people.

The work program of the Office is still being finalised. Further consideration will be given to the proposals contained in this recommendation.

R 35 *That the Office regularly meet and consult with a range of independent bodies and agencies.*

It will be vital for the Office to liaise and develop links with various independent bodies and agencies representing children and young people.

R 36 *That the Premier establish a Children's Advocacy Network throughout NSW (20 workers based in non-government organisations).*

The establishment of the Office for Children and Young People is an important and significant first step towards improving services for children and young people.

The primary role of the Office will be to oversee the development and co-ordination of Government policies for children and young people, and enhance cooperation between agencies to ensure the best possible services are available to its younger clients. In order to carry out these functions, the Office will be closely in touch with groups representing children and young people.

In light of its role, the Office will be well placed to advise the Government on the establishment of the proposed Children's Advocacy Network, and other measures to enhance children's advocacy.

R 37 *Establishment of a Committee of Children and Young People to promote peer advocacy (as per Article 12 of the UN Convention on the Rights of the Child).*

OCYP will give further consideration to the establishment of such a Committee.