

# **COMMITTEE ON CHILDREN AND YOUNG PEOPLE**

## **THE FIRST STEPS ...**

### **REVIEW OF THE FIRST ANNUAL REPORT OF THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE FOR THE 1999-2000 FINANCIAL YEAR**

Incorporating edited transcripts of evidence  
and certain submissions received

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Chair's foreword

## **David Campbell MP, Member for Keira Chair, Committee on Children and Young People**

This report is the first report of the Committee on Children and Young People, and fittingly it examines issues raised in the first annual report of the Commission for Children and Young People. Both the Commission and the Committee were established by the Commission for Children and Young People Act 1998, with the Commission commencing its operations in July 1999, and the Committee beginning just over twelve months later in August 2000.

The Committee on Children and Young People is required under the Commission for Children and Young People Act 1998 s.28 (1)(c) to examine the annual report of the Commission for Children and Young People.

I am pleased to say that, based on the information presented to the Committee, the Commission for Children and Young People has successfully completed its first full year of operation.

I note, in particular, the successful establishment by the Commission for Children and Young People of an employment screening process for people working in child-related employment. This was a very large scale process requiring extensive negotiation with a number of agencies within a short time frame.

The Committee on Children and Young People looks forward to working closely with the Commission for Children and young People during the next year.

### **Acknowledgments**

With eleven Members, the Committee on Children and Young People is one of the largest of Parliament's Committees, and also one of the most diverse in terms of Members interests and political affiliations. It is this mix of individual views and opinions which, when placed into the general environment of the deliberations of the Committee, which will provide a strong basis, I think, for the future work of the Committee.

I am grateful for the assistance of the Committee Secretariat: the Manager, Mr Ian Faulks, Ms Violeta Brdaroska, Committee Officer, and Ms Carlyne Allen, Assistant Committee Officer.

I commend this report to Parliament.



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## RECOMMENDATIONS

**RECOMMENDATION 1:** The Commissioner for Children and Young People, as Convenor of the Child Death Review Team, should:

- (a) ask the Child Death Review Team to give serious consideration to including, where relevant, statistical and descriptive summary information about the deaths of children that are due to abuse or neglect or that occur in suspicious circumstances; and
- (b) pursue the investigation and reporting of deaths of children that are due to abuse or neglect or that occur in suspicious circumstances in a manner that is based upon, and reflects: (i) the interagency approach to child protection that is existing policy in New South Wales; and (ii) the nature and intensity of the involvement of Government agencies prior to each child's death.

**RECOMMENDATION 2:** Each Minister should reinforce with all agencies within their portfolios the existence and role of the Commission for Children and Young People with a view to ensuring that agencies refer issues and proposals affecting children and young people to the Commission to comment.

**RECOMMENDATION 3:** Any proposed changes to the legislation which establishes the Commission for Children and Young People should be referred to the Committee on Children and Young People for consideration.

**RECOMMENDATION 4:** The Committee on Children and Young People congratulates the Commission for Children and Young People and its staff on the successful establishment and first year of operation of the Commission.



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## COMMENTARY

1.1 The Committee on Children and Young People is satisfied that the Commission for Children and Young People has successfully completed its first full year of operation.

The Committee on Children and Young People notes, in particular, the successful establishment by the Commission for Children and Young People of an employment screening process for people working in child-related employment — a world first, and a large scale process requiring extensive negotiation with a number of agencies.

1.3 There are several issues, however, where the Committee wishes to comment further.

### The issue of 'Known to DOCS'

1.4 The Commissioner for Children and Young People is also the Convenor of the Child Death Review Team (Children (Care and Protection) Act 1987 s.102 and Schedule 2A clause 2(1)).

1.5 At the meeting of the Committee on Wednesday 22 November 2000, it was resolved:

That the Committee ask the Commissioner for Children and Young People for information as to the reason(s) for the omission of reference to the number of deaths of children who had been subject to DoCS notifications from the Child Death Review Team report 1999-2000.

1.6 The Committee's decision followed the tabling by Mr O'Doherty MP of a letter from Mr Brad Hazzard MP, Opposition spokesman on community services, regarding the report of the Child Death Review Team 1999/2000 and the absence of a previously used descriptive phrase 'Known to DoCS' as part of the analysis and commentary of child deaths in New South Wales

1.7 At the meeting of the Committee on Children and Young People on Thursday 30 November 2000, the reply of the Commissioner regarding the absence of the phrase 'Known to DoCS' from the report of the Child Death Review Team 1999/2000 was tabled:

"... In previous CDRT reports there has been a category called 'known to DoCS'. In the 1998-99 Report (p.64) this category included:

- a child, sibling or parent with confirmed or unconfirmed notifications;
- a child, sibling or parent subject to a notification of abuse by an unrelated family member;
- a child, sibling or parent who was notified many years previously with no later notification or contact with the Dept;
- a child who was a disability client only.

There have been two major problems that have arisen in relation to this category.

First, the category itself has [been] shown to be misleading as it does not provide enough detailed information. There are many variations of how a child may have recently, or in the past, had contact with the Department of Community Services.

'Known to DoCS' is a heterogenous category that can include: minimal or substantial contact; recent contact or in the distant past; the subject child or a family member; and disability clients only. The category describes that there was some type of contact, but does not describe the nature and intensity of the involvement which is necessary in order to make recommendations to prevent future child deaths.

Second, the category does not fully reflect the current approach to child protection in New South Wales. The 'known to DoCS' category emphasises child protection as the responsibility of only one agency (the Department of Community Services). This is in contrast to current policy and actual practice. The NSW Interagency Guidelines for Child Protection Intervention, which have been in operation since 1991, although re-issued several times during that period, have promoted an interagency approach to child protection. This approach has now been mandated in legislation (for example, Children (Care and Protection) Act 1998 s8(b), ss17-18, and s139). An interagency approach is therefore preferred when reviewing cases and formulating recommendations for the purpose of reducing or preventing deaths."

1.8 In subsequent discussion, Committee Members indicated that they accepted the reasons outlined in the Commissioner's reply, but that concerns remained with the lack of a descriptive category in reports of the Child Death Review Team that could provide. The Committee was of a general view that reports of the Child Death Review Team would be enhanced if there was an improved capacity to document interventions by government agencies (and provide other helpful related information to assist legislators, policy makers, and practitioners) in relation to a deceased child.

**RECOMMENDATION 1: The Commissioner for Children and Young People, as Convenor of the Child Death Review Team, should:**

- (a) ask the Child death review Team to give serious consideration to including, where relevant, statistical and descriptive summary information about the deaths of children that are due to abuse or neglect or that occur in suspicious circumstances; and
- (b) pursue the investigation and reporting of deaths of children that are due to abuse or neglect or that occur in suspicious circumstances in a manner that is based upon, and reflects: (i) the interagency approach to child protection that is existing policy in New South Wales; and (ii) the nature and intensity of the involvement of Government agencies prior to each child's death.

## **Government agencies' knowledge of the Commission for Children and Young People**

1.9 The Committee is concerned to ensure that Government agencies have an appropriate level of knowledge of the Commission for Children and Young People and its functions.

1.10 Reflecting the Commission for Children and Young People's role as the lead advocate for the interests of children and young people, Government agencies should ensure that they identify and refer any issues and proposals that affect children or young people to the Commission for comment and advice.

1.11 The Committee recommends that each Minister should reinforce with all agencies within their portfolios the existence and role of the Commission for Children and Young People with a view to ensuring that agencies refer issues and proposals affecting children and young people to the Commission to comment.

**RECOMMENDATION 2: Each Minister should reinforce with all agencies within their portfolios the existence and role of the Commission for Children and Young People with a view to ensuring that agencies refer issues and proposals affecting children and young people to the Commission to comment.**

## **Legislative amendments to the role and functions of the Commission for Children and Young People**

1.11 In testimony before the Committee, it was indicated that the Commission for Children and Young People would be seeking some minor amendments to legislation concerning the Commission, primarily in the area of employment screening. It was indicated that legal advice had been received which indicated that all people who have been subject to State-based criminal record checks only should be re-screened against the national criminal record database. Similar re-screening requirements are also required in relation to completed disciplinary proceedings and apprehended violence orders. The Commission indicated that it will be recommending a minor amendment to the legislation to remove the requirement to re-screen all people who have been subject to State-based criminal record checks only. The reason for this proposed amendment was that there was a need to strike a balance between taking appropriate action to ensure children's safety and what were identified as "the extensive administrative requirement and costs to undertake the re-screening process".

1.12 The Committee also notes that it may be appropriate to consider combining the legislation provisions establishing the New South Wales Child Death Review Team (the *Children (Care and Protection) Act 1987*, Part 7A and Schedule 2A) into the legislation establishing the role and functions of the Commission (the *Commission for Children and Young People Act 1998*), as the Commissioner for Children and Young People is a member of, and convenes, the Child Death Review Team (s.102(1)(b) and Schedule 2A clause 2(2) of the *Children (Care and Protection) Act 1987*), and the Commission for Children and Young People provides administrative support to the Team (s.103A of the *Children (Care and Protection) Act 1987*).

1.13 It is the view of the Committee that where there are proposed legislative amendments to the role and functions of the Commission for Children and Young People, such proposals should be referred to the Committee for examination.

**RECOMMENDATION 3:** Any proposed changes to the legislation which establishes the Commission for Children and Young People should be referred to the Committee on Children and Young People for consideration.

### **The first full year of operation of the Commission for Children and Young People**

1.14 As indicated in the opening paragraph to this chapter, the Committee on Children and Young People is satisfied that the Commission for Children and Young People has successfully completed its first full year of operation. In particular, the Committee acknowledges the successful establishment by the Commission of a very large scale process employment screening process for people working in child-related employment, requiring extensive negotiation with a number of agencies within a short time frame.

1.15 The Committee on Children and Young People looks forward to working closely with the Commission for Children and young People during the next year.

**RECOMMENDATION 4:** The Committee on Children and Young People congratulates the Commission for Children and Young People and its staff on the successful establishment and first year of operation of the Commission.

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## **Record of the examination of Ms Gillian Calvert, Commissioner for Children and Young People, regarding the 1999-2000 annual report of the Commission for Children and Young People**

2.1 In late November 2000, the Commissioner for Children and Young People presented the annual report for the 1999-2000 financial year to the Presiding Officers of the New South Wales Parliament, in accord with the provisions of the Commission for Children and Young People Act 1998, the Annual Reports (Departments) Act 1985 and the Public Finance and Audit Act 1983.

2.2 The Commission for Children and Young People annual report for the 1999-2000 financial year was tabled at a meeting of the Committee on Children and Young People in December 2000, and copies were distributed to Members.

2.3 A list of questions on notice was approved by the Chairman of the Committee on Children and Young People in January 2001, and forwarded to the Commission for Children and Young People for a later response.

2.4 On Wednesday 31 January 2001, Ms Gillian Elizabeth Calvert, Commissioner, Commission for Children and Young People, appeared before Committee for an examination of the 1999-2000 annual report of the Commission for Children and Young People:

### *OPENING STATEMENT*

Ms CALVERT: I am delighted to be here today to present to you the achievements of the Commission for Children and Young People in its first year. Our first annual report details what the commission set out to achieve in its first year, what the results were, and it explains the approach that we have adopted to fulfilling the task that Parliament has given us. It is an exciting time for all of those who are making New South Wales a better place for children and young people. It is also a challenging time because we have the important responsibility to listen to children and to represent their views in a way that is respectful and that acknowledges the diversity of their world, their priorities and their experiences.

In the 1999-2000 year we were faced with the challenge of setting up an organisation while starting work on the agenda of making New South Wales a better place for 1.5 million children and young people in New South Wales. I am satisfied and proud of what the commission was able to do in its establishment year. I am pleased that we were able to achieve so much. We set up our human resources, information technology, finance and communications systems. We developed very child-friendly premises, our logo and our

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corporate image. We developed a three-year strategic plan. We built participation by children and young people into our day-to-day practice and our human resources policies.

We employed staff with the knowledge, experience, contacts and commitment to make the commission work. We also established our formal advisory systems.

We set out four priorities which are linked to the functions or which arise from the functions and principles of our legislation. That list, by itself, would make you fairly pleased with the way that our first year has gone. But we also set up Australia's first comprehensive employment screening system. We published three child death review team annual reports in 15 months. We held a statewide arts festival to give children and young people a new venue to express their feelings about being who they are and to help fit out the commission's premises. We also began our inquiry into the best means of assisting children and young people who have no-one to turn to.

We established a quarterly newsletter called "Exchange" with a circulation of 4,000 people. We staged our first seminar series called "Focusing on the Early Years", which highlighted the importance of policy and practice in looking at the needs of babies aged nought to three. We also developed a new learning and development strategy for people who work with children and young people. Finally, we provided advice and assistance to many other organisations about policies, programs, activities, legislation, and events. Most importantly, we talked with, listened to, valued and respected, children and young people. We also worked collaboratively with other organisations on a range of projects to promote children's interests.

I think we have achieved a very solid base on which to pursue our work in the future. Our systems and plans are in place. We have made room for children and young people so that they share the stage as legitimate players, acknowledged and valued for their unique contributions. Children are not only our future and they are not only adults-in-waiting. Children and young people are resourceful members of society with important contributions to make. They are valuable, precisely because they are not adults. The commission's job from here on is to support children and young people as they make that valuable contribution. I believe that my staff and I and the people who have been supporting us over the past 18 months have laid strong foundations to fulfil that task.

### *INTERACTION WITH GOVERNMENT AGENCIES*

The Hon. A. G. CORBETT: I am aware that you have been formally given a number of questions and I apologise if some of the questions that I ask actually cover some of the areas which have already been answered. In your role as Commissioner, how have you found the interaction with various government departments and bodies? Have you been received with open arms? Have you been listened to? Are there any suggestions you might have that would improve the relationship that you have with the Government?

Ms CALVERT: I am sure you are aware that section 14 of the Commission for Children and Young People Act 1998 requires the Commission and both government and non-government organisations to work co-operatively in the fulfilling of our functions. I think the

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Commission is fulfilling that statutory duty by trying to embed co-operation in all the Commission's activities. We have worked in co-operation with other agencies, including government agencies, by referring matters to them, in particular individual complaints. We

also receive referrals about systemic issues, if you like-systemic complaints from other agencies-and we try to assist them to sort them out.

We have a number of joint projects with other Departments in the training and research policy area. We are invited to join a number of committees which other government agencies are on, or which they are currently chairing or have established. We also make frequent use of our training and meeting rooms. A number of government Departments are also approved screening agencies, which means that we have regular contact with them in fulfilling that function. Of course, we also have certain powers to access their records for employment screening but also for the purpose of the Child Death Review Team.

In referring to government Departments I would have to say that both the heads of agencies and the staff have been most welcoming of the Commission. They clearly see the Commission as something that is of use to them. I have had several discussions about how we can work alongside them and value-add rather than take over what I think are their responsibilities. I think that is always a danger with an organisation like ours. The view is, "The Commission is there. It can do it." They have been responsive to that and have, in fact, acknowledged that that is a danger. We have been able to develop some projects which have enabled us to value-add to what they are doing as opposed to taking over or replicating what they are doing. So I think there has been a positive response from government agencies.

I refer now to the impact that we have had. As you would appreciate, there are a number of ways in which we give advice. Some of it is quite minor, some of it is much more significant and some of it has still not been concluded. For example, the legislation has not come before the Parliament, therefore I do not know whether or not the advice that I have given has been taken up. But I am able to cite some examples where we have been able to make a positive difference to children and young people through working co-operatively. For example, we were contacted by a young woman who was concerned about the support given by the Department of Education and Training in a matter that related to an allegation of abuse and assault that another student had made in respect of a teacher.

We were able to take that up as a systemic or policy issue and negotiate with the Department of Education and Training, which now intends to make a number of changes to its policy and to try to do some work with primary executive principals to make them more sensitive to the needs of children and young people who are in that circumstance. That is an example of how we have been able to work co-operatively with other agencies and they have worked co-operatively with us to make a positive difference for children and young people.

I guess the other very good example of interagency co-operation between us and government agencies has been the development of the interagency guidelines, which was a task we were asked to do by government, and I think the officers involved were very successful in gaining everybody's co-operation and in assisting to sort out some quite

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difficult issues. The way in which we were able to harness the resources of the other agencies in developing the policies, in trialing the policies and having the focus groups

and consultation with various agencies and their staff and getting feedback about what changes needed to be made, and even to the extent of printing the guidelines where the

agencies have all taken of their share and have taken responsibility for distribution. So, generally my impression has been we have been welcomed by the government agencies.

The Hon. A. G. CORBETT: So, any obvious areas for improvement in terms of interaction and communication that you would like Parliament to be aware of?

Ms CALVERT: No. I think there are some agencies who probably use us less than I would like, but I also know they are the agencies who are probably more peripheral and I think over time as we become more well known and people see what we can offer them and how we can support them, I suspect they will use us more. So, I think there are no problems that Parliament needs to know about. I think it is part of the developmental process of an agency getting set up.

The Hon. D. T. HARWIN: Could I ask a supplementary question relating to the period since the Commission has been in operation and the legislation that has been passed, are you satisfied that everything that should have been referred to you has been referred to you? Are you satisfied with the level of responsiveness you are getting from other government agencies in terms of your role and your capacity to add a policy perspective on children?

Ms CALVERT: I am satisfied because it is our first year of operation. Whether I would be satisfied with that level of response in three or four years time is another question. But given we are in our first year of operation—a year and a half as we are speaking now—I am satisfied that I am having things referred to me, and people are willing to enter into discussion and debate and so on.

The Hon. D. T. HARWIN: Have there been any clear and obvious issues that have been a problem?

Ms CALVERT: No, there have not—although that has not always been because they have referred issues to us. It may well be that we would hear, because of the networks that the staff have. We hear about a piece of legislation being developed and so we will initiate contact and say, "Can we be involved in the debate and discussion?" Certainly agencies have been responsive about that once we approached them. It may have been that they were, in a sense, a new agency and had a list that they were using that we were not on. So, we get on the list.

I am also realistic enough about the processes of how issues policy is developed to know that there will be times when we cannot be included and when we are not included. My view is that that certainly means we would participate in the debate when it does hit the public arena, either through being tabled in Parliament or whatever the process whereby the policy is made public.

The Hon. JAN BURNSWOODS: I have a question similar to what we spoke about in regard to legislation. When referring to your relationship with other agencies you talked about ensuring that people are sensitive to the needs of children. I wonder if there are government agencies or private organisations where you feel children have been overlooked and where some work needs to be done; where you are already doing work

that has been successful in making departments or other organisations aware of the need to change their thinking a bit and change their approaches a bit.

Ms CALVERT: It probably would be a bit unfair of me to target one agency rather than other, given that one of our tasks is to encourage other agencies to improve the participation of children and young people in their organisations. We have a number of projects under way looking at how we might assist agencies to improve their participation. As a general comment I would say that over the last five years I have seen a very pleasing take-up of the idea of participation, and including children and young people in the activities and decision making of the various agencies, both government and non-government. I think we are at the point now where people are really seeking some concrete assistance in how to do that, because there are number of pitfalls that we have certainly experienced ourselves in getting kids to participate and put their point of view.

At this stage I do not want to name any particular agency because the Commission probably has not done enough work in assisting agencies to actually lift their game. In the future that may well be something that I would choose to do as commissioner, if an agency is not responding as I think it should. Similarly, in relation to an agency not considering the needs of children and young people-regardless of whether they include them or not-again, I would want to name those agencies when I have actually entered into some dialogue with them and attempted to sort it out. The view I have taken as commissioner is that where possible, if there are problems, try to sort them out and help the agency to overcome that problem or that issue.

If I am unable to effect any change and I think that children's safety, welfare or wellbeing would be seriously compromised, then I would consider naming the agency to Parliament. But I think probably my first port of call is to try to work the agency to overcome the problem and see if we can create some change.

#### *REVIEW AND ADVICE ON LEGISLATION*

Mr CAMPBELL (CHAIRMAN): The annual report indicates that the Commission reviewed 38 pieces of legislation. My specific question is whether there were any other recommendations, other than commenting on the legislation, for changes to laws that you forwarded to departments or agencies?

Ms CALVERT: Essentially all the Commission's submissions about legislation contained recommendations but I have to say that these recommendations can range from very

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minor wording changes to quite substantive policy issues, or calls for reviews of legislation or repeal of entire Acts. Some of the bills on which we have made submissions have in

fact not yet come before the House so we do not know the impact of those recommendations. All of the submissions we make in respect of legislation would generally contain a recommendation but, as I said, it really varies in terms of its magnitude.

Mr CAMPBELL (CHAIRMAN): I understand that, but following on from that point, were there any other recommendations other than in relation to legislation. For example, from the operation of the commission, did you identify something that should be the subject of change to legislation which was not contained in draft legislation that has been referred to?

Ms CALVERT: In relation to our own legislation?

Mr CAMPBELL (CHAIRMAN): Or any other area.

The Hon. JAN BURNSWOODS: Or for administrative action.

Ms CALVERT: Yes. We actually make a number of recommendation about a range of things to. They can be written recommendations or conversations and discussions. There is a range of ways in which we make recommendations. I guess the fact that we are making recommendations indicates to some extent that we are sorting out relationships with other agencies because they are turning to us for an advice. I think that is really something that we can provide to value-add to those other agencies, and we are giving that advice.

We have explored ways in which we can monitor, quantify or report on advice-giving. We have drafted the set-up of a recommendations database but I am not sure how effective that is going to be to enable us to come back to the Committee next year and say that there had been a number of recommendations made and quantify how many have been acted on. We are trialing ways in which we can report to the Committee on that part of our function but I think it will take time for us to come up with something with which we are satisfied and which, I suspect, will satisfy the Committee.

Mr CAMPBELL (CHAIRMAN): I think that is an interesting area that will develop. I guess I was not necessarily looking for structure this time. It is something that will develop but that was not germane to establishing the Commission in its first year and in its first reporting period.

Ms CALVERT: There are probably some minor amendments that we will seek in relation to our own legislation, primarily in the area of employment screening which is an example about which I have spoken already dealing with a phasing-in process, if you like. We are about to look at the detail of the other requirements we want in the employment screening part of the legislation. They are minor finetuning types of things rather than substantial policy or legislative issues.

### *EMPLOYMENT SCREENING*

The Hon. JAN BURNSWOODS: Well, question 10, I guess, goes to the heart of whether the Commission has encountered particular problems or difficulties in exercising the function of employment screening. I would be surprised if the answer is no. The basis of your role is that it is a very difficult area and one you have had to grapple with. I think it would be useful for us to talk about that today. First, the Committee needs to know about it and, second, the Committee may be able to assist, or whatever, as necessary. So, I think that is an important area for us to discuss today. So, if I could formally ask question 10 and take it from there.

Ms CALVERT: You are quite right. There have been a number of challenges in establishing the employment screening system, which is not surprising given that it is certainly an Australian first and the way we have set ours up is a world first. Therefore, we have had limited precedent on which to draw in sorting out or responding to some of the challenges. I think the other challenge has been balancing the diversity of views that exist, often views that are irreconcilable or one feels as though they are irreconcilable and which various stakeholders find very difficult to negotiate on, and in the process try to assist people to focus on the primary goal, that being the protection of children.

Given those challenges, I think we have been very successful to date in implementing employment screening, and I think that can be attributed to a couple of things. One is the general support for employment screening that exists or the ideal or goal of employment screening. That was certainly aided by the process that Parliament undertook in developing legislation and in the bipartisan support for the ideal of employment screening. I also think it has been successful because of the commitment of all of the parties to try to find sensible solutions to the challenges we face. I want to put on the record my appreciation and acknowledgment of the commitment of various stakeholders to try to find ways through what are very challenging issues.

I do not want to overshadow the successes by talking only about the difficulties. We have had a number of successes: the guidelines, and the community education campaign was very successful. The fact that we could get agreement on the guidelines was a success. The development of a very detailed information technology solution was a success. The volume with which it has been taken up was a success as well.

We did have some challenges I would like to put on the record for the Committee. Shortly before we commenced the employment screening we were unable to access the national database for criminal records. That was because of the Commonwealth taking over the responsibility for that database at the same time as we commenced the introduction of our employment screening system. There were also a number of related issues arising out of the Commonwealth assuming responsibility to do with the transfer of confidential files. The way we responded to that problem was to switch to a State-based system, so for the first three months we did State-based police checks rather than national criminal record checks. So, again acknowledging the responsiveness of the New South Wales Police Service in giving us access to their records and setting up the technology in a very short time. These matters have now been resolved between the various police jurisdictions and we started doing national criminal record checks from the beginning of November, using

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the information technology system that had been designed and which is working fairly well, I think.

Legislation was drafted to require all components of employment screening to be commenced at the beginning. We have recently received legal advice that that will therefore mean we have to go back and rescreen those people who only had a State-based check. We are currently considering the request in Parliament to modify the legislation or do a minor amendment to the legislation to relieve us of that responsibility, partly because I think there is a cost issue involved and I am not sure it will necessarily increase protection to children sufficient to warrant that. So, I will be probably putting forward a proposal to government that we do a minor amendment to alleviate us of that responsibility just to get over that particular period of time.

The Hon. JAN BURNSWOODS: What number of cases would that involve, do you know?

Ms CALVERT: From the period July 3 to the end of December, we had 101,000 checks conducted. So, that would be the magnitude of it. Each check, when we go through the CrimTrac system, does attract a cost of anywhere between \$12 and \$25. So, it is a sliding style. It is not an insignificant amount.

The Hon. JAN BURNSWOODS: It is certainly a million dollars plus.

Ms CALVERT: Yes, and given that the bulk of all the records, criminal records, are New South Wales-based anyway, most of the people who live in New South Wales, if they have a record, are on the New South Wales database. So, we have actually checked the biggest chunk of the database already. The question is what is to be gained through rechecking those 101,000 people on the smaller part of the database.

The other thing is that at the same time the prohibited employment form came in and it required everybody who was in a child-related employment position to declare whether or not they have a conviction for a serious sex offence. So there has also been that as a back-up check as well. They had to declare whether that was in another State or another country, not just New South Wales. So, on balance, we think it is reasonable and children are still protected by requesting that minor amendment.

Mr WEBB: Just a supplementary on that. Commissioner, when we met at the commission you spoke about the security and confidence in the record computing part of that. Are you still of the same view?

Ms CALVERT: Yes, I am. I am confident. I have had nothing occur that would make me be concerned about the security. I think the thing we also need to keep in mind is that the records are also always held somewhere else. It is not as if we have a secret record that is not held in other places. What is unique about our record-holding is that it is in one place. So, all of that data is in one place, for example, with completed disciplinary matters. The data we hold in terms of completed disciplinary matters is very minor-it is the name and address and date of birth. The actual content is held somewhere else, so again I have had nothing happen that would make me concerned about the security.

The Hon. D. T. HARWIN: I was just going to go back to the last point you were addressing, the problems that had arisen because you could not access CrimTrac until November. You mentioned most of the 101,000 people you mention were New South Wales. Do you have any sort of feel for what the non-bulk element was? Are you able to quantify that?

Ms CALVERT: No, I cannot quantify that, except to say that New South Wales is 30 per cent or 40 per cent of Australia's population, so we have at least checked against 40 per cent of records. I do not know what the rate of movement between States is, so I cannot. I would also assume that most people who get their records checked are from New South Wales as well.

The Hon. D. T. HARWIN: When we look at that issue we will not be able to say that we are probably dealing with only 10,000 or 20,000 people. It is just not possible to quantify.

Ms CALVERT: No, it is not possible to quantify that at all. The other thing to keep in mind is that all these people should have completed a prohibited employment declaration form as well. We have approached the issue from two different ways. One is through the checking process; the other is through the filling out and completion of the prohibited employment form declaration.

Mr CAMPBELL (CHAIRMAN): Out of the 100,000 in round figures, how many people have failed the test?

Ms CALVERT: Under the legislation employers are required to inform us when they do not employ someone as a result of the employment screening process. We are unable to give that information to anybody else. It is for auditing and monitoring purposes. To date, we have been notified by 25 employers that they have not proceeded with employment following the completion of the employment screening check. Let me also say that anecdotally-but I cannot quantify this-we know that people have dropped out in the process. The checking process commences and as part of the checking process the approved screening agency contacts a person to verify that is the person against whom the records are held that we are looking at. Following that, the agency has been discussions with some applicants and it is pointed out to them that they are now prohibited people or they are informed of the holdings that we have against them and they nominate to withdraw from their application. One of the things that I hope will be developed with the employment screening is that it acts as a deterrent for inappropriate or unsuitable people according to the standards set by the legislation to even apply because they know that the system is working. The system picks up on anyone who decides not to be deterred. We have been informed of 25 people and, as I said, anecdotally we know of others.

The Hon. JAN BURNSWOODS: Presumably those people will not apply for similar jobs in the future because they now know that the system works. In a sense you would expect fewer and fewer cases because you are progressively screening them out. We will not get to hear of them.

Ms CALVERT: Yes. It will be interesting to see what happens over time. The challenge facing us is that we have not had historical data or precedents on which to base any of this new system.

The Hon. JAN BURNSWOODS: Have any of the employers anecdotally made any comment about a marked change or whether the awareness of the screening system has filtered through to applicants?

Ms CALVERT: I have not had any comments made to me about a change in the sort of applicants. Although people who work in the area have talked about how they are now much more aware of children safety issues in the work context. I think there is an increased awareness, but again I cannot quantify that. It is anecdotal. We have certainly had very positive responses to the community education campaign. A total of 45,000 kits have been distributed, we have received a significant number of hits on our website, our call centre took a number of calls and so on. A total of 45,000 information kits have been distributed over the 1999-2000 and 2000-01 reporting period. Also, we have had a total number of 15,840 web site visitors and 2,897 calls to the call centre. It has been quite a positive response and awareness raising activity.

Mr CAMPBELL (CHAIRMAN): How do you plan for that to continue? Obviously you do not keep it at the same level.

Ms CALVERT: There are a number of ways in which the awareness raising continues. One way is that most advertisements now for child-related employment positions carry a statement something along the lines: "A working with children check will be conducted on this position." That is continued awareness raising. The other way in which it continues is that all the applicants for those positions now receive as part of their kit information about the working with children check. Again, that is a continual thing. We are continuing to run information and educational sessions, for example, with human resources people, on the working with children check. In terms of our distribution of Exchange, we generally carry an article about employment screening every issue. It is and will be on the website. We are using a number of mechanisms, but the beauty of it is that they are actually built in. For example, every time you look at the advertisement page some ads will talk about the working with children check. It is great ongoing awareness raising.

In addition to this testimony obtained during the public hearing, the Committee also obtained detailed replies to several Questions on Notice dealing with the employment screening functions of the Commission for Children and Young People. These replies are included below.

QUESTION: Did the Commission for Children and Young People encounter any particular problems and difficulties in exercising its functions under Part 7—Employment Screening of the Commission for Children and Young People Act 1998? How did the Commission overcome these difficulties ?

RESPONSE: There were a number of challenges as employment screening was implemented, which is not surprising given that the New South Wales Government's employment screening scheme is a world first and therefore limited precedents existed. It is also difficult to balance the varying views on the scheme and the extent of both

employers and employees affected, whilst ensuring that the protection of children remained paramount.

The successful implementation of employment screening can, in part, be attributed to the general support employment screening received throughout the community and the commitment by all parties to work through these issues.

The Commission for Children and Young People has been able to develop procedures that would ensure employment screening's effectiveness in all employment circumstances.

A detailed information technology solution to deal with the large volume of screening requests and confidential information was required to complete the screening process. The establishment of the Employment Screening System has enabled the large volume of requests made for screening to be processed expediently thus meeting employer requirements for rapid responses

From July to October 2000 preferred applicants for child-related employment were initially screened for criminal records in New South Wales only. In November 2000, national criminal record checks and relevant disciplinary proceeding checks were introduced into the screening process.

This delay was caused by the Federal CrimTrac agency's assumption of responsibility for the national criminal record database on 1 July 2000 and a number of related issues regarding transfer of confidential records between the Commonwealth and States.

These matters have now been resolved with all police jurisdictions across the country providing information for screening of preferred applicants for child-related employment New South Wales.

Legislation was drafted to require all components of employment screening to be undertaken as soon as practicable. Legal advice has recently been received that all people who have been subject to State based criminal record checks only should be re-screened against the national criminal record database. Similar re-screening requirements are also required in relation to completed disciplinary proceedings and apprehended violence orders.

The Commission for Children and Young People will be recommending a minor amendment to the legislation to remove the requirement to re-screen this group of applicants only. This strikes a reasonable balance between children's safety and the extensive administrative requirement and costs to undertake the re-screening process.

QUESTION: How many employment screening cases has the Commission for Children and Young People conducted on behalf of employers ?

RESPONSE: Between 3 July 2000 and 31 December 2000, in excess of 101,000 Working With Children Checks had been completed on people being considered for paid child-related employment throughout New South Wales by all Approved Screening Agencies.

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During this period the Commission for Children and Young People completed 5,100 employment screening checks on behalf of its clients.

QUESTION: What procedures for employment screening have been established by the Commission for Children and Young People?

RESPONSE: In accordance with s.35(1) of the Commission for Children and Young People Act 1998, the Premier approved "Guidelines for Employers" to support the implementation of the Working With Children Check.

In excess of 45,000 copies of the Guidelines have been distributed to employers and other relevant stakeholders throughout New South Wales. In addition, the Guidelines and a range of other supporting documentation have been made available on the Internet.

The Guidelines were subject of extensive consultation with a broad range of stakeholders including unions, employer representatives, community groups and government agencies.

The Guidelines establish the procedures for the conduct of employment screening and outline the responsibilities of employers, employees and Approved Screening Agencies in ensuring that employment screening is conducted in the most timely and effective manner while ensuring the utmost level of privacy and confidentiality.

QUESTION: How does the Commission for Children and Young People monitor and audit compliance with the procedures and standards for employment screening?

RESPONSE: The Commission for Children and Young People Act 1998 establishes monitoring and auditing compliance with the procedures and standards for employment screening as a function of the Commission for Children and Young People.

A detailed audit program is currently being developed by the Commission for Children and Young People in consultation with the Office of the New South Wales Ombudsman.

I anticipate the program will complement the existing audit responsibilities of Ombudsman under s.25B of the Ombudsman Amendment (Child Protection and Community Services) Act 1998. Under this Act the Ombudsman is to keep systems for preventing child abuse by employees of designated government or non-government agencies or other public authorities under scrutiny.

The implementation of the Commission's audit program shall be subject to detailed consultation with a wide range of stakeholders.

QUESTION: What action is taken in cases of failure of employers to comply with the procedures and standards for employment screening? What are the responsibilities and functions of the Commission for Children and Young People when it detects failure to comply with procedures and standards for employment screening?

RESPONSE: The Commission for Children and Young People Act 1998 establishes monitoring and auditing compliance with the procedures and standards for employment screening as a function of the Commission.

The legislation does not specifically establish a responsibility for the Commission in cases where an employer has failed to comply with their responsibilities under the legislation.

Section 42 of the Commission for Children and Young People Act 1998 makes it an offence to inappropriately disclose information obtained in connection with employment screening and/or dishonestly obtain confidential information relating to employment screening.

In the first instance the Commission for Children and Young People would make every effort to assist the employer in complying with the legislation. Should the employer continue not to comply, the matter would be referred to the New South Wales Police Service if the provisions of s.42 of the Commission for Children and Young People Act 1998 apply.

As a large number of child-related employers are either funded or licensed by a relevant government agency, the granting of funding or issuing of licences require employers to satisfy a range of criteria. Compliance with the employment screening requirements may form an additional criterion that employers are required to meet to obtain funding or a licence.

In addition, as Commissioner, I may consider naming the employer in Parliament as a person who failed to meet the minimum standards in ensuring the most appropriate people are employed in child-related employment with that employer.

#### *BULLYING AND VIOLENCE INVOLVING OR*

#### *AFFECTING CHILDREN AND YOUNG PEOPLE*

Mr WEBB: Commissioner, several areas in the annual report flag welfare, which is an obvious part of the whole mechanism for the Children and Young People Commission. In particular, pages 49 and 52 refer to an inquiry. As you are probably aware, bullying has been identified as one of the main reasons why children decide to leave school early and even opt out of social life. Tragically, it may even lead to suicide. Do you think that violent videos and television programs, that kind of influence is involved? More importantly, what is the most important steps that can be taken quickly to reduce the effects of bullying and its results?

Ms CALVERT: Bullying certainly is an issue that has been raised by the children and young people that we have spoken to in our inquiry. We have now spoken to over 200 children and young people from around New South Wales about the issues that they turn to other people for assistance with. Bullying is one of them—not only bullying in the school but also bullying in families and amongst friends. As to the violent videos and television programs, the research is still developing. Whenever I manage to get hold of a report that

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says yes, there is a relationship, I am given another report that says no, the relationship is not as strong as everybody thought. The research is still, if you like, equivocal on that direct cause. Having said that, I have to say that violent videos and television programs for children does concern me and I know that it also concerns a number of parents.

The positive thing we can do is not hire violent videos, turn off televisions and provide other activities.

As to the causes of bullying, there is no one cause. A number of things come together that children then express through bullying behaviour. We need to have a better understanding and continue to gain an understanding about what causes bullying. I also think as importantly, perhaps even more importantly, is what do we do to respond to bullying. I know that both the Department of Education and Training and the Catholic school system have been concerned about that and have been developing a number of strategies and resources to assist schools to deal with bullying. One of the things both school systems agree on, and most educationalists agree on, is a whole school community response to the problem of bullying gets the best results. That is not the surprising. Whatever response we promote for bullying, it has to be a whole school community response. Parents, teachers, other kids and the community are vital players in responding to bullying.

We often do not appreciate the impact of bullying within families on kids and we often dismiss it as brothers and sisters or cousins fighting, doing normal sorts of things. But we have had children talk to us about how distressing that has been and how they have felt they have not been able to turn to anyone in their family or have tried to do so and the response has not been very positive. Again that is an area we need to think about. How do we help parents recognise if there is bullying within their own family and implement a range of strategies? Similarly, helping kids by having a range of people, a friends network, whom they can turn to if they are worried about bullying within their family.

The Hon. D. T. HARWIN: Bullying is a particular interest of mine. In particular, it is linked to educational under achievement, delinquency and, at worst, suicide. Principally, the matter has been left to the Education portfolio and it is not an issue that the Commission proposes to take a perspective on. Are you satisfied that the Education portfolio is progressing the matter as it should?

Ms CALVERT: We are looking at the department's responses to the issue of bullying as part of our inquiry into ways of improving assistance to children who have no-one to turn to. Because we are still in the process of that inquiry, I would prefer to wait until we have actually thought through the issue a little bit more. We are certainly looking at it in those terms because, as you say, when kids are bullied they become isolated and more vulnerable as a result.

The Hon. D. T. HARWIN: It is part of that picture.

Ms CALVERT: It is part of that picture. A number of people have made suggestions about the subject of our next inquiry. Bullying has been suggested by some people as an issue we should inquire into, and I have been considering that. I want to get this inquiry out of the way before I start my next inquiry.

The Hon. D. T. HARWIN: I have made my view clear. I would be very happy to see you go down that path.

Mr WEBB: Likewise.

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*GENERAL ADVOCACY FOR CHILDREN AND YOUNG PEOPLE**AND ADVOCACY ON BEHALF OF INDIVIDUAL CHILDREN*

The Hon. JAN BURNSWOODS: You have positioned yourself, I think admirably, as being a strong advocate for children. Do you see the prevention of your taking up a role as an advocate in individual cases as a difficulty? Would you like to be able to do that? Are there ways in which you can do it because generic issues are raised?

Ms CALVERT: There are a number of members of the public who are unaware that the Act prevents me from dealing with individual complaints, so we still get a number of people and children turning to us to try to sort out problems. We always assist them to go to the appropriate complaints body which can deal with their individual complaints, but if the complaints identify a systemic problem we will also take it up and deal with it in a policy framework.

I believe that at this stage not dealing with individual complaints has been an advantage. It has freed us up, if you like, to maintain a long-term, strategic focus on the issues that are raised by the complaints. We already have a number of complaints bodies in New South Wales that respond to individual complaints. I think what we lacked was some body-a body-standing back and taking a long-term, strategic focus, having put all the trends together. I think that we have been able to begin to do that. I think that has been an advantage for us.

We are required under the legislation to monitor trends in complaints. We will be wrapping that up into our overall responsibility to monitor safety, welfare and wellbeing of children. The trends in complaints can give us information about how well children are doing, or how well children perceive themselves as doing.

The Hon. JAN BURNSWOODS: Monitoring trends in complaints is sort of difficult if people know that you are not the body to make complaints to.

Ms CALVERT: We can get it from the complaints bodies themselves.

The Hon. JAN BURNSWOODS: You can get that information from other agencies.

Ms CALVERT: I am a member of the Ombudsman's network which gives me access to those bodies. We are talking about how that might happen. The other point is that when I have gone out and spoken with children and listened to what they say about who they turn to when they have a problem, very few of them identify complaints handling bodies. When I ask them which complaints handling bodies they are aware of, very few of them are able to identify complaints handling bodies. They often say that the universal group they know about is the Kids Help Line which of course is not a formal complaints handling body. I have spoken with the other complaints handlers and they say that they have noticed that themselves. They have been tried to think about and to trial ways of reaching children and young people.

The usefulness of complaints handling structures for children and young people themselves is something that we are looking at as part of our inquiry into ways of improving assistance to children and young people, and we are talking with the other complaints handlers to see if there are some ways in which we can make it more effective for children and young people, or whether in fact it is a model that will never be effective for children and young people. Perhaps we will need to think about other ways of helping them with solving problems and getting redress for the sorts of concerns they might have about the way in which they are treated by a government body or by a non-government agency. In summary, the fact that I am not dealing with individual complaints has allowed me to take that strategic view to get outside or to get alongside the complaints handling phase and think, "Is this working for kids and young people?"

The Commissioner for Children and Young People commented further on this issue in a written response to a Question on Notice:

**QUESTION:** The Commission for Children and Young People has a role of being a strong advocate for children and young people as a group, but it does not have the function of providing advocacy on individual cases. Do you believe that the Commission should be able to examine and respond to individual cases?

**RESPONSE:** As a result of the consultations leading up to the Commission's legislation, it was decided that the Commission for Children and Young People would not deal with individual complaints because in New South Wales there were already complaints bodies able to deal with complaints on any issue.

Of course, some members of the public are unaware of this. When the Commission for Children and Young People receives a complaint about an individual child's circumstances, the complainant is referred to the appropriate complaints body and, if necessary, assisted to raise the complaint with them.

I believe that not dealing with matters relating to individual children has been an advantage to us.

We can maintain a long-term strategic focus, and our resources are not diverted to handling individual complaints.

Not being a complaints handling body ourselves also means that we can look at the effectiveness of complaints made by or on behalf of children and young people through our monitoring program and inquiries.

Where a complaint raises matters that indicate that there may be systemic issues that would affect many children and young people, the Commission for Children and Young People has taken action on the general issue. Examples of this include changes to the Department of Education's policy in relation to the support provided to children involved in court cases as a result of incidents at school and the condition of children at Villawood Detention Centre.

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Our current inquiry, into the best means to assist children who have no-one to turn to, is addressing the issue of what children and young people do when they have complaints to make. I anticipate making some recommendations about this in the Inquiry Report.

### **OVERLAP OF FUNCTIONS AND POWERS BETWEEN THE COMMISSION AND OTHER AGENCIES AND ORGANISATIONS CONCERNED WITH CHILDREN AND YOUNG PEOPLE**

Mr WEBB: Commissioner, bearing in mind your comments earlier about funding—and we are all obviously concerned about funding and duplication—my question follows from the previous question. Is there any overlap of functions and powers between the Commission and other agencies and organisations concerned with children and young people? You spoke a moment ago about the complaints side of it and some of the agencies. Which other agencies may be involved in what may appear to be duplication or possibly wasting money and resources? I will be interested in your written responses to this question later but, off the top of your head if you like, would you be able to point to some of the recommendations whereby you could devolve some of your powers or in fact take over some responsibilities?

Ms CALVERT: I think there is always the potential for overlap and duplication, even when you trying to draft legislation that clearly separates various functions and powers. Inevitably you will still create the possibility of potential for overlap. As part of our culture we, as the Commission, have tried to develop being alert to that, to really identify where that is potentially happening and to negotiate who will take responsibility for it -- either the other agency or us. We have a finite budget and we have a large agenda. We need to be very focused on what it is that we are doing and be very clear that what we are doing adds value rather than duplicates. That is not to say that we do not share the arena. I am required to share the arena. I am pleased that we share the arena.

I think we have been quite successful to date in not duplicating work that is currently being done, which is why I was a bit hesitant about the bullying question. There are a number of agencies already looking at bullying, so before I get involved I would want to have a look at what those agencies are doing and how effective I thought that was and whether I had anything of value to add to solving or improving the sort of circumstances of children and young people around that particular issue, and what that might be.

The Commissioner later commented in a written reply to a Question on Notice:

QUESTION: Is there any overlap of functions and powers between the Commission for Children and Young People and other agencies and organisations concerned with children and young people ? If so, which agencies are these and what are the Commission's recommendations to overcome the overlap?

RESPONSE: In relation to policy, research and training activities, the Commission for Children and Young People has shared interests with other agencies, which enable us to work collaboratively with them on projects. There are no unnecessary overlaps which require redressing.

The Child Death Review Team is one of a number of bodies, which reviews child deaths, and there may appear to be overlaps.

The Child Death Review Team reviews the deaths of children and young people from abuse or neglect or in suspicious or undetermined circumstances. Such deaths are also investigated by the Police and reviewed by the Coroner. Where the child had a disability, the case would also be reviewed by the Disability Death Review Team. If the child was a client of the Department of Community Services (DoCS) or another agency, the death would also be subject to internal Departmental investigations.

The Child Death Review Team's role is to prevent or reduce child deaths. It works at a systemic level and is not involved in forensic work on individual cases, as the Police and Coroner are. Its reviews are informed by information from all government agencies, and are therefore much broader than internal reviews by a single agency.

The Child Death Review Team's legislative base in the Children and Young Persons (Care and Protection) Act 1998 is due for review in 2001/2, and this offers an opportunity to clarify and describe the role better.

The Commission for Children and Young People and Office of the New South Wales Ombudsman both have roles to play in protecting children by way of administering varying aspects of employment arrangements. It is not considered that these roles overlap, but rather serve to complement one another in ensuring the safety of children while entrusted in the care of organisations. It is not considered that any action needs to be taken in respect of the roles of the two organisations.

#### **CRIMES AMENDMENT (CHILD PROTECTION- EXCESSIVE PUNISHMENT) BILL 2000**

The Hon. JAN BURNSWOODS: I have actually been asked by Hon. A. G. Corbett to ask a question. He had to go to another meeting. He hopes to return but I will ask the question just in case he does not. He referred to this section of the legislation you reviewed and pointed out that one of the bills that is mentioned is the Crimes Amendment (Child Protection-Excessive Punishment) Bill 2000, which was his private member's bill and which is due for a resumption of its second reading on 28 February. He points out that you are on the public record as supporting the bill. The report also mentions some reasons for that support. The next part is the Dorothy Dix part: Would you care to tell the Committee in general terms why this bill is a major piece of legislation, and why it is considered that it will have a great impact on children?

Ms CALVERT: I am happy to do that, but I anticipated that question. I am happy to just hand my answer to Hansard as my response.

The Hon. D. T. HARWIN: Why do you not respond and entertain us are five minutes? Ministers would.

Ms CALVERT: The law in New South Wales currently does not give clear guidance to parents and carers on what forms of punishment and what degree of force is legally acceptable. I think that has been a problem for parents and parents have identified it as a problem to me. Judges also have quite differing views on what is considered to be reasonable chastisement under the current common law. I think that confusion denies children the protection from assault that is enjoyed by all other members of our community and discriminates against the smallest and, indeed, one of the most vulnerable groups in our community.

I think at the same time there has been a shift in community attitudes and opinions against harsh physical punishment, as can be seen in surveys, advice in child-rearing manuals and in media coverage of the issue. I am happy to refer you to the Reark Research Pty Ltd which documents that changing community attitude. I support legislation proposed by the Crimes Amendment (Child Protection-Excessive Punishment) Bill because it recognises the community view that parents still want to be able to smack their children but it places very sensible restrictions on that right in order to protect the child.

I think that it strikes a sensible balance between the community opinion and the rights of children to be protected from excessive punishment. I think that for this legislation to be successful it must be accompanied by a community education campaign so that we can give to parents alternatives to excessive punishment-ones that focus, if you like, on positive child-rearing practices rather than punitive child-rearing practices which the research pretty clearly tells us does not give parents the result that they want-that is, co-operative occasionally compliant children.

### *THE STATUS OF CHILDREN IN LEGISLATION*

The Hon. JAN BURNSWOODS: I was interested in your comments about the review of the Property (Relationships) Act. You mentioned that the Act currently focuses on adults without regard for the entitlements of children and young people. You would be aware of the Standing Committee on Social Issues inquiry into the legislation generally dealing with de facto relationships, particularly in relation to same-sex couples. I chair that committee and the committee was very struck by the way in which legislation that so fundamentally affects children-for instance in relation to inheritance, rights in relationships breakdown and issues such as adoption as well as other more controversial questions. I guess we were struck by the way in which there is legislation by which children are fundamentally affected but it is as if the legislation was written as though children did not really exist.

Ms CALVERT: Yes.

The Hon. JAN BURNSWOODS: I suppose that is the comment part but it strikes me that there must be a lot of other areas where we are still operating on quite ancient legislation, even when children are often at the heart of the issue in the legislation, yet the legislation seems to be written as though they are not there.

Ms CALVERT: I would have to say I have noticed the same thing, as have other members of my staff and children and young people themselves. I think that in a way the establishment of the Commission really is an opportunity for us to try to overturn some of that. The fact that there is now the Committee on Children and Young People means that we have people in Parliament who are going to be thinking about what impact this legislation will have on children and young people. I think the Commission's clear focus on the participation of children and young people and seeking their views starts, perhaps, to challenge some of those ways of developing policy and legislation. The people who are most affected by it do not in fact have any input into the development of it. I see the development of the Commission as one way in which we can overcome that.

The other thing is that it is precisely for that reason that the Commission wants to provide feedback to Parliament through its annual reporting process and review of the legislation so that we can continue to give Parliament comment or our view about the impact the legislation that you are passing—or that you are considering—will have on children and young people.

#### *DRUG ISSUES AND CHILDREN AND YOUNG PEOPLE*

Ms ANDREWS: I refer to page 53 of your report, under the heading "Drugs and Young People". It is interesting to note that the Commission - naturally, of course - was involved in drawing up the Youth Drug Court evaluation plan and a strategy for communicating with young people. Would you care to elaborate on that aspect for Committee members?

Ms CALVERT: Yes, we have a staff member who is a representative on the Youth Drug Court task force. We are involved in that sense, through our membership on the committee. I think we have been able to make very positive contributions to the way in which that developed. We have been able to raise issues and look at some of the issues around evaluation. They have a particular committee set up on evaluating the Youth Drug Court and we have a member on that evaluation committee as well.

Ms ANDREWS: The adult Drug Court has been operating quite successfully. Do you consider that the Youth Drug Court will have a similar impact?

Ms CALVERT: I would hope it would have a similar impact. I hope it would have a positive impact because that was the spirit in which everybody set it up, and so on. I think it would be premature for me to make any comment until the evaluation process is completed.



## ADVISORY GROUPS

Mr CAMPBELL (CHAIRMAN): Could I invite you to talk about the young people's reference group and the expert reference group. Tell us how they work, what its successes have been and if there have been any hiccups along the way with either of those groups.

Ms CALVERT: In relation to the young people's reference group I set that up because I am required to seriously consider the views of children and young people, and that seemed to me to be a way that I could do that. From my point of view it has been very successful in helping me to do that and it has been very successful in keeping me and the organisation focused on the views of that age group. I sense from the young people themselves that they have enjoyed the experience. They have found it to be a learning experience, they have acquired new skills from the process and they have certainly acquired confidence to speak out and participate in democratic processes as a result of being part of the reference group.

There are some things that we are probably going to change between the previous reference group and this group. For example, we are trying to do it on a calendar year. We are trying to give them an advocacy workshop at the beginning of their term rather than part-way through their term, and so on. But, generally, I consider that it has been very successful and it has helped us to model ways in which we can include children and young people in organisations. The other thing it has done is model for us, or make us much more aware of how the organisation has to change and how the adults have to change, if we are to have young people participate. It is not just a matter of saying, "Here you are. Go for it." We as an organisation have to change as well in order to give those

young people the support and information that they need to feel confident enough to participate.

I am required under the legislation to set up the expert reference group. It is chaired by Dr John Yu. I meet with them quarterly, as compared with the young people's group, who I meet every six weeks. The expert reference group to date has been very successful in that it does give me an opportunity to have a group of advisers around me with whom I can toss over ideas and raise issues and challenges, and seek their views about how I might respond to something. I also use the expert advisory group in-between meeting times. If I have a particular issue I might get that expert to either come to a meeting with me, or have discussions with them about particular issues.

That has certainly been the case in relation to employment screenings with our member on the expert reference group, Professor McCallum has been very helpful in giving me advice about employment law and employment relations and how I might approach some of those issues. I think it has been successful, from my point of view. I have had members of the expert reference group say to me that they value the cross-fertilisation of disciplines, if you like. I think because they are all very passionate about children they value the forum to put their points of view and to feel as though they are doing something important for children and young people.

Ms ANDREWS: Commissioner, can you comment on the age group?

Ms CALVERT: We have set the age group between the ages of 12 and 18. We have had discussions with both the expert reference group and with the expert advisory group about that cut-off point. The view was that they all have secondary school in common and the culture of that 12- to 18-year age group, so they were fairly keen to keep it at that age group. The challenge then for me and the organisation is how do we then consult and seek the views of children who are under the age of 12 years? We have been using the inquiry to trial, if you like, ways of doing that.

We have had focus groups with primary school kids. We have certainly tried to use art with primary school kids. We have gone to child care centres and spent time with pre-school kids, using stories to try to encourage conversations about who you turn to when you have problems—say, getting a book—using the relationship between the child care centre staff and the children to get a discussion going. I will brief the child care staff about what I would like and then my staff and I will sit on the periphery and try to get a discussion going between the kids and their parents or the kids and the

We have tried also to use free play where we might have gone to a child care centre and set up a home and tried to do home play as a way of talking about "who are the important people in your life" as you play games. You know, "Let's pretend we have come home from child care. What happens?" We are trialing those sorts of ways of seeking their views. I think observation is important with younger children—just observing. One child care centre we went to was on the last day for this little boy before he went to school. So, observing how the child care centre managed saying goodbye, and what his mother did and what he did. It gave us information about how important the people in that child care centre obviously had been to him and that being, therefore, someone he could turn to give things were not going so well.

#### **ATTENTION DEFICIT DISORDER [ADD] AND ATTENTION DEFICIT HYPERACTIVE DISORDER [ADHD]**

Mr WEBB: I am not sure that you can become involved in this issue as it has a medical side to it, that is, attention deficit disorder [ADD] and attention deficit hyperactive disorder [ADHD] and particularly the diagnoses of those disorders. The Committee is inquiring into treatments for those disorders. It is a big issue and we hear comments that 14 per cent to 15 per cent of children display some of the serious symptoms of ADD and other comments that perhaps up to 50 per cent of the population exhibit some of the behavioural characteristics. Again, I have a two-part question. Do you think the Commission has a role in helping to organise better diagnosis of the conditions? Do you think it would be possible to capitalise on the advantages of these people—we hear people suffering dyslexia certainly have other capabilities—to tap their excess energy. In other words, to literally think about the problem and help parents, teachers and society overcome something I believe will overburden us in the way we are proceeding now. It alarms me that the cost of neglect, abuse, and inappropriate treatment and actions seems to always come back to

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ADHD. Often it is the incorrect diagnosis that begins it. I am happy to take the question on notice.

Ms CALVERT: I think ADHD is a hot topic not only in Australia but also internationally. I know varying views are put forward about whether it exists and whether it is a constructed disease or in fact is a proper medical or organic condition. Your question highlights also one of the challenges facing the commission: we have to be careful not to overstep our expertise. Because we are working with children and young people, it would be nice if we could be expert on all things to do with all children and young people but, unfortunately, we cannot. Again, that is where our co-operative relationships come into play. We have formed co-operative relationships with the two major children's teaching hospitals, Sydney Children's Hospital and the new Westmead Children's Hospital. We will be canvassing their views and also those of children and young people in our submission to your inquiry that you have announced recently. I would prefer to address that as part of our submission to your inquiry or take it on notice rather than deal with the issue here.

The Hon. JAN BURNSWOODS: The Legislative Council Standing Committee on Social Issues on 20 February is holding its first hearing of its inquiry into early intervention for children with learning difficulties. The issues Mr Webb talks about are major issues that Committee will deal with. Already we have received many submissions from medical and paramedical groups, parents and so on. The honourable member would be very welcome to make a submission or come along. I invite people in his electorate to do the same. The fact that that Committee is undertaking that inquiry is a market for the seriousness of some of the issues you have raised. That is one of the reasons I believe it is good that I am a member of this Committee as well as being the chair of the Standing Committee on Social Issues—we can exchange information.

### *CHILDREN IN CARE*

Mr O'DOHERTY: I apologise for my late arrival. I was dealing actually with an issue concerning young people with learning difficulties in my electorate at Hornsby council. Therefore, I do not know whether you have canvassed the issue of kids in care.

Mr CAMPBELL (CHAIRMAN): No, we have not.

Mr O'DOHERTY: After having served your initial period in the job I am interested in your perspective about the outcomes we are getting, whether we know about them properly, for kids in care across various services in New South Wales?

Ms CALVERT: Your comment about whether or not we know enough about the outcomes is pertinent. I think we do not know enough about the outcomes for kids in care and that makes it hard for us to know whether we are doing a good job, bad job, a better job than we did before or a worse job. Certainly, some research shows we are maybe doing a bit better. For example, from the report by the Community Services Commission where we canvassed the views of children in foster care, I believe three-quarters of them said they felt better about being in foster care than they did being with their birth families. Also, in reviewing the outcomes for the children who were moved into the community following the

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devolution of the Ormonde Minali services again it indicates much better outcomes. The children and young people themselves felt they had better outcomes as a result of that move than if they had stayed in the Ormonde Minali service.

There are those sorts of reports that think that is hopeful, if you like. Equally though, there are reports that certainly give you cause for concern and would suggest that things are not good enough for children in care. I think they are not limited to New South Wales. I think they are issues that apply certainly across Australia. Recently I was in Victoria and a lot of those issues we are facing currently also are being discussed in Victoria. From my point of view as commissioner, one of the things we want to focus on is trying to get some information. Monitoring children's safety, welfare and wellbeing and being able to get some indicators that we can track over time to give us the information to know whether or not things are getting better or worse and, hopefully, then where are those problems. The other thing I would say is that with the introduction of the new legislation, one would think there would be some changes. Legally there will be. The process is now different, so there will be some changes in there. So, I will be interested also in what impact that has.

Mr O'DOHERTY: It is obviously encouraging that a kid in foster care is reporting that his or her outcomes or prospects now are better than when they were in an abusive situation or living on the street. Broadly what I am interested in is how does a group of children in foster care and in other forms of care compare with the general population, looking at high school retention rates or higher school certificate [HSC] outcomes, employment, health interventions or whatever it may happen to be. It seems to me there is a role for you, and probably you have the best mandate, to develop a series of benchmarks or at least a language and the measurements you spoke about so that we can compare those things across the board. Is that something you could look at?

Ms CALVERT: Yes, that is something we are looking at as part of the monitoring of the children's safety, welfare and well-being function that we have. We have two things as part of that and in itself that is an enormous task. For example, there is no clear agreement on what indicators you would use to measure the welfare of children. There is also no clear agreement on what indicators you would use to measure well-being and whether those indicators could tell you whether the child's wellbeing is improving. So, there are methodological issues that my research team contemplates along with other people in the welfare sector.

We have two projects under way that we hope to report on in 2002. One is that we are about to ask children and young people themselves what they think well-being means. Most of the previous well-being indicators have been adults' views of children's well-being, which is important, but nobody yet has asked children what they think the view of well-being is. So, we are about to undertake a project of asking children and young people what they think the indicators should be. From that, plus looking at the adults' views about what well-being, safety and welfare indicators, we will then try to develop a set of indicators and work with agencies to look at how they might report on that. The second project we are doing is looking at the existing data sets that are held in relation to children and young people's safety, welfare and well-being and to start reporting on the existing data sets.

Mr O'DOHERTY: Could you comment on the data that is available, the information that the department responsible for these children in care has?

Ms CALVERT: I would be happy to, but I would prefer to wait until we have actually done some more work, if that is acceptable to you. We are in the process of starting that.

Mr O'DOHERTY: In the 12 months you must have some idea?

Ms CALVERT: I guess I would say that I do not think it is currently sufficient.

Mr O'DOHERTY: Were you surprised at the lack of information the Department has about kids in care?

Ms CALVERT: I am surprised about some aspects of it. I am not surprised about others. I presume we are talking about the Department of Community Services?

Mr O'DOHERTY: Yes.

Ms CALVERT: My understanding is that the Department is in the process of reconfiguring its client information system and that should give much more useful information on the children who they come in contact with, and that includes children in care. However, that is only part of the picture for children in care or for any children—health status, education status, etc..

Mr O'DOHERTY: Of course it is. When the State says "We take to ourselves the responsibility of being the parents of these kids" why is it that the State has not said, "We have some expectations for these kids?" Have you asked the Department, for example, whether it has some global idea about whether kids it is responsible for should achieve the higher school certificate?

Ms CALVERT: No, I have not asked that question, but I am aware of the importance of education. We have been discussing with Burnside its recent report into educational standards for children in care. The Commission representative on the child protection senior officers group arranged for Burnside to give a presentation to that group about its report. That is now being discussed in the senior officers group about the ways in which the top teaching system can focus more fully on, say, things like children's educational needs.

Mr O'DOHERTY: As a Commission would you consider developing benchmarks for the broad population, kids in care and kids in other categories?

Ms CALVERT: I guess the first point I want to do is have some way of recording the levels. That is the point we are at now.

Mr O'DOHERTY: Stage one?

Ms CALVERT: Stage one is, are we in fact getting that information? Is it being given back into the policy process?

Mr O'DOHERTY: The answer at the moment seems to be no?

Ms CALVERT: That is right. Certainly, for example, I do not think we would be able to say in New South Wales what the health status was of children in care compared to the health status of children in well-functioning families, whatever that might mean. Regardless of the comparison, I do not think we would be able to say this is the current health status of children in care. And I think that is a problem.

Mr O'DOHERTY: It is a huge problem.

Ms CALVERT: Yes. That is why the most strategic thing I can do at the moment is to try to fulfil the Commission's function of monitoring children's safety, welfare and well-being because in the process of doing that these sorts of issues come up and that gives us then a platform to try to work out the most effective way we can suggest to people that they respond or even just bring to their attention that this is an issue.

The Hon. JAN BURNSWOODS: Does the children's reference group includes someone who is in care?

Ms CALVERT: Yes it does.

The Hon. JAN BURNSWOODS: Presumably, so too will the new one which will be set up soon?

Ms CALVERT: Yes, we will be asking for a representative on that.

Mr CAMPBELL (CHAIRMAN): It obviously is an important group as it is part of asking the children themselves how they feel about the system.

Ms CALVERT: Absolutely. I think one of the good things that has happened is that New South Wales has taken the lead in supporting and funding CREATE, which is the group for children and young people who are in care. We do have quite a good relationship with CREATE. If I could take a bigger perspective on this issue. There are a number of agencies and groups focusing on children who are in care and children who are in contact with the child protection system, and that is important. Those are both government groups and non-government groups. They are both providers and, if you like, advocates for people in that system.

As the Commissioner for Children and Young People, when I looked at all of the issues facing children and young people and what groups are advocating for all of the other issues that children and young people face, I find often they have no-one. So, for me, it is an issue about how much do I focus on responding to the needs of children and young people who are in care when they have all these other specific groups to support them, and my then not being in a position to respond to groups who have no-one. So that is a constant balancing act that I am doing and constantly thinking of in terms of the effort and the prioritising that I need to give to funding, staff time and so on.

*BUDGET OF THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE*

Mr CAMPBELL (CHAIRMAN): That leads nicely into my next question. We have not asked you a single question about funding. I note that question 29 is the obvious one. Is the current funding provided to the commission adequate to perform its functions? Other questions relate to the issue you mentioned, prioritising between different needs and different programs.

Ms CALVERT: I think current funding levels are adequate for me to fulfil my functions. It then becomes a question of to what degree. That is where we get into the question of how long is a piece of string. So, do I have sufficient funding to fulfil my functions? Yes, I do. I guess the issue is that if I were given more funding I am quite sure I would be able to spend it on fulfilling my functions as well. I guess the question is a bit like saying how long is a piece of string.

Having said that, I think that finetuning needs to occur in employment screening. When the budget was allocated to the commission there was no historical data on which to base the funding for employment screening. Also, it was hard to get completely accurate data on how many people there are in child-related employment. We now have six months of historical data to go on, and some finetuning needs to be undertaken. Currently, we are putting that view forward to government.

Mr O'DOHERTY: I take it that what you are saying is that there is a shortfall in funding required to do the screening job properly. Is that what you are saying?

Ms CALVERT: In order for us to do a national criminal record check, we have to pay a fee, so we want funding to cover that fee. There are two issues. The first is, do each of the approved screening agencies have sufficient funding? Some do, and some do not. There is also the issue of equity between those approved screening agencies. Some agencies are doing less screening than we anticipate, and some are doing more than we anticipate. So it is adjusting that in the light of the historical data. The other thing I would say is that I am not sure how reliable the first six months of data is. In fact, it is probably something that will require adjustment on an ongoing basis.

Mr O'DOHERTY: Have you put a figure on the adjustment required?

Ms CALVERT: For ourselves, I have, yes. I can give you a figure on that. I do not have it with me now, but I would be happy to give it to you. I am not quite sure what the protocol is, being a government agency. Can I get back to you on that? I am a government department for these purposes.

Mr O'DOHERTY: You are a statutory authority.

Ms CALVERT: No. We are a government department for the purposes of the Finance and Audit Act. I will need to get some advice on the protocol, and then I will get back to you. If I can give that information to you, I will.

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**STAFFING OF THE COMMISSION FOR****CHILDREN AND YOUNG PEOPLE**

Mr CAMPBELL (CHAIRMAN): Question 32 relates to the number of staff and whether that number is sufficient. You can answer that in due course or now. I was interested in the mix of staff and their qualifications and whether, to use your term, some finetuning is needed there.

Ms CALVERT: We do have a mix of staff. We have administrative and professional staff, and across a range of professions—legal backgrounds, social work backgrounds, human resource backgrounds, etc.. Certain positions required tertiary qualifications. In fact, some require post-graduate qualifications. For example research positions often require post-graduate qualifications, for obvious reasons. The establishment that we had for 1999-2000 was 29. The establishment we have for 2000-01 is 31. That staff increase was in response to having operated for 12 months and realising that there was a gap, and trying to fill that gap in order to provide some more administrative support to the Child Death Review Team. As the Committee would appreciate, there is quite a lot of paperwork and administrative tasks involved in tracking child deaths. The other area was community education, because of the sort of work we are doing in community education to try to raise awareness about particular issues, and so on.

**VOLUNTARY ACCREDITATION SCHEME FOR COUNSELLORS AND THERAPISTS WHO WORK WITH PEOPLE WHO HAVE COMMITTED SEXUAL OFFENCES AGAINST CHILDREN**

Ms ANDREWS: Commissioner, could I refer to page 61 of the annual report. Under "Organisation" is a reference to the development and administration of a voluntary accreditation scheme for counsellors and therapists who work with people who have committed sexual offences against children. What was the response to that scheme? Are you able to inform the Committee of any organisations that have taken up that offer?

Ms CALVERT: We are in the process of developing the scheme. For the past six months we have employed a consultant to come up with a proposal for a scheme. We are now in the process of consulting with agencies about that scheme. There are a number of schemes in place in America that we have looked at to see how applicable they would be to New South Wales. At this stage we will probably be putting in place a panel that accredits individuals. At this stage, we anticipate there will be three levels of accreditation: an associates accreditation, a clinical accreditation, and a supervisors accreditation. They will be required to resubmit for accreditation on an annual basis and to fulfil certain requirements in order to obtain that re-accreditation.

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As I said, we still have to finalise a number of issues. We need to do some additional consultation with some government departments that are the main employers of people who work with sex offenders. Also, we need to appoint the panel itself. Further, we need to develop an educational strategy for the judiciary and for others. Because it is a

voluntary scheme, it will be more successful if it is enforced. So that the legal process needs to voluntarily accept that, in order to be considered an expert, one needs to have obtained at least clinical accreditation under the scheme and that agencies should only employ people who are accredited members of the scheme. So we need to do some educational work in order to get TAFE up with the scheme in order for it to be successful.

Ms ANDREWS: Will you be contacting all the organisations known to work in this area offering them the facilities of the scheme?

Ms CALVERT: We have already circulated it to a number of organisations. Because it is not yet finalised, if there are any organisations that are interested but have not heard about it, or have heard about it and want to get a copy of the discussion paper, I am happy to give them access to that and still consider their views.

The Committee on Children and Young People later received a formal response to the following question on notice:

QUESTION: How has the Commission for Children and Young People performed under the function prescribed in the Commission for Children and Young People Act 1998 s.11 (j)? Has the Commission developed a voluntary accreditation scheme for persons working with persons who have committed sexual offences against children? How will this scheme be administered?

RESPONSE: A wide range of persons with diverse qualifications and professional experience are working with child sex offenders in therapeutic relationships, or, are appearing before court to give expert evidence at sentencing regarding treatment options and the likelihood of recidivism.

These people are engaged in a highly specialised area of work, however, they often have no formal training and are subject to ad hoc supervision when undertaking this work.

The primary purpose of the accreditation scheme, known as the Child Sex Offender Counsellors Accreditation Scheme, is to protect and promote the welfare and well-being of children and young people in New South Wales by establishing minimum standards and common expectations for conduct by persons who work with people who have sexually abused children.

A discussion paper in relation to the Child Sex Offender Counsellors Accreditation Scheme was circulated to a number of relevant government agencies and other stakeholders for consideration, including the Health Care Complaints Commission, New South Wales Psychologist Registration Board, Australian Association of Social Workers, and Royal Australian New Zealand College of Psychiatrists (Forensic Branch).

Comments from initial consultation undertaken with specific Government Departments and professional bodies in relation to the scheme indicate general support for the scheme.

The proposed scheme has 3 levels of accreditation:

*Associates Accreditation:* Applicants must have minimum core training as a psychologist (fully registered or registrable in New South Wales), social worker (member of the Australian Association of Social Workers), or, as a psychiatrist (member of the Royal Australia and New Zealand College of Psychiatry)

*Clinical Accreditation:* Applicants must have a minimum of 50 hours training in specific areas of sex offender management. Applicants must also provide evidence of having a minimum 2000 hours of post degree clinical experience in the delivery of clinical assessments/treatment services face to face with sex offender clients

*Supervisors Accreditation:* Applicants for this category must have all the above requirements plus a minimum of 3 years practice since the date of their "clinical accreditation".

It is proposed that a panel be established for the Child Sex Offender Counsellors Accreditation Scheme, responsible for the approval or rejection of applicants seeking accreditation under the scheme. The Commission for Children and Young People would provide administrative support the scheme.

A time line for the implementation of the scheme is in the process of being developed by the Commission for Children and Young People. It is, however, anticipated that the scheme will be implemented in 2001.

Issues to be considered prior to implementation of the Scheme include;

- the additional consultation to be undertaken with key Government Departments;
- the appointment of the advisory committee / panel; and
- the development of an educational strategy (for professional stakeholders) in relation to the scheme.

## **WORKERS COMPENSATION CLAIMS INVOLVING THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE**

The Hon. D. T. HARWIN: I note that you have had some problems with people falling over and making workers compensation claims. Has there been a physical problem with the office?

Ms CALVERT: No, there has not been a physical problem with the office. I think those may have been sustained on the way to work, as opposed to actually at work.

The Hon. D. T. HARWIN: Journey claims.

Ms CALVERT: I am being told that it involved one eye and one ankle and separate incidents.

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The Hon. D. T. HARWIN: So there is not a problem with safety at work or anything like that?

Ms CALVERT: No. In fact, we regularly conduct work safety checks in relation to disability, access and safety. We have been instrumental in encouraging a much more building-based approach to things like fire and evacuation. We have floor wardens and all that sort of thing, and we hold regular trial evacuations. We are very conscious of our workers' safety. There are other issues specific to some areas of our work. I think that the work of the child death review team can be very distressing, and those are issues that we need to keep an eye on, as well as physical safety.

(Short adjournment)

### *INITIATION OF INQUIRIES BY THE COMMISSIONER*

Mr O'DOHERTY: I established during the short adjournment that the question I am about to ask has not been asked. I want to follow up question on notice No. 7, which relates to the power to initiate inquiries being at the discretion or the approval of the Minister. Is there a view that the Act needs to be amended so that you can initiate inquiries on your own behalf?

Ms CALVERT: That requirement to consult with the Minister or get the approval of the Minister relates only to special inquiries. I am able to exercise certain powers compelling witnesses to appear and produce documents. It does not prevent me from initiating inquiries that are not special inquiries. So I would feel very comfortable initiating an inquiry. If I met with resistance from people with whom I wanted to discuss the issue I would then approach the Minister to ask whether or not it could be converted to a special inquiry. I have not had a need to do that so far. To date it has not been a problem. I am required under legislation to report to the Parliamentary Committee and to include in my annual report for the year whether or not I have requested such a special inquiry. To date there have been no difficulties with not getting agreement to conduct inquiries. I am required under the legislation to report annually if I have requested a special inquiry, if it has been turned down and the reasons for that. All I can say is that to date it has not been a problem.

The Commissioner for Children and Young People later confirmed this answer in a response on a Question on Notice:

QUESTION: Under the Commission for Children and Young People Act 1998, the Commission for Children and Young People has no power to initiate inquiries unless it has the approval of the Minister. Does the Commission consider this part of the legislation as a potential impediment to its work?

RESPONSE: This requirement in the Commission for Children and Young People Act 1998 relates only to "special inquiries" using powers to subpoena documents and require people to give evidence. It does not prevent the Commissioner initiating any other inquiries which do not use these powers.

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This issue has not raised any difficulties for the Commission for Children and Young People.

#### *WRITTEN DIRECTION FROM THE MINISTER*

QUESTION: Has there been a written direction by the Minister issued to the Commission for Children and Young People, on the exercise of its functions under the Commission for Children and Young People Act 1998? If so, what was this direction?

RESPONSE: I have received no written directions from the Premier on the exercise of the Commission's functions under s.17 (1) or s.24 (1) of the Commission for Children and Young People Act 1998.

Hansard records that, during the debate on the Commission for Children and Young People legislation, Minister Lo Po' said that the Commission's first inquiry would be into "the best means to assist to children who have no-one to turn to".

I have honoured this commitment, but it was not the subject of any written direction.

#### **INFORMING AND PUBLICISING THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE TO THE NEW SOUTH WALES COMMUNITY**

Mr WEBB: You spoke earlier about a number of pamphlets and you referred to the work that the Commission had done. Are you happy with the profile of the Commission? Do enough people know about it? What strategy are you employing to promulgate that profile?

Ms CALVERT: Yes, I am happy with the profile. In fact, I am very pleased with the profile that the Commission has achieved. Given that I have been in the position for only 18 months—and it is a new position—we have done well in raising awareness about the commission. I see our direction as further clarifying people's understanding about what we can do and what we cannot do. So we must provide a detailed knowledge about the Commission. The second thing that we continually need to do is to inform children and young people about the Commission because there are always new children and children moving out of childhood into adulthood.

Mr O'DOHERTY: Which is a good thing

Ms CALVERT: It is a very good thing. We are looking at some strategies such as initiating a school civics project, which will develop resource material for K to 10 on the Commission, democracy, civics, human rights and so on, which we will then try to make available to teachers in all schools systems-government and non-government school

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systems. We want to try to encourage other people to let children and young people know about the Commission and to promote the work of the Commission. One example we can

use to demonstrate how successful we have been is that we have achieved the same number of media inquiries in six months as we did in the previous 12 months. So that is one sort of quantifiable measure we have been quite successful in using in raising the Commission's profile.

### *MEASURING THE COMMISSION'S PERFORMANCE*

**QUESTION:** How does the Commission for Children and Young People measure performance against the Commission's functions as prescribed in the Commission for Children and Young People Act 1998? Has the Commission developed individual performance indicators for each of its functions?

**RESPONSE:** The Commission for Children and Young People was set up in June 1999.

The priority for the first six months of operation was to build our foundations, for example, recruiting staff, leasing and fitting out premises that reflected the needs and interests of young people.

From January 2000, our focus turned to developing a three-year strategic plan. Four key priority areas were set:

- Strengthening Commission foundations;
- Building credibility and influence to become a centre for excellence on children and young people's issues;
- Generate new knowledge about children and young people and their issues; and
- Advocate on specific children and young people's issues.

The outcomes of the Strategic Plan are aligned to the principles and functions in the Commission for Children and Young People Act 1998.

Indicators to measure the Commission for Children and Young People's strategic plan outcomes have been developed and will be reported in future annual reports. These will be refined over time.

No established benchmarks exist for performance of Children's Commissions. I have commenced discussions with Queensland, Tasmania and New Zealand Children's Commissioners regarding the possibility of meeting with them.

One of the agenda items I will propose for that meeting is the establishment of benchmarks.

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### *MONITORING TRENDS IN COMPLAINTS*

**QUESTION:** How does the Commission for Children and Young People monitor the trends in complaints made by or on behalf of children, as required under the Commission for Children and Young People Act 1998 s.11 (b)? How does the Commission exercise this function? How does the Commission work with other agencies and organisations which also have functions to monitor and/or investigate complaints, such as the Ombudsman?

**RESPONSE:** New South Wales has a number of complaints bodies that can investigate and act on complaints from members of the public, including the Community Services Commission, the Health Care Complaints Commission, the Department of Fair Trading, the Anti-Discrimination Board, the Independent Commission Against Corruption, and the Ombudsman. Because of the existence of these bodies, the Commission for Children and Young People's legislation does not empower it to investigate complaints made by or on behalf of individual children and young people (Commission for Children and Young People Act 1998 s.16).

However, some members of the public are unaware of this. When the Commission for Children and Young People receives a complaint about an individual child's circumstances, the complainant is referred to the appropriate complaints body and, if necessary, assisted to raise the complaint with them.

Where the complaint raises matters that indicate that there may be systemic issues that would affect many children and young people, the Commission for Children and Young People may take action on the general issue. An example is the changes to the Department of Education and Training's policy in relation to the support provided to children involved in court cases as a result of incidents at school.

The Commission for Children and Young People does have a role in monitoring complaints made to other bodies. Work on this aspect of the Commission's function did not commence in 1999/2000.

I anticipate that the first report on complaints made by or on behalf of children and young people will be completed in 2002, and that reports will then be produced biennially on the nature, extent and, eventually, trends in complaints.

Existing complaints bodies report that they receive few, if any, complaints from children and young people. Parents, other relatives and staff of support organisations tend to complain on behalf of children.

The Commission for Children and Young People's consultations with children and young people have indicated that, while some children and young people know about some of the bodies to which they could complain, the children and young people tend not to see them as relevant to their own situation.

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Our current inquiry, into the best means to assist children who have no-one to turn to is addressing this issue and I anticipate making some recommendations about it in the Inquiry Report.

[With regard to the issue of] overlap with other complaints bodies, I am a member of the Ombudsman's Network Group, which provides a forum for agencies with a complaints monitoring function to working collaboratively and avoid duplication.

Through this forum, I can make sure that the work we do in monitoring complaints from or for children will complement and inform the work of other complaints bodies.

### **MONITORING GOVERNMENT LEGISLATION AGAINST THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD**

**QUESTION:** In its function to monitor legislation relating to children and young people, does the Commission for Children and Young People also monitor compliance of New South Wales legislation with Australia's obligations under the UN Convention on the Rights of the Child?

**RESPONSE:** The principles on which the UN Convention on the Rights of the Child is based are very similar to the Commission for Children and Young People's guiding principles.

The Convention is one of the standards the Commission for Children and Young People uses in providing advice or monitoring an issue, including legislation.

In providing advice to agencies, the Commission for Children and Young People advises them of potential breaches of the Convention.

### **CHILD PROTECTION COUNCIL STAFF**

**QUESTION:** How many staff currently working for the Commission were transferred from the former Child Protection Council? The Committee notes that transfer of staff was promised in debates in the House, to ensure that the expertise was maintained.

**RESPONSE:** The Commission for Children and Young People was established in June 1999. At that time, there were 4 permanent staff, 4 temporary staff and 2 on secondment in the New South Wales Child Protection Council. All 8 staff transferred to the Commission.

There is currently 1 staff member from the New South Wales Child Protection Council still employed at the Commission for Children and Young People, the other staff elected to transfer or obtained positions with other organisations. No officers were displaced.



## CODE OF CONDUCT AND WORK PRACTICES

QUESTION: As a part of its child protection role, has the Commission for Children and Young People developed, or participated in the development of professional standards of behaviour through codes of conduct and development of appropriate work practices?

RESPONSE: The principal legislation applying to Commission staff, contractors and committee members is the Commission for Children and Young People Act 1998 and the Child Protection (Prohibited Employment) Act 1998. The Public Sector Management Act 1988 and the Public Finance and Audit Act 1983 and associated Regulations have specific application to the Commission for Children and Young People.

The Commission for Children and Young People developed and introduced a Code of Conduct and Ethics policy in March 2000. All staff, committee members and contractors are required to sign the certification to say they have read, understood and agree to abide by the contents of the policy. A Performance Development Policy for the Commission is being finalised.

All preferred applicants for the Commission for Children and Young People have been the subject of stringent probity checking including referee reports and criminal history checks as required under the Public Sector Management Act.

The Working With Children Check introduced in July 2000, set out a number of initiatives mandating employers to adopt improved recruitment practices. These standards will ensure that people who are being considered to work with children are appropriately screened to ensure that they do not have a background that would make them unsuitable.

In addition, the Working With Children Check—Guidelines for Employers provides a range of alternative strategies to complement employer's legislative responsibilities, including:

- staff training in the prevention of child abuse and child protection issues;
- assessing the potential risk to children of all positions in the workplace;
- issuing guidelines on how to respond to disclosure or discovery of abuse or neglect;
- plan the work of the organisation to minimise situations where the abuse of children may occur;
- give all staff and volunteers clear roles through the development of relevant role statements;  
and
- provide effective supervision of all staff and volunteers to reduce the risk of child abuse or neglect in the workplace.

The Commission for Children and Young People co-ordinated the development of the 2000 edition of the Interagency Guidelines for Child Protection Intervention, which guide the work practice of all agencies in child protection. The Interagency Guidelines specify appropriate interagency practices through a section on principles and expectations for interagency work and clarify the professional responsibilities of staff involved in child protection work.

The new Guidelines have more specific information than previously on exchange of information between agencies, how services can fulfil their legislative responsibilities to collaborate and also contain a section on resolving differences and dealing with non-compliance to the Guidelines.

The Commission for Children and Young People has met with professional associations, including those in the social work, legal, childcare, nursing and youth work fields, to talk about developing work practice on issues like participation by children and young people and advocacy for them.

The Commission for Children and Young People has run a number of child protection training workshops and seminars that provide workers with information on appropriate work practices and policies to implement in their services.

## **ADEQUACY OF THE LEGISLATED FUNCTIONS OF THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE**

**QUESTION:** Are the Commission for Children and Young People's functions as prescribed by the Commission for Children and Young People Act 1998 sufficient to address the needs and issues of children and young people in New South Wales?

**RESPONSE:** The Commission for Children and Young People Act 1998 essentially allows us to:

- Develop and advocate policy on any issue relating to children and young people;
- Develop, provide, monitor and/or review information, training, community education and research into any issue relating to children and young people;
- Promote and monitor any issue relating to the safety, welfare and well-being of children and young people; and
- Participate in and monitor any issue relating to screening for child-related employment

To date, these legislated functions have enabled us to act on any issue we have identified as important to children and young people.

## **CHANGES TO THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE ACT 1998**

**QUESTION:** Would the Commission for Children and Young People recommend any changes to the Commission for Children and Young People Act 1998, so that it can perform its functions more effectively?

RESPONSE: The Commission for Children and Young People Act 1998 essentially allows us to :

- Develop and advocate policy on any issue relating to children and young people;
- Develop, provide, monitor and/or review information, training, community education and research into any issue relating to children and young people;
- Promote and monitor any issue relating to the safety, welfare and well-being of children and young people; and
- Participate in and monitor any issue relating to screening for child-related employment.

To date, these legislated functions have enabled us to act on any issue we have identified as important to children and young people.

The only change I am considering is to enhance the application of employment screening by making recommendations to change Part 7 of the Commission for Children and Young People Act 1998.

The legislation was drafted to require all components of employment screening to be undertaken as soon as practicable. Legal advice has recently been received that all people who have been subject to State-based criminal record checks only should be re-screened against the national criminal record database. Similar re-screening requirements are also required in relation to completed disciplinary proceedings and apprehended violence orders.

The Commission for Children and Young People is considering recommending a minor amendment to the legislation to remove the requirement to re-screen this group of applicants only. This strikes a reasonable balance between children's safety and the extensive administrative requirement and costs to undertake the re-screening process.

The Commission for Children and Young People is also reviewing the current requirements for each individual employer to undertake screening for individual employees engaged in child related employment. Development work has commenced on the possibility of introducing portability across employers whilst still protecting the interests of children and young people. This would be particularly beneficial for mobile workers, such as casual teachers.

### *RECOMMENDATIONS CONCERNING GOVERNMENT LEGISLATION*

QUESTION: In the Annual Report of the Commission for Children and Young People for 1999-2000, you have listed a number of cases where the Commission participated in the review of legislation affecting children and young people in 1999/2000. Were there any specific recommendations in respect to these reviews that the Commission included in its submissions?

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RESPONSE: Essentially all of the Commission for Children and Young People's submissions about legislation contain recommendations.

However, these recommendations can vary from very minor wording or punctuation changes to suggestions for major revisions, or repeal, of entire acts.

Recommendations may propose specific wording for legislation, or simply suggest that further research be done into an issue prior to drafting.

Some of the Bills on which the Commission for Children and Young People made submissions have not yet been debated in Parliament, so the outcome of our advice may not yet be known.

It can therefore be quite complex to assess the impact of the Commission for Children and Young People's legislation review processes.

During the 2000/1 year, I have created a policy advice and recommendations database that will be used to monitor the implementation or otherwise of recommendations from this year onwards.

### *PROPOSED LEGISLATION REVIEWED*

QUESTION: Apart from the legislation that the Commission reviewed, as mentioned in the Annual Report, what were the remaining pieces of legislation reviewed, and what were the Commission's recommendations?

RESPONSE: The legislation and regulations reviewed during the year were:

Legislation foreshadowed on child safety in relation to soda siphon bulbs;

Proposed amendments to the Liquor Act concerning alcoholic iceblocks;

Proposed ban on the sale of spray cans;

Intoxicated Persons Amendment Bill 2000;

Crimes Amendment (Excessive Punishment) Bill 2000;

Children and Young Persons (Care and Protection) Miscellaneous Amendments Bill 2000;

Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Bill 2000;

Parliamentary Electorates and Elections (Voting Age) Bill 1999;

Community Relations Commission and Principles of (Multiculturalism) Bill 2000;

Adoption Bill 2000;  
Children and Young Persons (Care and Protection) Act 1998;  
Child Protection (Offenders Registration) Act 2000;  
Drug Summit Legislative Response Act 1999;  
Evidence (Children) Act 1997;  
Crimes Amendment (Offensive Weapons) Act 1999;  
Crimes (Sentencing Procedure) Act 1999;  
Crimes Legislation Amendment Act 1999;  
Crimes Legislation Amendment (Sentencing) Act 1999;  
Criminal Procedure Amendment (Sexual Assault Complainants Privacy) Act 1999;  
Crimes (Forensic Procedures) Act 2000;  
Education Amendment (Special Courses of Study) Act 1999;  
Protection of the Environment Operations (Littering) Act 2000;  
Property (Relationships) Amendment Act 1999;  
Crimes Amendment (Apprehended Violence) Act 1999;  
Health Legislation Amendment Act 1999  
Liquor Amendment Act 1999 (in relation to proof of age issues)  
Anti-Discrimination (Carers Responsibilities) Act 2000  
Road Transport (Driving Licences) Amendment Act 1999  
Crimes Legislation Amendment Act 2000;  
Children's Court Amendment Act 2000;  
Statute Law (Miscellaneous Provisions ) Act 1999 in relation to Detention Centres provisions;  
  
Children (Detention Centres) Amendment Regulations 1999;  
Evidence (Children) Regulation 1999 ;  
Family and Community Services Amendments Bill 2000 (Commonwealth - relating to Orphan's Pensions);

Privacy Amendment (Private Privacy) Bill 2000 (Commonwealth - relating to privacy of information held by non-government organisations);

Child Support Legislation Amendment Act 2000 (Commonwealth);

Federal Magistrates Court Act 1999 (Commonwealth);

A New Tax System (Goods and Services Tax) Act 1999 (Commonwealth)

During the 2000/1 year, I have created a policy advice and recommendations database that will be used to monitor the implementation or otherwise of recommendations from this year onwards.

*RECOMMENDED CHANGES TO LAWS*

QUESTION: Pursuant to s.23 (2)(c) of the Commission for Children and Young People Act 1998, were there any other recommendations for changes in the laws in New South Wales or for administrative action that the Commission considers should be made as a result of the exercise of its functions?

RESPONSE: Recommendations made by the Commission for Children and Young People can vary from very minor wording or punctuation changes to suggestions for major revisions, or repeal, of entire acts.

Recommendations may propose specific wording for legislation, or simply suggest that further research be done into an issue prior to drafting.

Some of the Bills on which the Commission for Children and Young People made submissions have not yet been debated in Parliament, so the outcome of our advice may not yet be known

It can therefore be quite complex to assess the impact of the Commission for Children and Young People's legislation review processes.

During the 2000/1 year, I have created a policy advice and recommendations database that will be used to monitor the implementation or otherwise of recommendations from this year onwards.

The Commission for Children and Young People will be monitoring the responses of agencies and Ministers to the recommendations made, and will be reporting on implementation or otherwise from the next Annual Report.

*WELL-BEING MONITORING*

QUESTION: The Committee is interested in the research project into the well-being of children and young people, mentioned on page 52 of the Annual Report. What are the objectives of the research and how is the Commission for Children and Young People going to use the results?



RESPONSE: Section 11 (b) of the Commission for Children and Young People Act 1998 requires the Commission for Children and Young People to monitor the overall safety, welfare and well-being of children in the community.

The Commission for Children and Young People is developing indicators to monitor, and report on the safety, welfare and well-being of children and young people in New South Wales.

This project will have two major components.

The first will be a research project asking children and young people across the state how they understand their own sense of well-being.

The second component will be the collation and analysis of data related to children's well-being from a range of government and non-government agencies. This could include data about personal health, educational attainment, access to recreation and cultural activities, environmental health, and crime.

The Commission will then report to Parliament and the community, and a version for children and young people, using both sources of information on their safety, welfare and well-being.

I anticipate that the first report will be published in 2002

## **AUSTRALIA'S REPORT ON THE UN CONVENTION ON THE RIGHTS OF THE CHILD**

QUESTION: Referring to the Commission for Children and Young People's work with UNICEF Australia and other children's agencies in the development of Australia's next report to the UN on the implementation of CROC. What was specifically the Commission's input into that project? Were children and young people directly involved in the project? Are there any specific recommendations for changes in legislation in state and federal jurisdiction arising from this involvement of the Commission?

RESPONSE: The Commission for Children and Young People is a member of the UNICEF Australia Taskforce on Child Rights.

As one of its on-going projects, the Task Force on Child Rights is working with the Commonwealth Department of Foreign Affairs and Trade to develop Australia's next report on its implementation of the UN Convention on the Rights of the Child.

The Report does not have to be completed in draft form until 2002, so this work is continuing, and the Commission for Children and Young People's input into the Task Force is not yet finalised.

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The Commission for Children and Young People has successfully advocated at the Task Force for a significant consultation with children, young people and their families as part of the project. We have proposed that the Report canvass issues such as access to public space, participation structures, prevention/early intervention services in mental and sexual health and civics education.

Some young people are members of the Task Force, but their major involvement in the project will be through consultation undertaken by Task Force member agencies.

The Commission for Children and Young People will feedback from its other projects to the Task Force relevant advice from children and young people. The Inquiry into the best means to assist children with no-one to turn to, our well-being research, the participation kit project and our Young People's Reference Group will all provide useful feedback.

There have so far been no recommendations for legislation changes in New South Wales or federally in this project.

## **ESTABLISHING THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE**

**QUESTION:** What were the difficulties encountered during the setting up and establishment of the Commission for Children and Young People? How did the Commission overcome these difficulties?

**RESPONSE:** Inevitably a number of challenges are encountered in setting up a new organisation. The Commission for Children and Young People did not experience any which created ongoing hardship. I do not want to lose sight of the really successful establishment of the Commission.

The commitment of the staff at the Commission for Children and Young People has enabled me to ensure that appropriate processes and procedures were established for the new organisation.

The staff which I recruited brought with them the knowledge and experience required for the Commission for Children and Young People to operate at a much higher level than would be expected in the early stages of an organisation's development.

There was also a great deal of enthusiasm for the establishment of the Commission for Children and Young People in the community and resultant goodwill meant the Commission was extremely well supported by other agencies. For example, the Department of Education and Training in assisting us with access to 1200 children to get their views on the logo, the Department of Community Services assisting us with some staffing. Additionally, the Department of Public Works and Services made a fantastic effort to get us into fitted out new premises within six months of my appointment, which is admirable.

The Commission for Children and Young People acknowledges and thanks those people who supported it.

Probably the area that has continuing challenges is employment screening, which is not surprising given that it is a world first system and therefore limited precedents existed. It is also difficult to balance the many varying views whilst ensuring that the protection of children remained paramount.

The successful implementation of employment screening to date can, in part, be attributed to the general support employment screening received throughout the community and the commitment by all parties to work through these issues.

I don't want to lose sight of the successful implementation of employment screening to date, by focusing solely on the unresolved implementation issues although I am happy to outline these separately.

So my view is the establishment of the Commission for Children and Young People has been very successful and I want to record my appreciation of the staff, other agencies and the community in achieving this goal.

#### *RELATIONSHIP WITH OTHER CHILD-RELATED AGENCIES*

**QUESTION:** What is the relationship between the Commission for Children and Young People and other agencies and departments which are concerned with policies and services relating to children and young people (e.g., Office on Children (Premier's Department), Department of Community Services, Department of Juvenile Justice, Department of Health, Department of Education and Training, etc.)?

**RESPONSE:** Section 14 of the Commission for Children and Young People Act 1998 requires that the Commission for Children and Young People and other government and non-government organisations work co-operatively.

The Commission for Children and Young People is fulfilling that statutory duty by embedding co-operation in all of the Commission's activities.

Our purpose is Together, making New South Wales a better place for children and young people. Working co-operatively is written into our Code of Conduct, our strategic plan and into staff Position Descriptions.

The Commission for Children and Young People's brief includes any issues of concern to children and young people in New South Wales. This means that the Commission works collaboratively with agencies in education, community service, health, housing, arts, sport and recreation, justice and planning. These agencies may be state, local or commonwealth government, community based or private sector.

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The Commission for Children and Young People works in co-operation with other agencies, by:

- referring matters relating to individuals to them, and receiving referrals about systemic matters from them
- participating in joint projects with other Departments
- membership of several broader committees
- conducting joint seminars with other agencies
- partnering them in research activities
- providing the Commission's meeting and training rooms and equipment

The Departments of Community Services, Health, Sport and Recreation, and Education and Training are Approved Screening Agencies for employment screening. They perform the Working with Children Check for their own staff and those of relevant non-government agencies. The Commission for Children and Young People monitors their performance in that role, and arranged training for their staff when the Check was introduced.

All agencies provide access to client records for Commission for Children and Young People staff working on Child Death Reviews.

### *CONSULTATIONS WITH CHILDREN AND YOUNG PEOPLE*

**QUESTION:** Has the Commission for Children and Young People developed means of consulting with children that are appropriate to their age and maturity? Are there any particular guidelines developed by the Commission for this objective?

**RESPONSE:** The Commission for Children and Young People takes the participation of children and young people in decision-making seriously.

There is no perfect model for children and young people's participation in decision-making. There appear, however, to be a number of elements that need to be in place for children and young people to participate effectively in decision-making. We are trying to build these into the Commission for Children and Young People's everyday activities.

#### Commission Processes and Structures

We have brought young people onto the Commission for Children and Young People's staff by creating three trainee positions, and we have created a physical layout in which children and young people feel comfortable and are keen to visit.

We have staff who are capable of, and committed to, consulting with children and young people. Our recruitment processes include young people, and the Kids Time policy assures staff have ongoing contact with children and young people and stay focused on their needs and interests.

### Modelling Good Practice

The Commission for Children and Young People tries to model good practice in participation and test new ways of involving children and young people in our work, so that our advice to other organisations is built on a valid foundation. For example, as part of our current inquiry, we are talking to three and four year old children using storybooks and play to hear their views.

### Established the Reference Group as a Model for 12-18 year olds

The Young People's Reference Group was established in April 2000 and comprises twelve diverse young people between the ages 12 and 18 from across New South Wales who advise me on the work of the Commission for Children and Young People. Before any important decisions are made they are consulted and their views taken into consideration. This type of group has proven to be appropriate to the age and maturity of 12-18 year olds.

We thought carefully about the lower age limit for members of the Reference Group and decided that regular full day meetings in a location the children don't know well, however informal and friendly, were not an appropriate mechanism for hearing the views of children under 12. We have been interacting with younger children by visiting them in primary schools and childcare centres and listening to their views on their own territory.

### Promoting Participation in Other Agencies

The Commission for Children and Young People's Participation Project is looking at good-practice models used by organisations to involve children and young people in decision-making and is trying to identify what makes those models effective.

The Commission for Children and Young People is currently developing a Participation Kit and a Conference Model that will highlight each of the key elements that need to be in place for children and young people to participate effectively. I anticipate the Kit will be ready for distribution in mid-2001, the Conference Model later in the year.

## *SELECTION OF THE EXPERT ADVISORY GROUP*

**QUESTION:** What processes did the Commission for Children and Young People follow in selecting the members of the Expert Advisory Group for recommendation for appointment etc?

**RESPONSE:** Appointments to the Expert Advisory Group are made by the Premier.

In preparing a schedule of names to recommend to the Premier for appointment, my primary consideration was the list of fields of experience set out in s.8 (2) of the Commission for Children and Young People Act 1998.

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I also attempted to achieve a gender balance, child related experience in New South Wales and a mixture of direct practitioners, senior managers and academics.

Members of the Group during 1999/2000 were:

Dr John Yu (Health) Chairperson;  
Ms Lyndsey Connors (Education);  
Mr Adrian Ford (Child Protection);  
Professor Gwynnyth Llewellyn (Disability);  
Mr Michael Antrum (Law);  
Ms Robyn Maher (Sport);  
Ms Caitlin Newton-Broad (Arts);  
Professor Ron McCallum (Employment).

### *PROCEDURES FOR THE EXPERT ADVISORY GROUP*

QUESTION: Has the Commission for Children and Young People developed a procedure for the Expert Advisory Group? What are the particular functions of the Group? Does the Group prepare formal annual or other reports on their function and performance to the Commission? If so, can these documents be made available to the Committee?

RESPONSE: I have developed a set of Terms of Reference for the Expert advisory Group.

The Terms of Reference include the legislative base for the Group, the nature and term of membership, a code of conduct, the Group's role, the chairing arrangements, frequency of and arrangements for meetings and payment of fees and expenses.

A copy of the Terms of Reference was forwarded to nominees before they accepted appointment.

I can table a copy today for the Committee's information (attached xxxxx).

### **CURRENT FUNDING FOR THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE**

QUESTION: Is the current funding provided to the Commission for Children and Young People adequate to perform its functions?

RESPONSE: Current funding levels are sufficient to perform the Commission for Children and Young People's functions.

There may need to be some fine-tuning in relation to the Working With Children Check.

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No historical employment screening data was available on which to base the original allocation to the Commission for Children and Young People. Data has since been gathered based on the first six months experience of the conduct of employment screening. This data indicates that a minor funding adjustment is required to meet the demand for employment screening.

### *BUDGET ALLOCATION*

QUESTION: How are funds in the Commission for Children and Young People's budget allocated between particular programs and sections of the Commission?

RESPONSE: The internal allocation is determined by the Commissioner, as Chief Executive Officer, and is based on:

- Priorities set by legislation and key functions identified;
- The Commission's Strategic Plan;
- Consultation with Youth Reference Group and Expert Advisory Committee.

## **ADDITIONAL FUNDING REQUIREMENTS**

QUESTION: Are there any particular areas in the Commission for Children and Young People's operations, which may require additional funding in order that they are performed more effectively?

RESPONSE: The Commission for Children and Young People launched the Working With Children Check, which mandated employment screening for preferred applicants commencing paid child-related employment in July 2000.

No historical data was available for employment screening on which to base the original allocation to the Commission.

Data has since been gathered based on the first six months experience of the conduct of employment screening. This data indicates that a minor funding adjustment is required to meet the demand for employment screening.

### *ADEQUACY OF STAFFING*

QUESTION: Is the number of staff currently employed by the Commission for Children and Young People sufficient for the exercise of the Commission's functions?

RESPONSE: The Commission for Children and Young People was granted an exemption from the current public sector staff freeze to enable the recruitment of staff in the set up phase to proceed.

Cullen Egan Dell were contracted to assist the Commission for Children and Young People in the design, documentation, evaluation and grading of all positions to established in the set up stage.

Average staffing for 1999/2000 was 15. This reflects the timing of recruitment processes in the Commission for Children and Young People's establishment year.

The Commission for Children and Young People has increased the staff establishment numbers from 29 in 1999/2000 to 31 in 2000/2001. The two additional positions are an Office Assistant (Research) and a Senior Community Education Officer. Recruitment action is currently underway for these positions.

The most significant staffing loss to the Commission for Children and Young People has been the resignation of the Director on 1 January 2001. The former Director resigned to take up a new appointment as the Children's Guardian for New South Wales. The Commissioner is currently considering the long-term recruitment for this position

All preferred applicants for the Commission for Children and Young People have been the subject of stringent probity checking including referee reports and criminal history checks required as under the Public Sector Management Act.

#### *MANAGEMENT AND BUDGETARY DIFFICULTIES*

QUESTION: Has the Commission for Children and Young People encountered any management and budgetary difficulties since its establishment and how were these overcome?

RESPONSE: The commitment of the staff at the Commission for Children and Young People has enabled the establishment of all those processes and procedures required for a new organisation. A total of 19 permanent staff were recruited during 1999-2000 and they brought with them the knowledge and experience required for the Commission to operate at a much higher level than would be expected in the early stages of an organisation's development.

#### *Audit Report*

The Commission for Children and Young People's first Audit was completed for 1999/2000 and the organisation received an "unqualified report" from The Audit Office.

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## **ATTENTION DEFICIT DISORDER (ADD)/ ATTENTION DEFICIT HYPERACTIVITY DISORDER (ADHD)**

QUESTION TAKEN ON NOTICE FROM Mr WEBB: Do you think the Commission has a role in helping to organise better diagnosis of the conditions? Do you think it would be possible to capitalise on the advantages of these people - we hear people suffering dyslexia certainly have other capabilities - to tap their excess energies?

The Commission for Children and Young People later replied:

RESPONSE: The National Health and Medical Research Council in 1996 raised a number of critical issues about the diagnosis of ADHD. In addition, in 2000, Philip Hazell of the University of Newcastle wrote a very useful summary of our current knowledge on ADHD assessment and treatment for preschool-aged children. It has been published in *Clinical Approaches to early intervention in child and adolescent mental health* by the Australian Early Intervention Network for Mental Health in Young People. Both these reports raised concerns about over-diagnosing in Australia, particularly among younger children.

The Australian Medical Association has expressed its concern about the situation, and the National Health and Medical Research Council made recommendations to improve assessment and diagnosis almost five years ago, but Mr Hazell's paper of last year would seem to suggest that little appears to have changed.

There may be a role for the Commission for Children and Young People in working with the medical professional associations, parenting organisations and other bodies to promote better practice in diagnosis of these conditions, and in assessing the needs of children whose behaviour is challenging for parents, but who do not have ADD or ADHD.

I am unable to comment on whether there could be a general method for channelling the excess energy from some of this behaviour to more constructive purposes. However, in each individual case, it may be possible for the family, with help from health and other support services, to use therapies to harness the liveliness of the child into creative or other avenues, which will benefit the child and their family.

## **BUDGET ENHANCEMENT BIDS FOR THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE**

QUESTION TAKEN ON NOTICE FROM Mr O'DOHERTY: What budget enhancements are required by the Commission to adjust its base funding to meet the costs of employment screening?

RESPONSE: As Commissioner and Chief Executive Officer, I am required as part of the State Budget process to review the draft budget allocations prepared by New South Wales Treasury. As a part of that same process, I am able to seek the provision of additional funds for the forthcoming year to meet the Commission's statutory and other priorities.

For the 2001/2002 financial year, I have sought a budget enhancement bid to supplement the Commission for Children and Young People's allocation.

At this stage, I am aware that the budget enhancement bids from the budget sector are the subject of review by the Budget Committee of Cabinet. I am therefore not in a position to release the details to the Committee.

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## **EXTRACTS OF THE MINUTES OF THE COMMITTEE ON CHILDREN AND YOUNG PEOPLE**

The relevant Minutes of the Committee on Children and Young People are included:

Meeting No. 3      Wednesday 22 November 2000

Meeting No. 4      Thursday 30 November 2000

Meeting No. 5      Wednesday 31 January 2001

Meeting No. 6      Wednesday 30 May 2001

# COMMITTEE ON CHILDREN AND YOUNG PEOPLE

PROCEEDINGS

**5:00 P.M., WEDNESDAY 22 NOVEMBER 2000  
AT PARLIAMENT HOUSE, SYDNEY**

MEMBERS PRESENT

*Legislative Council*

Ms Burnswoods  
Mr Corbett  
Mr Harwin  
Mr Primrose

*Legislative Assembly*

Ms Andrews  
Mr Smith  
Mr Campbell  
Mr Webb  
Mr O'Doherty  
Ms Beamer

Also in attendance: Mr Faulks, Committee Manager.

The Chairman, Mr Campbell, presiding.

## **1. Apologies**

Apologies were received from Mr Tsang.

## **2. Previous Minutes**

On the motion of Ms Andrews, seconded by Mr Webb, the minutes of meeting No. 2 were accepted unanimously as being a true and accurate record.

## **3. Chairman's report**

*Annual report of the Commission for Children and Young People*

The Chairman noted advice from the Commissioner that the annual report of the Commission for Children and Young People should be tabled by the end of November 2000.

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There being no further business, the Committee adjourned at 6:20 p.m.. Sine die.

# COMMITTEE ON CHILDREN AND YOUNG PEOPLE

PROCEEDINGS

**5:00 P.M., THURSDAY 30 NOVEMBER 2000  
AT PARLIAMENT HOUSE, SYDNEY**

MEMBERS PRESENT

*Legislative Council*

Ms Burnswoods  
Mr Corbett  
Mr Harwin

*Legislative Assembly*

Ms Andrews  
Mr Smith  
Mr Campbell  
Mr Webb  
Mr O'Doherty  
Ms Beamer

The Chairman, Mr Campbell, presiding.

Also in attendance: Mr Faulks, Committee Manager.

## **1. Apologies**

Apologies were received from Mr Primrose and Mr Tsang.

## **2. Previous Minutes**

On the motion of Ms Burnswoods, seconded by Mr Webb, the minutes of meeting No. 3 were accepted unanimously as being a true and accurate record.

## **3. Chairman's report**

*Annual report of the Commission for Children and Young People*

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The Chairman noted advice from the Commissioner that the annual report of the Commission for Children and Young People was tabled on Tuesday 28 November 2000.

There being no further business, the Committee adjourned at 6:10 p.m.. Sine die.

# COMMITTEE ON CHILDREN AND YOUNG PEOPLE

## PROCEEDINGS

**10:00 A.M., WEDNESDAY 31 JANUARY 2001  
AT PARLIAMENT HOUSE, SYDNEY**

## MEMBERS PRESENT

### *Legislative Council*

Ms Burnswoods  
Mr Corbett  
Mr Harwin  
Mr Primrose

### *Legislative Assembly*

Ms Andrews  
Mr Campbell  
Mr Webb  
Mr O'Doherty

Also in attendance: Mr Faulks, Committee Manager.

## **1. Election of Acting Chairman**

The Chairman and other Members were delayed to inclement weather. Pursuant to the Legislative Assembly Standing Order 325, on the motion of Mr Webb, seconded Mr Corbett:

‘That in the absence of the Chairman, Ms Burnswoods be the Acting Chairman.’

Passed unanimously.

## **2. Apologies**

Apologies were received from Ms Beamer, Mr Smith and Mr Tsang.

## **3. Previous Minutes**

On the motion of Mr Harwin, seconded by Mr Corbett, the minutes of meeting No. 4, having been distributed previously, were accepted unanimously as being a true and accurate record.

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#### **4. Public hearing into the 1999-2000 annual report of the Commission for Children and Young People**

The Committee commenced a public hearing into the 1999-2000 annual report of the Commission for Children and Young People, pursuant to the Commission for Children and Young People Act 1998 s.28(1)(c), relating to the examination of annual reports of the Commission.

As the Chairman and other Members of the Committee were delayed due to inclement weather, the Committee could not form a quorum. The Commissioner for Children and Young People agreed to commence her evidence despite the lack of quorum.

The public were admitted.

Ms Gillian Elizabeth Calvert, Commissioner for Children and Young People

was called and sworn.

The witness acknowledged receipt of a summons issued by the Acting Chairman under the Parliamentary Evidence Act 1901.

The Chairman assumed the Chair, and the Committee formed a quorum.

The witness was examined by the Chairman and Members of the Committee.

5. Private hearing into the 1999-2000 annual report of the Commission for Children and Young people

On the motion of Mr O'Doherty, seconded Mr Corbett:

'That the Committee take private evidence into the 1999-2000 annual report of the Commission for Children and Young People, pursuant to the Commission for Children and Young People Act 1998 s.30, relating to clause 6 of Schedule 1 concerning confidentiality of evidence.'

Passed unanimously.

The public were excluded.

The Chairman and Members of the Committee continued examination of the witness.

Evidence completed, the witness withdrew.

#### **7. General business**

There being no further business, the Committee adjourned at 1:05 p.m. Sine die.

# COMMITTEE ON CHILDREN AND YOUNG PEOPLE

## PROCEEDINGS

**9:00 A.M., WEDNESDAY 30 MAY 2001  
AT PARLIAMENT HOUSE, SYDNEY**

## MEMBERS PRESENT

### *Legislative Council*

Ms Burnswoods  
Mr Primrose  
Mr Harwin  
Mr Tsang

### *Legislative Assembly*

Mr Campbell  
Ms Andrews  
Mr Webb  
Mr Smith  
Ms Beamer

The Chairman, Mr Campbell, presiding.

Also in attendance: Mr Faulks, Committee Manager, and Ms Brdaroska, Committee Officer.

## **1. Apologies**

Apologies were received from Mr Corbett and Mr O'Doherty.

## **2. Previous Minutes**

On the motion of Mr Burnswood, seconded by Mr Primrose, the minutes of meeting No. 5, having been distributed previously, were accepted unanimously as being a true and accurate record.

## **3. Consideration of the Chair's draft report: "The first steps ... Review of the first annual report of the Commission for Children and Young People, for the 1999-2000 financial year"**

The Chair presented the draft report: "The first steps ... Review of the first annual report of the Commission for Children and Young People, for the 1999-2000 financial year" (Report 1/52). The report is based upon transcripts of evidence taken at a public hearing into the 1999-2000 annual report of the Commission for Children and Young People, pursuant to the

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Commission for Children and Young People Act 1998 s.28(1)(c), relating to the examination of annual reports of the Commission.

The draft report, have previously been distributed to Members, was accepted as being read.

The Committee proceeded to deliberate on the draft report in globo:

Recommendation 1: read and agreed to

Recommendation 2: read and agreed to

Recommendation 3: read and agreed to

Recommendation 4: read and agreed to

Chapter 1 - Commentary: read and agreed to

Chapter 2 - Record of the examination of Ms Gillian Calvert, Commissioner for Children and Young People, regarding the 1999-2000 annual report of the Commission for Children and Young People: read and agreed to

On the motion of Mr Webb, seconded Mr Primrose:

That the draft report: "The first steps ... Review of the first annual report of the Commission for Children and Young People, for the 1999-2000 financial year", be read and agreed to.

Passed unanimously.

On the motion of Ms Beamer, seconded Ms Andrews:

That the draft report: "The first steps ... Review of the first annual report of the Commission for Children and Young People, for the 1999-2000 financial year" be accepted as a report of the Committee on Children and Young People, and that it be signed by the Chair and presented to the House.

Passed unanimously.

On the motion of Mr Tsang, seconded Ms Burnswoods:

That the Chair and Manager be permitted to correct any stylistic, typographical and grammatical errors in the report.

Passed unanimously.

#### **4. General business**

There being no further business, the Committee adjourned at 9:40 a.m. Sine die.