



PARLIAMENT OF NEW SOUTH WALES

Committee on Children and Young People

REPORT 1/55 – SEPTEMBER 2012

REVIEW OF THE 2009-2010 AND 2010-2011 ANNUAL REPORTS OF THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE AND THE 2009 REPORTS OF THE CHILD DEATH REVIEW TEAM





PARLIAMENT OF NEW SOUTH WALES

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

**REVIEW OF THE 2009-2010 ANNUAL REPORT AND THE 2010-
2011 ANNUAL REPORT OF THE COMMISSION FOR CHILDREN
AND YOUNG PEOPLE AND THE 2009 REPORTS OF THE CHILD
DEATH REVIEW TEAM**

REPORT 1/55 – 13 SEPTEMBER 2012

New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Committee on Children and Young People.

Review of the 2009-2010 and 2010-11 annual reports of the Commission for Children and Young People and the 2009 reports of the Child Death Review Team / Committee on Children and Young People. [Sydney, N.S.W.] : the Committee, 2012. [v 86] p. ; 30 cm. (Report ; no. 1/55)

Chair: Andrew Cornwell MP

“September 2012”

ISBN 9781921686481

1. Children—New South Wales.
2. Youth—New South Wales.
3. New South Wales. Commission for Children and Young People. Annual reports ; 2009-2010 and 2010-11.
4. New South Wales. Child Death Review Team. Reports ; 2009.
 - I. Title.
 - II. Cornwell, Andrew.
 - III. Series: New South Wales. Parliament. Committee on Children and Young People. Report ; no. 1/55

(DDC22) 305.23

The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

Contents

Membership _____	ii
Terms of Reference _____	iii
Chair’s Foreword _____	iv
List of Findings and Recommendations _____	v
COMMENTARY _____	1
INTRODUCTION _____	1
PRINCIPAL FUNCTIONS OF THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE _____	2
TRANSFER OF THE CHILD DEATH REVIEW TEAM _____	5
WORKING WITH CHILDREN CHECK _____	6
RESEARCH, POLICY AND ADVOCACY _____	9
FORWARD PLANNING _____	10
APPENDIX ONE – QUESTIONS ON NOTICE _____	14
APPENDIX TWO – TRANSCRIPT OF PROCEEDINGS _____	45
APPENDIX THREE – QUESTIONS TAKEN ON NOTICE AT PUBLIC HEARING _____	68
APPENDIX FOUR – MINUTES _____	80

Membership

CHAIR	Mr Andrew Cornwell MP, Member for Charlestown
DEPUTY CHAIR	Ms Melanie Gibbons MP, Member for Menai
MEMBERS	The Hon Jan Barham MLC The Hon Niall Blair MLC The Hon Greg Donnelly MLC Mr Andrew Gee MP, Member for Orange Dr Andrew McDonald MP, Member for Macquarie Fields
CONTACT DETAILS	Committee on Children and Young People Parliament of New South Wales Macquarie Street Sydney NSW 2000
TELEPHONE	02 9230 3439
FACSIMILE	02 9230 3052
E-MAIL	childc@parliament.nsw.gov.au
URL	www.parliament.nsw.gov.au/children

Terms of Reference

Commission for Children and Young People Act 1998

28 Functions of Committee

(1) The Parliamentary Joint Committee has the following functions under this Act:

- (a) to monitor and review the exercise by the Commission of its functions,
- (b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or connected with the exercise of its functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed,
- (c) to examine each annual or other report of the Commission and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report,
- (d) to examine trends and changes in services and issues affecting children, and report to both Houses of Parliament any changes that the Joint Committee thinks desirable to the functions and procedures of the Commission.
- (e) to inquire into any question in connection with the Committee's functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.

(2) Nothing in this Part authorises the Parliamentary Joint Committee to investigate a matter relating to particular conduct.

(3) The Commission may, as soon as practicable after a report of the Parliamentary Joint Committee has been tabled in a House of Parliament, make and furnish to the Presiding Officer of that House a report in response to the report of the Committee. Section 26 applies to such a report

Chair's Foreword

This is the Committee's first annual report review with the Commission for Children and Young People during the 55th Parliament. During this review, we examined the 2009-2010 and 2010-2011 Annual Reports of the Commission for Children and Young People, the Child Death Review Team Annual Report 2009 and a special report of the Child Death Review Team entitled *A preliminary investigation of neonatal SUDI in NSW 1996-2008: opportunities for prevention*.

In conducting these reviews, the Committee fulfilled its oversight functions of the Commission provided under s 28 of the *Commission for Children and Young People Act 1998*. The Committee has an important role to play in oversighting the work of the Commission and through the examination of the Commission's Annual Reports, the Committee has gained a better understanding of the roles it performs and will continue to monitor its work in future reviews.

A statutory review of the *Commission for Children and Young People Act 1998* was tabled in 2011 which supported the current legislative provisions for the Commission's functions. The Committee has recommended, however, that the Commission do more to disseminate information to children and young people to ensure their work is more widely known.

The Commission is currently in a period of change with the transfer of the Child Death Review Team to the NSW Ombudsman and changes being made to the Working With Children Check to give more control and responsibility to the Commission. The Committee has highlighted these issues in this report and notes that it may change the focus of the Commission. The Committee will observe with interest how these changes affect the Commission.

The Committee also notes that the Commission has indicated a number of areas it hopes to explore in the future. Despite the changes mentioned, the Committee was pleased to see that the Commission is investigating issues affecting children and setting its own agenda. To further assist the Commission in its forward planning and the Committee with its oversight functions, the Committee has also recommended that the Commission introduce Key Performance Indicators.

I wish to express the Committee's appreciation to Ms Mitchell and the staff at the Commission for their co-operation throughout the review. I also thank my fellow Committee members for their contribution to the work of the Committee.

Mr Andrew Cornwell MP
Chair

List of Findings and Recommendations

RECOMMENDATION 1 _____ **5**

The Committee recommends that the Commission for Children and Young People give more prominence to its online presence and research the most effective methods to reach children and young people.

RECOMMENDATION 2 _____ **13**

The Committee recommends that the Commission for Children and Young People introduce Key Performance Indicators and report on these in future Annual Reports.

Commentary

INTRODUCTION

- 1.1 Under section 28 (1)(c) of the *Commission for Children and Young People Act 1988*, one of the functions of the Committee on Children and Young People (the "Committee") is to examine each annual or other report of the Commission for Children and Young People (the "Commission") and report to both Houses of Parliament on any matter appearing in, or arising out of, such reports.
- 1.2 On Monday 7 May 2012, the Committee conducted a public hearing with the Commissioner for Children and Young People, Ms Megan Mitchell, (the "Commissioner") in relation to the review of the 2009-2010 and 2010-2011 Annual Reports of the Commission and the 2009 Annual Report of the Child Death Review Team (the "CDRT") and a special report of the CDRT entitled, *A preliminary investigation of neonatal SUDI in NSW 1996-2008: opportunities for prevention*.
- 1.3 Due to the transfer of oversight responsibility of the CDRT to the Committee on the Office of the Ombudsman and Police Integrity Commission in November 2011, subsequent reports of the CDRT have not been examined in this review. This transfer will be outlined in later sections of this report.
- 1.4 All subsequent reports of the CDRT published by the NSW Ombudsman will be examined by the Committee on the Office of the Ombudsman and Police Integrity Commission.
- 1.5 As preparation for the hearing, the Committee sent the Commissioner a series of questions on notice about matters raised in the aforementioned reports, as well as current issues relevant to the Commission and the exercise of its functions. The answers to these questions can be found at Appendix One of this report.
- 1.6 During the course of the public hearing, the Commissioner took some questions on notice. The Commissioner also agreed to respond to any additional questions the Committee might have following the hearing. The answers to these questions can be found at Appendix Three of this report.
- 1.7 The following commentary focuses on a number of important issues arising from the Committee's review of the relevant reports. These issues are:
- the principal functions of the Commission;
 - the transfer of the Child Death Review Team to the NSW Ombudsman;
 - changes to the Working With Children Check;
 - the Commission's work in its research, policy and advocacy roles; and
 - the future directions of the Commission.

PRINCIPAL FUNCTIONS OF THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE

Background

1.8 Under section 11 of the *Commission for Children and Young People Act 1998* (the "Act"), some of the principal functions of the Commission are to:

- promote the participation of children in the making of decisions that affect their lives and to encourage government and non-government agencies to seek the participation of children appropriate to their age and maturity,
- promote and monitor the overall safety, welfare and well-being of children in the community and to monitor the trends in complaints made by or on behalf of children,
- make recommendations to government and non-government agencies on legislation, policies, practices and services affecting children,
- promote the provision of information and advice to assist children,
- conduct, promote and monitor training on issues affecting children,
- conduct, promote and monitor public awareness activities on issues affecting children,
- conduct, promote and monitor research into issues affecting children, and
- determine or intervene in review applications concerning prohibited persons.

1.9 The Committee was pleased to note that the Commissioner showed an understanding and prioritisation of these principal functions. The Commissioner told the Committee that:

Our vision is to together make New South Wales a better place for children and young people ... Beyond the Committee, the commission works with Ministers, government agencies and non-government organisations, including children service providers and peak bodies, and, of course, most important of all, we work with children and young people. Our remit is children aged nought to 17 years of age.

We have a whole-of-government focus and work to ensure children benefit from improved legislation, policies, practices and services. We support children to participate in decisions that affect their lives; we research, monitor and promote child safety and wellbeing; and we ensure employers support child safe and child friendly workplaces. We also administer the Working with Children Check and the sex offenders counselling scheme.¹

1.10 Some of the notable activities of the Commission over the reporting period included conducting a number of seminars on various topics relating to the safety and wellbeing of children and young people. The Commission partnered with

¹ Ms Megan Mitchell, Commissioner for Children and Young People, *Transcript of evidence*, 7 May 2012, p. 2.

local councils in nine areas to deliver Child-Safe, Child-Friendly seminars, targeted at council service providers.²

1.11 A significant amount of work is also being done by the Commission in the area of Children in the Middle Years, including a seminar series exploring development during middle childhood in 2011. The Commission held three seminars, which were attended by a total of 337 people representing a wide range of government and non-government stakeholders.³

1.12 Additionally, the Commission has consulted children and young people, for example, to assist the development of a youth package prepared by the NSW Government in the 2010-2011 budget, as noted in the Commission's Annual Report.⁴ Further answers to the Committee's questions elaborated that:

In January and February 2010, the Commission consulted approximately 31 young people aged between 14 and 22 for the Premier's Supporting Our Young People package.⁵

1.13 The Commission also continued its work in the area of young people and the built environment, establishing an advisory group consisting of key stakeholders and promoting its publications on this topic.⁶

1.14 As stated in the Annual Report:

Over the coming year, the Commission will continue to work on behalf of all NSW children and promote their wellbeing, and in particular for vulnerable children, including those who struggle to keep engaged with community and school. A major review of our child participation approaches and resources is also underway, along with significant cross government prevention work on monitoring and analysing child injury. The Commission will also continue to devote considerable resources to implementing reforms to the Working With Children Check system.⁷

Comment

1.15 The Committee recognises the work being done by the Commission in fulfilling its principal functions.

1.16 The Committee does note, however, that the work done by the Commission may not be widely known.

1.17 During the public hearing held with the Commissioner while discussing materials created by the Commission on improving the built environment for children and young people, the Committee raised the following issue:

The Hon. JAN BARHAM: I have been on council for 13 years and I was not aware of it [the Built for Kids publication] and staff had not brought it forward. Is there a

² Commission for Children and Young People, *Answers to questions on notice*, 17 April 2012, p. 10.

³ *Ibid*, pp. 12-13.

⁴ Commission for Children and Young People, *Annual Report 2009-2010*, p. 7.

⁵ Commission for Children and Young People, *Answers to questions on notice*, 17 April 2012, p. 17.

⁶ Commission for Children and Young People, *Annual Report 2010-2011*, pp. 6-7.

⁷ *Ibid*, p. 2.

practice where you have the resources to write to all councils or at least to elected representatives so they know about it and, at the moment, the idea of how it can be used? ...

Ms MITCHELL: We can do that. My understanding is that initially we did that; we wrote to all councils. The issue is who picks up the mail and who opens the package and what they do with it.

The Hon. JAN BARHAM: It needs to be done at both ends—the organisation and the elected body. Hopefully one or the other will pick that up.

Ms MITCHELL: In this review of how it is being used there will probably be some advice about how better to target people in councils. Yes, I am happy to do that again and do it better.⁸

1.18 The Commission may wish to work towards an improved communication strategy to highlight its work. It may also be beneficial to put measures in place to monitor its current methods of promoting the work that it does and identifying best practices within the Commission and those used by other organisations.

1.19 The continuing rise of electronic and social media and the growing preference of younger people to interact using these modern media mean that traditional methods of publicising the work of the Commission may no longer be relevant for children and young people.

1.20 The Committee raised this point with the Commissioner at the public hearing:

The Hon. NIALL BLAIR: I refer to the information you supplied in answer to a question on notice about the KidsPoll. The commission says it is the most popular subscription design for young people, with more than 1,000 subscribers. You said in your opening statement there are 1.6 million children in New South Wales. How do 1,000 subscribers out of 1.6 million children sit with the commission's expectations for the sign-up? Is that something that is in line with or below what you were hoping for? What is the commission doing to increase the popularity of the website?

Ms MITCHELL: Thank you for the question. I think we would be expecting more children to be connecting with us. "Let a thousand flowers bloom" is the strategy we are adopting. The KidsPoll is only one way to grab a kid's interest and get their views. The commission has gone out in the past with the "Ask the children" series—and will continue to do so—and conducted focus groups and surveys. We do online surveys. We have the *Feedback* magazine, which has 4,000 child subscribers. In the last year we have entered into the world of Twitter and Facebook. We have nearly 500 Twitter and Facebook friends. We are trying to explore all the options available to encourage more engagement with the commission by adults as well as children.⁹

1.21 In further information provided by the Commissioner it was clarified that of the 4,000 subscribers to the Feedback magazine, only 508 were aged 17 or less.¹⁰

⁸ Ms Megan Mitchell, Commissioner for Children and Young People, *Transcript of evidence*, 7 May 2012, p. 16.

⁹ *Ibid*, p. 7.

¹⁰ *Corrections of fact to Transcript of evidence* provided by Commissioner for Children and Young People, 16 May 2012 (Letter appears in Appendix 2)

- 1.22 The Commissioner did indicate that they would "like to have more young people connecting with us".¹¹ As part of this the Commission is in the process of redeveloping their website with the aim of engaging better with young people.

RECOMMENDATION 1

The Committee recommends that the Commission for Children and Young People give more prominence to its online presence and research the most effective methods to reach children and young people.

- 1.23 One of the important ways in which the Commission encourages participation of children and young people and canvasses their opinions is through the Young People's Advisory Group. The Young People's Advisory Group was created following a recommendation arising from a report of the Commission's internal evaluation of the Young People's Reference Group.¹²
- 1.24 The Advisory Group was formed building on the strengths of the previous Reference Group to ensure that the young people involved received more support from their schools and also had "more capacity for advice to be passed on to government if necessary".¹³ There is also increased opportunity for the new Advisory Group to obtain the views of their peers.¹⁴
- 1.25 The Committee is pleased to see the evaluation and improvement of these groups and hopes that this new approach may lead to better consultation of young people by the Commission.
- 1.26 The Committee will monitor the effectiveness of this new liaison group through future reviews of the work of the Commission.

TRANSFER OF THE CHILD DEATH REVIEW TEAM

Background

- 1.27 As was noted in the *Review of the 2008-2009 Annual Report of the Commission for Children and Young People and the 2008 Annual Report of the Child Death Review Team* (the "2010 Annual Report Review") of this Committee in the previous Parliament, one of the recommendations of the 2008 *Report of the Special Commission of Inquiry into Child Protection Services in New South Wales*, was that the NSW Ombudsman become the convenor of the CDRT and that its secretariat and research functions be transferred to the office of the Ombudsman.¹⁵
- 1.28 The legislation transferring the responsibility for the CDRT commenced on 11 February 2011. From that date, the NSW Ombudsman replaced the

¹¹ Ms Megan Mitchell, Commissioner for Children and Young People, *Transcript of evidence*, 7 May 2012, p. 7.

¹² Commission for Children and Young People, *Answers to questions on notice*, 17 April 2012, p. 6.

¹³ Ms Megan Mitchell, Commissioner for Children and Young People, *Transcript of evidence*, 7 May 2012, p. 6.

¹⁴ Commission for Children and Young People, *Answers to questions on notice*, 17 April 2012, p. 6.

¹⁵ Committee on Children and Young People, *Review of the 2008-2009 Annual Report of the Commission for Children and Young People and the 2008 Annual Report of the Child Death Review Team*, Report 7/54, pp. 1-2

Commissioner, Ms Megan Mitchell, as the Convenor of the CDRT. However, as was noted in the previous report, the Commissioner remains a member of the CDRT.

- 1.29 In addition to the transfer of the responsibility for the CDRT, there has also been a transfer of the responsibility for monitoring and reviewing the work of the CDRT. In November 2011, the *Children Legislation Amendment (Child Death Review Team) Act 2011* transferred parliamentary oversight of the CDRT from the Committee on Children and Young People to the Committee on the Office of the Ombudsman and Police Integrity Commission.

Comment

- 1.30 The Committee is pleased to see that the important work done by the CDRT is continuing and notes the smooth transition following the transfer of responsibility from the Commission to the NSW Ombudsman.
- 1.31 It is important for the Commissioner to remain a member of the CDRT. The Committee notes that the Commissioner still attends meetings and actively participates in the work of the Team, offering advice to the Convenor where appropriate and liaising with other government bodies.¹⁶
- 1.32 In evidence provided by the Commissioner, it was highlighted that there have been certain changes made to the way data has been reported in the 2010 *CDRT Annual Report* as opposed to those of previous years. This has caused some difficulties for the Commission as it "limits comparability with previous published reports and has made updating *A Picture of NSW Children* challenging."¹⁷
- 1.33 Following further questioning from the Committee, the Commissioner clarified that she is still able to liaise with the Convenor of the CDRT and recommend actions for the Team.¹⁸ The Committee notes the importance of the Commissioner maintaining this relationship in order to make requests to facilitate the work of the Commission in this area.
- 1.34 The work of the CDRT will remain relevant to the Committee and the presence of the Commissioner on the CDRT will allow the Committee to examine any issues through its oversight of the Commission.

WORKING WITH CHILDREN CHECK

Background

- 1.35 The *Commission for Children and Young People Act 1998* (the "Act") requires that employers undertake pre-employment checks of paid employees in child-related work. This is known as the Working With Children Check (WWCC). The WWCC seeks to protect children by reducing the risk of abuse in the workplace.

¹⁶ Commission for Children and Young People, *Answers to questions on notice*, 17 April 2012, p. 3.

¹⁷ *Ibid*, pp. 3-4.

¹⁸ Commission for Children and Young People, *Answers to questions following 7 May hearing*, 18 June 2012, p. 1.

- 1.36 In August 2011, the Government tabled the *Report on the Review of the Commission for Children and Young People Act 1998*. This report contained several recommendations relating to the operation of the WWCC, including linking a clearance to an individual rather than a position and simplifying the process involving whether a person is refused clearance or not.
- 1.37 Following the tabling of this report, the Minister for Citizenship and Communities introduced the *Child Protection (Working with Children) Bill 2012* in June 2012. The objects of this bill were to make improvements to the current WWCC model and provide greater protection for children in NSW.
- 1.38 According to the Minister's second reading speech:
- The new Working With Children Check improves on the current model in four key ways: it provides the same Working With Children Check for all categories of worker, including paid workers, volunteers, self-employed people, authorised carers and adults sharing their homes. It accesses full criminal histories instead of a defined subset of records, and continuously monitors new New South Wales records to manage risks that occur after a person has received a clearance to work with children. It has only two outcomes: a clearance or a bar, so employers can no longer engage a person assessed as a serious risk. It is easier to operate, with streamlined online systems and centralised operations.¹⁹
- 1.39 The bill was passed by Parliament without amendment and the *Child Protection (Working with Children) Act 2012* received assent on 27 June 2012. At the time of writing, the legislation is yet to commence but the Committee understands that the Commission is currently developing a timeline for the implementation of the new system, through consultation with peak bodies and employers in child-related sectors and an assessment of risk factors in each setting.²⁰
- 1.40 Some of the key changes introduced by the new legislation include:
- The WWCC will be linked to an individual for five years and will be renewable, removing the requirement for people to be regularly re-checked if changing position;
 - Volunteers, paid workers, self employed people and other workers currently subject to aspects of the WWCC will all be subject to the same WWCC;
 - There will be only two outcomes following a WWCC application – a clearance, or a bar. There will also be an appeal process for those who are refused clearance with the exception of particular circumstances;
 - Continuous alerts of new records will be provided for people with a WWCC Clearance; new risks identified will be assessed and the Clearance withdrawn if necessary;
 - All checks will now be performed by the Commission; and

¹⁹ The Hon Victor Dominello MP, *NSW Parliament Legislative Assembly Hansard, Child Protection (Working with Children) Bill 2012*, 13 June 2012, p. 12,764.

²⁰ *Ibid.*

- There will be a user fee for paid workers, which will help to fund the expansion to volunteers who were not previously in the system.

1.41 Of particular relevance to the Commission is that previously, the checking process was undertaken by five screening agencies (including the Commission) with the Commission having overall responsibility for the WWCC. In the new model, the Commission will perform all checks itself.

1.42 The decision to give clearance to a worker or to bar them will now rest with the Commission and the new legislation provides the Commission with significant responsibility to develop the particulars of the new WWCC. The Commission will determine how applications are made and the identity documents that will be required.²¹ They will also work closely with the NSW Police who will release records to the Commission during the initial assessment and in continuous monitoring.²²

1.43 As the Commission will be the central point of contact for child-related employers and workers requiring a WWCC, there will also be an increase in the administrative tasks required to maintain registers. The Minister, in his second reading speech, also noted that:

In practice, all applicants will complete an online application form. Applicants unable to do this will be able to phone the commission's helpline and officers will complete the online forms for them.²³

1.44 The new legislation also incorporates recommendations made by the NSW Auditor-General, following his performance audit report on the WWCC in February 2010. The Committee was pleased to note that the Commissioner had endeavoured to implement changes according to the Auditor-General's recommendations.²⁴ When questioned on their response to the Auditor-General's report, the Commissioner stated that:

The review by the Auditor-General made twelve recommendations. The Commission has implemented all those recommendations that do not depend on legislative change. Legislative changes planned for 2012 relating to the new Working With Children Check will complete the implementation of the Auditor-General's recommendations.²⁵

Comment

1.45 It would appear to the Committee that the WWCC is now one of the prime roles of the Commission. This is especially true given the shift in responsibility for the WWCC to rest wholly with the Commission, and the fact that responsibility for the CDRT now lies with the NSW Ombudsman. This is supported by the fact that

²¹ *Child Protection (Working with Children Check) Act 2012*, s 13.

²² *Ibid*, s 33.

²³ The Hon Victor Dominello MP, *Op Cit*, p. 12,764.

²⁴ The Public Accounts Committee which examines the Auditor-General's Performance Audits, was also pleased that the Commission had accepted the Auditor-General's recommendations and was making good progress in their implementation. Public Accounts Committee, *Report on the examination of the Auditor-General's Performance Audits October 2009 – June 2010*, February 2012, p. 25.

²⁵ Commission for Children and Young People, *Answers to questions on notice*, 17 April 2012, p. 9.

the majority of people who visit the Commission's website do so to find information on the WWCC. According to the Commission:

In 2010-2011, the Working With Children Check's subdomain check.kids.nsw.gov.au accounted for 68.51% of all website page views and 66.18% of all website landing pages. check.kids.nsw.gov.au received 829,575 pageviews (652,479 unique pageviews) and had a low bounce rate of 33.59%.²⁶

- 1.46 The WWCC is an important tool to ensure the safety of children and young people in NSW. Given that the WWCC is of such importance and will now become a major part of the Commission's work, both in establishing the new system and in its administration, the Commissioner may need to allocate additional resources. The Committee will continue to monitor the work done by the Commission in this area with particular interest in the changes arising from the new WWCC and any potential effects they have on the Commission's workload and resources.

RESEARCH, POLICY AND ADVOCACY

Background

- 1.47 As previously stated, there was a statutory review of the Act performed in 2010 and the report on this review was tabled in August 2011. In relation to the Commission's policy, advocacy, research and education functions, the report states that there was a consensus (in the submissions and consultations) that existing legislative provisions were adequate for the continuation of the Commission's functions.²⁷
- 1.48 One of the options available to the Commission to exercise its research, policy and advocacy roles is to conduct a special inquiry as set out in Part 4 of the Act:
- (1) The Minister may require the Commission to conduct a special inquiry into a specified issue affecting children, either at the request of the Commission or on the Minister's own initiative.
- (2) The Commission is to cause public notice of any such special inquiry to be given in a newspaper circulating throughout the State and in such other manner as the Commission considers appropriate.
- 1.49 The Committee was interested to note that in answers to questions on notice the Commissioner indicated that they were exploring the option of holding a special inquiry in 2013.²⁸ On further examination, the Commissioner elaborated:
- Mr ANDREW GEE:** In one of the answers to questions on notice it was indicated that "The commissioner is exploring the option of holding a special inquiry in 2013". Are you able to provide the Committee with any further information today as to what type of special inquiry you may be considering?

²⁶ *Ibid*, p. 13.

²⁷ NSW Government, *Report on the Review of the NSW Commission for Children and Young People Act 1998*, June 2011, pp. 4-5.

²⁸ Commission for Children and Young People, *Answers to questions on notice*, 17 April 2012, p. 2.

Ms MITCHELL: In terms of pointing to the needs of those kids at risk who are disengaging from school and potentially offending and reoffending that I mentioned in my opening statement, I would be seeking to mount a community debate, perhaps through an inquiry, around what better interventions we can provide for those children. It seems to me that we have an issue here and that those children are not thriving in the community. They are being cycled through all sorts of systems that do not seem to be actually making a difference for them.²⁹

Comment

- 1.50 The Committee recognises the ongoing work being done by the Commission under its research, policy and advocacy functions and will continue to monitor these projects.
- 1.51 The Committee will monitor with particular interest the potential of a special inquiry being performed by the Commission. The Committee notes that the Commission has not performed such an inquiry in recent reporting periods and understands that it would require significant commitment of resources to function properly. This inquiry may also require specialised staff. The Commission will also be required to liaise with the Minister prior to beginning an inquiry.
- 1.52 Part 4 of the Act gives the Commission extensive powers to gather information which is relevant to the inquiry and also to penalise a lack of compliance relating to this evidence. The Committee would ensure that such activities were closely scrutinised given the strength of the powers made available to the Commission under Part 4 of the Act.

FORWARD PLANNING

Background

- 1.53 In addition to ongoing work highlighted earlier in the fields of children and the built environment and children in the middle years, the Commissioner also indicated specific areas which will receive further focus in the future.
- 1.54 The Commission has plans to establish a child injury prevention team. This will aim to provide a whole-of government mechanism to look at serious childhood injury, rather than simply focussing on particular injuries. The project is currently in the initial phase and according to the Commissioner:

There is a lot of preliminary work to do to get the settings right. We have been doing that and we have developed a scoping paper which will be the subject of a roundtable discussion held later this year after the surveillance report comes out. That discussion will take place with a range of key experts in this area. We want to talk to them about what would work best and what kind of data should be included in order to get the settings right.³⁰

²⁹ Ms Megan Mitchell, Commissioner for Children and Young People, *Transcript of evidence*, 7 May 2012, p. 10.

³⁰ *Ibid*, p. 7.

1.55 The intended outcome is to create a similar body to the CDRT which will focus on specific trends as they arise "and provide advice to government on prevention initiatives and policies for kids."³¹

1.56 The Commissioner has an interest in the recently established Mental Health Commission and told the Committee that it was important that it should have a focus on children and young people. This focus was not legislated for but the Commissioner intends to monitor the resources allocated to children in this area:

The Hon. JAN BARHAM: Then it relies on you to monitor rather than a reporting mechanism built into legislation?

Ms MITCHELL: Indeed. We need to watch that space very carefully.

The Hon. JAN BARHAM: Will you have a special part of your reporting to address that?

Ms MITCHELL: I will.³²

1.57 The Committee notes the proposed creation of the child injury prevention team and the Commissioner's proposal to monitor the activities of the Mental Health Commission as it relates to children and young people. The Committee will continue to examine the outcomes of these activities in discharging its oversight functions.

1.58 The Committee also notes that along with other public sector agencies, the Commission is currently operating under a staff freeze. When asked how this affected the work of the Commission, the Committee heard that:

Ms MITCHELL: The freeze is on non-frontline staff. We have had an agreement that the Working with Children Check operators can be deemed to be frontline staff. So that has been good because we do not want to potentially diminish that service because it is a service to the public and it is to do with people's employment, et cetera. But in terms of other policy, research and corporate positions they need to be negotiated on an individual basis.

Dr ANDREW McDONALD: About how many staff were affected?

Ms MITCHELL: In the commission it is not very much; it is about three positions at the moment. In general we have managed to argue for the critical ones.

Dr ANDREW McDONALD: So about three frontline employees in the establishment?

Ms MITCHELL: At the moment, yes—2½, I would say.³³

1.59 In further evidence provided to the Committee, the Commissioner clarified her statement, stating that:

The freeze currently applies to frontline and non-frontline services and all positions to be filled require approval from a range of DEC Committees.³⁴

³¹ *Ibid*, p. 3.

³² *Ibid*, p. 15.

³³ *Ibid*, p. 14.

Comment

- 1.60 The Committee appreciates that the Commission is in a period of change following the transfer of responsibility of the CDRT and its involvement in the new WWCC. The Committee was pleased to see the Commission exercise its initiative in identifying issues relevant to children and young people and reacting accordingly, for instance through the creation of the child injury prevention team. As an independent organisation, it is important that the Commission sets its own agenda.
- 1.61 Given the current work of the Commission and its future plans, in addition to initiating the new WWCC, the Committee will monitor the ongoing effects of the staff freeze on the work of the Commission.
- 1.62 One of the principal functions of the Commission is to make recommendations to government and non-government agencies on legislation, policies, practices and services affecting children. The Committee notes that the Commission is active in this area, making a number of submissions, for example, to parliamentary and government inquiries, and statutory reviews.³⁵ The results of these recommendations can sometimes be difficult to identify. The Commissioner noted as much when she stated that:
- The Commission recognises that it is difficult to establish a direct link with the Commission's advocacy on a particular issue with the outcome of a particular piece of legislation or policy reflecting the Commission's desired position, given the often complex contests over policy change.³⁶
- 1.63 According to the Commission, it assesses the impact of its advice through monitoring outcomes and performing biennial surveys, but the Commission recognised that:
- The Commission is unable to measure the population level outcomes of its input and advice to government.³⁷
- 1.64 In light of this, the Commission may wish to consider implementing further and more formal processes to follow up on advice and recommendations made to government and non-government agencies. Through building relationships with stakeholders, reporting mechanisms may be put in place that demonstrate to what extent the Commission's advice on specific topics was adhered to.
- 1.65 Another method to clarify the Annual Report of the Commission would be to highlight notable achievements or definable results in the reporting period. The Commission could investigate introducing Key Performance Indicators ("KPIs") around some of its principal functions which could then be used to set definable goals and be highlighted in future reports. These KPIs may also assist the

³⁴ *Corrections of fact to Transcript of evidence provided by Commissioner for Children and Young People*, 16 May 2012 (Letter appears in Appendix 2)

³⁵ Commission for Children and Young People, *Annual Report 2010-2011*, pp. 15-16.

³⁶ Commission for Children and Young People, *Answers to questions on notice*, 17 April 2012, p. 8.

³⁷ *Ibid*, p. 9.

Commissioner in identifying where to allocate resources to have the most benefit to the Commission.

- 1.66 The Committee notes that the Western Australia Commissioner for Children and Young People has adopted a number of KPIs which were approved by the Government. The Committee refers the Commission to the WA Commissioner for Children and Young People Annual Report 2010-2011 for further examples on how to incorporate and report on these KPIs.³⁸

RECOMMENDATION 2

The Committee recommends that the Commission for Children and Young People introduce Key Performance Indicators and report on these in future Annual Reports.

- 1.67 Finally, it has been recommended in previous annual report reviews conducted by this Committee that the Commission's annual reports may benefit from case studies which could demonstrate the successes of the Commission in fulfilling its mandate. The Committee was pleased to note that when this suggestion was put to the Commission, they were open to the idea, replying that:

The Commission will consider using case studies in subsequent annual reports to demonstrate its performance in making recommendations to government and non-government agencies.³⁹

- 1.68 It is the view of the Committee that good performance management regimes are of prime importance when seeking to deliver quality outcomes. The Committee refers the Commission to those reports highlighted by the Australasian Reporting Awards as a source for best practice in annual reporting.
- 1.69 The Committee hopes that the Commission will be able to incorporate these suggestions into its future reporting practices to support the Committee in its oversight functions.

³⁸ Commissioner for Children and Young People Western Australia, *Annual Report 2010-2011*, Agency Performance, pp. 14-38. The Committee also notes that the Commission for Children and Young People and Child Guardian in Queensland has a number of key performance indicators.

³⁹ Commission for Children and Young People, *Answers to questions on notice*, 17 April 2012, p. 9.

Appendix One – Questions on Notice

Questions on Notice for the 2011 report reviews

Commission's 2010-2011 Annual Report

Advocacy and research

The Commission's advocacy and research work supports a number of its principal functions set out in the Commission for Children and Young People Act 1998 (p.6).

1. How does the Commission go about the process of identifying, prioritising and resourcing its advocacy and research projects?

The Commission's work priorities are determined via a combination of approaches including:

- *Reference to the functions and principles set out under our legislation;*
- *Analysis of issues identified by government and the community through stakeholder consultation;*
- *Reference to the government's forward program of legislative and policy review;*
- *Reference to the Commission's Young People's Advisory Committee and Expert Advisory Committee;*
- *Contributing to and responding to Parliamentary Committees of inquiry.*

2. How does the Commission measure the impact of its advocacy and research projects?

The Commission measures the impact of its advocacy and research projects by monitoring:

- *The extent to which the Commission's research and policy output is reflected in government policies and programs;*
- *The number and quality of citations of the Commission's research and policy work in government reports, the media, journals and other publications;*
- *The extent to which the Commission delivers planned and reactive outputs on time and to a high standard, and that these outputs are effectively disseminated;*
- *The extent to which government agencies incorporate the participation of children and young people in policy and program development;*
- *Outcomes for vulnerable children and young people over time (e.g. health, education, incarceration);*
- *The extent to which government policies and programs focus on the specific needs of children;*
- *Stakeholder satisfaction with and the utilisation of the Commission's outputs.*

Performance against these measures will be tracked through annual reporting required as part of the Commission's Business Planning and verified by reference to:

- *Input to legislation, policy and programs and level of influence;*
- *Copies of press articles, journal entries, log of radio/TV interviews;*
- *Number and quality of seminars run / papers circulated and discussed with relevant ministers and departments;*
- *A biennial survey of stakeholders to assess the quality and influence of policy and research work;*
- *Analysis of key statistics on the wellbeing of children and young people in NSW;*
- *Utilisation of Commission resources*

With regard to *A picture of NSW children*; the annual report provides Google Analytics data which "suggests strong user acceptance" (p.9).

3. Apart from the number of page views and the testimonials from the Commissioner and the Minister for Citizenship and Communities, what other stakeholder feedback has there been on this resource?

Prior to publishing, draft chapters of A Picture of NSW children were provided to the NSW Justice and Human Services CEO Forum for comment. Positive feedback was received on both the content and structure of the data book. Once the Picture has been fully disseminated it will be comprehensively evaluated, including the collection and analysis of user views.

S17(1) of the Commission for Children and Young People Act provides that the Minister may require the Commission to conduct a special inquiry into a specified issue affecting children, either at the request of the Commission or on the Minister's own initiative.

4. During the 2010-2011 reporting year, has the Commission made any requests to conduct a special inquiry?

No. The Commissioner is exploring the option of holding a special inquiry in 2013.

In 2010-2011 the Commission ran eight online polls in the Kidzone section of its website (pp.13-14).

5. How does the Commission select topics for the online polls?

The Commission used a variety of means to select topics for KidsPoll, including consultation with children and young people via the Young People's Reference Group. Topics were also chosen in response to topical issues reported in the media, such as learner driver supervised driving hours, and privacy and social media sites. One consideration is the extent to which a topic is aligned with the Commission's work, such as the Children, Young People, and the Built Environment and Injury Prevention

projects. Survey questions are devised by the Media and Communications team in consultation with the Commissioner.

6. How does the Commission assess the utility of the online polls? e.g. raising awareness of issues

KidsPoll is an interactive feature of the Commission's website designed to be interesting and entertaining. It is located in the KidZone section of the Commission's website, with other content designed for children and young people. KidsPoll is not intended to provide the Commission with data in the form of social research, and does not play a formal role in the Commission's policy development work.

However the comments submitted by the children and young people who visit can provide the Commission with insights into how children and young people think and feel about the chosen topics, and can be used to demonstrate the thoughtful and sophisticated responses of which children and young people are capable.

In assessing its effectiveness, the Commission monitors its performance in gaining subscribers. KidsPoll is the Commission's most popular subscription option designed especially for children and young people, with more than 1,000 subscribers at 30 June 2011.

In February 2011 the functions of the Child Death Review Team were transferred from the Commission to the NSW Ombudsman. Since the transfer:

7. What role(s) has the Commission performed as a member of the Child Death Review Team?

The Commissioner attended meetings of the CDRT with the NSW Ombudsman as Convenor held in May (first unofficial meeting), August, September and December 2011 and in March 2012, in which she actively participated in the work of the Team, including providing advice to the NSW Ombudsman on the review of the 2009 Annual Report of the Team undertaken by the National Centre for Health Information, Research and Training.

The Commissioner provided advice to the Minister for Citizenship and Communities in September 2011 on the draft 2010 Annual Report of the CDRT, published in 2011.

The Commissioner was consulted in February 2012 in the development of the Team's response to the review of the NSW Swimming Pools Act 1992 to prevent children drowning in privately owned swimming pools, and provided a copy of the Commission's own submission to this review to inform the Team's response.

8. Has the Commission had satisfactory access to CDRT data in order to support its advocacy and monitoring role?

Since the transfer of the functions of the CDRT to the NSW Ombudsman, the Commission has not had cause to request access to CDRT data and has utilised data publicly available in the 2010 Annual Report of the CDRT to support its advocacy and monitoring activities. It might be noted that the way the data is reported in the 2010 CDRT Annual Report is different to the way it was previously reported, which limits comparability with previous published reports and has made updating A Picture of NSW Children challenging.

The Commission will continue to utilise the findings of the Team to inform policy and advocacy advice and in particular in relation to its current work on child injury prevention.

Given that a primary role of the Commission is to improve the safety, welfare and well-being of children and young people:

9. Has the Commission considered collecting information from school counsellors, or those in similar positions, to ascertain issues being raised by children and attempt to identify common themes?

The focus of the research conducted by the Commission has primarily been upon consulting directly with children, rather than people who work with them (for example, the Ask the Children series). However as part of its policy and advocacy work, the Commission made a submission to the Department of Education and Communities' (DEC) review of school counselling services in NSW schools in November 2011. This submission primarily focused on the way in which children prefer to receive counselling services, including in a school setting, and the resourcing of school counselling services, rather than the type of issues raised by children. While counsellors may be able to provide a general overview of the concerns raised by children, the confidentiality of the counselling session would prohibit the divulging of specific details of a counselling session without the child's consent.

In 2010-2011, the Commission provided support and advice to the NSW Department of Education and Communities for obtaining the views of children to inform the development of anti-bullying initiatives. (pg. 14)

10. Are current anti-bullying initiatives, particularly those dealing with online bullying, in place in NSW schools appropriate?

The Commission's work on anti bullying initiatives is in response to the 2009 NSW Legislative Council General Purpose Standing Committee Parliamentary inquiry into the bullying of children and young people. The Commission made a submission to this inquiry. The inquiry made 25 recommendations to NSW Government and the Commission featured in two recommendations:

Recommendation 4: *That the Minister for Education and Training ensure that the NSW Department of Education and Training work with the NSW Commission for*

Children and Young People, to seek annual feedback from children and young people on Anti-bullying initiatives that are implemented in their schools. This consultation process should include use of the online environment to maximise the engagement of children and young people.

Recommendation 14: *That the NSW Department of Education and Training require all NSW public and non government schools to have information on their school websites that outlines the potential legal ramifications of bullying, and provides contact information for the School Liaison Police and support services such as Kids Helpline.*

Recommendation 4 was supported in the NSW Government Response and the Commission agreed to provide advice to the Department of Education and Training on the development of participatory models of consultation for children and young people that are inclusive of those whose voices may not otherwise be heard. During 2010, the Commission discussed and sought feedback on this recommendation with the then Young People's Reference Group.

*Consultation with children and young people in NSW Government schools is now particularly timely with the publication of the new policy *Bullying: Preventing and Responding to Student Bullying in Schools Policy* which came into operation on 21 March 2011. The Commission is arranging to meet with the Department of Education and Communities in May to discuss options for gathering feedback from children and young people, including online.*

Following these discussions with the Department, the Commission will discuss options for seeking feedback from children and young people in the Catholic and Independent school sectors with the Catholic Education Commission NSW and the Association of Independent Schools.

The Commission's revised participation toolkit, which aims to build capacity of organisations to engage with children and young people, will be released throughout 2012 and this will be provided to the Department, Catholic Education Commission NSW and the Association of Independent Schools to assist them in consulting with children and young people about anti-bullying initiatives.

*Recommendation 14 was partially supported by the NSW Government. The new *Bullying: Preventing and responding to Student Bullying in Schools Policy* requires NSW government schools to provide contact information for School Liaison Police and support services such as Kids Helpline in their Anti-bullying Plans.*

DEC has advised that consultation regarding anti-bullying messages and requiring non-government schools to publish contact information for School Liaison Police and support services such as Kids Helpline remains outstanding. The Commission is arranging to meet with the Department of Education and Communities in May to identify ways to progress this recommendation.

Have alternative initiatives been considered and would the Commission recommend further improvements?

The Commission's role, as described above is to explore and develop ways to obtain the views of children to inform the development of anti-bullying initiatives.

In the context of the new Bullying: Preventing and responding to Student Bullying in Schools Policy the Commission will raise with the Department of Education and Communities how they are monitoring and evaluating the policy and its implementation and the way in which feedback from children will be used.

Participation and consultation

11. During the reporting year, the Commission evaluated the Commission's Young People's Reference Group (p.14). What process was used for the evaluation and what were its findings?

The Commission's internal evaluation of the Young People's Reference Group (YPRG) included a focus group with the 2010 YPRG, surveys of current and past Commission staff and a desk top audit of YPRG advice.

The evaluation found the YPRG model had benefits for members, Commission staff and the Commissioner. The evaluation also found the YPRG model to be largely successful both in supporting the Commission in exercising its functions and developing the knowledge, skills and sense of self worth of the children taking part.

The evaluation identified several opportunities to improve the model. These included:

- 1. Clarifying the role of the YPRG.*
- 2. Linking the work of the YPRG to the Commission's strategic and business plan.*
- 3. Training and supporting Commission staff in the operation of the YPRG model.*
- 4. Making it part of the YPRG role to obtain the views of other children and allocating more time for this to be done.*
- 5. Providing more opportunity and support for young people to develop their skills and knowledge during their term of appointment.*

The report recommended that the Commission adopt a new model, a Young People Advisory Group (YPAG). This new model engages six schools, drawn proportionally from the three school sectors. Schools nominate two student members to sit on the Group each year. Each school commits to being involved in the Group for a period of two years; this commitment includes helping the Commission to support the Advisory Group members in their role.

The YPAG provides the Commissioner with advice on the work of the Commission, raises issues of interest or concern, and acts as research consultants with their school communities.

The new model was implemented in late 2011.

12. During the reporting year, the Commission undertook work on effective participation mechanisms for children and young people (p.14). Does the Commission consider this work to have resulted in improved participation and consultation outcomes for children and young people?

TAKING PARTICIPATION seriously is a unique resource for organisations who want practical advice about how to involve children and young people in activities, events and decision-making about issues that affect their lives. The kit is made up of different parts that focus on how organisations can involve children and young people in different activities or areas of work. Children and young people helped develop all sections of the kit, providing their ideas, experiences, feedback and piloting the resources before publication.

The kit includes sections on how organisations can:

- *involve children and young people on boards and committees*
- *involve children and young people in research*
- *get feedback from both staff and children and young people involved with your organisation about what's working and where participation activities could be added to or improved*
- *run events that make space for children and young people's participation*
- *involve children and young people in meetings where decisions are made that affect their lives, such as case-planning meetings.*

This kit also includes a section that charts the 'learning road' travelled by the Commission from the Participation Kit's beginnings. Together with the views of children and young people, it discusses the success and challenges of children's participation; why it works and is good for kids, and how organisations benefit when they promote and practice participation.

Taking Participation Seriously is highly regarded and well utilised. It was referred to as an exemplar of practical advice at a 2011 workshop run in Sydney by the International Association for Public Participation Australasia and was downloaded in part or in total 30,054 times in 2010-11.

A new resource, which builds on the success of Taking Participation Seriously, is currently being developed to help organisations wanting to involve children and young people in decision making. This resource will include case studies from organisations that already seek children and young people's participation in decision-making. The aim of the case studies is to highlight 'what works', thus leading to further improved participation and consultation outcomes for children and young people.

The Commission considers that its work on effective participation mechanisms for children and young people has led to improvements in the way the Commission currently seeks children and young people's participation. For example, the evaluation of the Commission's Young People's Reference Group informed the development of

the Commission's current Young People's Advisory Group. This model will also be evaluated in an ongoing way to allow for continuous improvement.

Further, the recent evaluation of the UnitingCare Burnside child-led research project by the Commission in partnership with Southern Cross University demonstrated a range of benefits for children and young people and the organisation. It also made recommendations for improvements to future implementation of the program.

13. What are the anticipated outcomes for the 'Online engagement with young people' project?

The anticipated outcomes are that:

- young people aged 12-25 can get the information they need on government programs and policies in a way that is accessible and engaging to them*
- young people aged 12-25 can get the information they need about community events, activities and decision-making processes in which they can be involved*
- the NSW Government can capture feedback from young people on government programs and policies to assist in making services and policies more responsive to young people.*

Advice to government and submissions to inquiries and reviews

The Commission has a legislated mandate to make recommendations to government and non-government agencies on legislation, policies, practices and services affecting children (p.15).

14. How does the Commission measure the impact of its recommendations to government and non-government agencies?

The Commission monitors the extent to which recommendations are reflected in policy or legislation and the take up by agencies of participatory methods for involving children and young people in decision making.

The Commission recognises that it is difficult to establish a direct link with the Commission's advocacy on a particular issue with the outcome of a particular piece of legislation or policy reflecting the Commission's desired position, given the often complex contests over policy change. The Commission is however committed to regular stakeholder surveys to provide a measure of the impact of our recommendations to government and non-government agencies.

15. How does the Commission measure the outcomes of its "input and advice to government" (p.16)?

The Commission is unable to measure the population level outcomes of its input and advice to government. The Commission measures outcomes primarily by the proxy measure of monitoring the extent to which input and advice to government is reflected in policy or legislation and the take up by government agencies of participatory methods for involving children and young people in decision making.

16. Has the Commission considered the use of case studies in its annual reports to demonstrate the performance of its mandate to make recommendations to government and non-government agencies on legislation, policies, practices and services affecting children?

The Commission will consider using case studies in subsequent annual reports to demonstrate its performance in making recommendations to government and non-government agencies. A good example of this is advocacy to the Federal government calling for calls to the Kids Helpline to be free from all mobile carriers which resulted in a change to Telstra's policy.

Child safety

17. The report on the statutory review of the Commission for Children and Young People Act made a number of recommendations in relation to the Working With Children Check (p.17). What is the current status of those recommendations?

The statutory review made a number of recommendations in relation to the Check including:

- *simplifying the Working With Children Check rules;*
- *extending the Check to volunteers and self employed people; and*
- *aligning the NSW check with other states within Australia that provide a portable periodic clearance to work with Children.*

Government accepted these recommendations and is amending the Commission's legislation to implement them. The Commission is preparing to commence the new Working With Children Check in late 2012.

18. What progress has the Commission made, during the reporting year, in relation to the Auditor General's 2010 recommendations on the Working With Children Check?

The review by the Auditor-General made twelve recommendations. The Commission has implemented all those recommendations that do not depend on legislative change. Legislative changes planned for 2012 relating to the new Working With Children Check will complete the implementation of the Auditor-General's recommendations.

The Commission reported to the Auditor-General in February 2011 on progress in implementing the Auditor-General's recommendations. This was subsequently

acknowledged in the Public Accounts Committee report on the Auditor-General's Performance Audit Reviews that was tabled in Parliament in February 2012.

Recommendations requiring legislative changes to the Act.

Recommendation 1 – parts (a) and (b)

Recommendation 2 – part (b)

Recommendation 3 – part (b)

Recommendation 4 – part (b)

Recommendation 5

19. The Commission has informed local governments about their obligations under the Working With Children Check following a random examination of the information that councils had on their websites about the Check (p.21). Has this resulted in satisfactory improvements or is further action required?

As part of a targeted compliance program in 2011, the Commission completed a review of local government websites in particular where they had advertised child-related positions. The review found that many local council websites included inaccuracies about the Working With Children Check.

The Commission wrote to all local councils to advise them of the correct information to place on their websites. The Commission will review the websites again later in 2012.

Further, the Commission partnered with the following local councils to deliver Child-Safe, Child-Friendly seminars. In 2011 – 2012:

- *Blacktown City Council*
- *Campbelltown Council*
- *Penrith Council*
- *Sutherland Shire Council*
- *Lane Cove Council*
- *Canada Bay Council*
- *Marrickville Council*
- *Warringah Council*
- *Hornsby Shire Council*

Seminars delivered in partnership with local councils are not restricted to, but are targeted at, council service providers.

Corporate Governance

20. Which stakeholders did the Commission survey as input to its new Strategic Plan (p.27)?

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
QUESTIONS ON NOTICE

The Commission surveyed a range of stakeholders in the development of our new Strategic Plan. Input was sought from Heads and Deputy Heads of Departments, Parliamentary Committee members, Expert Advisory Committee members, the Commission's Young Peoples Reference Group, the Minister for Youth, senior officers of the Department of Premier and Cabinet well as a range of non-government stakeholders including the Council of Social Service NSW (NCOSS) and the Association of Children's Welfare Agencies (ACWA).

21. How does the Commission propose to measure and report on stakeholder satisfaction with its work (p.28)?

The Commission will continue to survey and report on stakeholder satisfaction through regular surveys as well as through the activities reported under question 2 and question 22.

22. How does the Commission propose to measure and report on satisfaction levels of children and young people involved in its participation activities (p.28)?

The Commission measures the satisfaction levels of children and young people involved in one off and ongoing participation activities through self reported satisfaction surveys. This information is used to improve Commission practice.

Financial statements

23. During the reporting year the Commission engaged four consultants (Information Technology, Organisational Review and Management Services) (p.42). In broad terms what work did these consultants undertake and what were the outcomes?

Two consultants were engaged to assist with the statutory review of the Commission for Children and Young People Act 1998. Mr Michael Evers was appointed by the then Department of Communities as an independent to conduct the statutory review of the Commission's legislation. The outcome was a report on the review outcomes that was provided to the then Minister for Youth. The final report on the legislative review was tabled by the Minister for Citizenship and Communities in August 2011. ARDT Consultants were engaged to conduct consultation sessions with external stakeholders, including children and young people to support the findings of the review.

In partnership with the Commission for Children and Young People, Healthy Cities Illawarra was engaged to produce a Child Friendly by Design Toolkit that supported the work that the Commission had undertaken on children and the built environment. Based partially on UNICEF's Child Friendly Cities strategies, the Toolkit provides resources to assist Local Councils to involve children, young people and families in the design and redesign of public spaces and places. It also contains a set of Child Friendly Indicators to assist planners, developers and designers to create more child and family friendly spaces.

The final consultant was engaged by the Commission to assist in the design of the specifications and the public tender for the \$1.5 million rebuild of the Employment Screening System that supports the operations of the Working With Children Check.

Commission's 2009-2010 Annual Report

General

1. The Commission reports that it runs a number of seminars, workshop and training courses (eg pg. 6, 12 – Ethical Issues and 18):
 - How well attended are these events?
 - How are these sessions evaluated and how does the Commission act on user feedback?

Middle Years Seminar Series

The Commission held a seminar series exploring development during middle childhood in 2011. The three seminars held were well attended by a diverse range of government and non-government stakeholders, including: policy officers, practitioners (teachers, counsellors, children's lawyers) and service providers. The number of attendees recorded for each seminar was:

Seminar 1: 90 attendees

Seminar 2: 125 attendees

Seminar 3: 122 attendees

The seminar series was also filmed and uploaded to the Commission's website for viewing online. The Commission will continue to promote the seminar series and encourage stakeholders to view the seminars online.

The Commission used a feedback form to capture what participants had learnt and the challenges faced by policy officers and providers when responding to children in the middle years. The feedback was very positive and reinforced the need for ongoing work in this area.

During 2012 the Commission is hosting a Middle Years Roundtable to engage a range of non-government organisations working in areas that are directly relevant to the lives of children in the middle years. The Roundtable will provide an opportunity for further feedback on the seminar series and to discuss future directions and identify ways to work in partnership to progress middle years related work.

Child-Safe, Child-Friendly Seminars

During this period the Commission delivered 83 seminars, reaching 1,353 participants, an average of 16 participants per session. The sessions target managers and employers within child related settings. Of the 83 sessions 31 were delivered in regional NSW.

Feedback is obtained through formal evaluation questionnaires. The feedback demonstrates that 100% of participants:

- *were satisfied with the quality of the course;*
- *were satisfied with the relevance of the information to their workplaces; and*
- *would recommend the course to others.*

In 2011 the Commission undertook a review of the evaluation process. In response to the identified demand for more flexible training tools, the Commission will introduce Webinars to the training program in 2012. These Webinars will cover individual topics such as risk management and developing a code of conduct. More people around NSW will be able access the Commission's training through this web-based training.

2. With the online and print resources which the Commission develops (eg pg. 6):

- How often are these resources accessed or requested?

The Commission distributes its publications and resources online, with minimal copies distributed as printed publications.

Download figures for key online resources include 91,000 downloads at 30 June 2011 for the suite of built4kids resources since publication in June 2009, and 2,380 downloads of the resource Child safe check up at 30 June 2011 since publication in August 2010.

Online resources may be downloaded from the Web repeatedly by a single user, or downloaded a single time and accessed locally on a user's computer. Download figures do not capture instances where a resource is downloaded and then distributed via email.

The Commission has a fortnightly electronic newsletter that enables users to select publications, resources, news and events for subscription. At 30 June 2011 there were 3,419 subscribers, an increase of 902 subscribers from the previous year.

In 2010-2011, the Working With Children Check's subdomain check.kids.nsw.gov.au accounted for 68.51% of all website page views and 66.18% of all website landing pages. check.kids.nsw.gov.au received 829,575 pageviews (652,479 unique pageviews) and had a low bounce rate of 33.59%.

- Does this align with what the Commission had hoped for?

The Commission monitors the growth of online subscription requests. Figure 6 of the annual report provides the total growth of subscribers in 2010-2011 over 2009-2010, which was an improvement on the growth of previous years, and this was in accordance with the Commission's expectations.

- How does the Commission publicise the material?

The Commission uses its fortnightly electronic newsletter and website as the key methods of publicising and distributing its publications and resources.

These resources are also publicised as appropriate at presentations by the Commissioner and Commission staff to government and non-government organisations, such as presentations to conferences, or during the Commission's Child Safe Organisations training. In 2010-2011, the Commission also began using social media sites Facebook and Twitter to publicise Commission publications, resources and activities.

The Commission also publicises their work through the media. The Commission distributes media releases online, to known media contacts, to journalists identified in project strategies (through resources such as Margaret Gee's Australian Media Guide) and via Australian Associated Press' portal.

The Commissioner also publicises the Commission's work and resources by being visible in the community. For example, in 2010-2011, the Commissioner visited the following communities: Dubbo, Gosford, Wyong, Lakemba, Lismore, Homebush, Swansea and Newcastle. These community visits were aimed at listening and learning so the Commissioner can find out what is important to kids. The Commissioner's visits received coverage in local and regional media such as the Dubbo Daily Liberal.

Environmental Sustainability (pg. 11)

3. What opportunities does the Commission envisage to work with the Office of Environment & Heritage (formerly DECCW)?

The Commission does not currently have plans for collaborative work with the Office of Environment and Heritage.

The Commission's Environmental Sustainability work in 2009 was focussed on promoting children and young people's participation in decision-making about the environment by identifying opportunities for children's participation within DECCW's workplan, and building DECCW's capacity to better engage with children.

Following the Commission's review of strategic directions and workplan, a focus on participation in decision-making specifically relating to environmental sustainability was not pursued and a formal agreement with DECCW was not made.

Instead, participation in decision-making is promoted broadly through the development of the Commission's participation toolkit which aims to build capacity of organisations to engage with children and young people. Young people will assist in writing and reviewing the toolkit which is set to be released throughout 2012.

4. What does the Commission hope to achieve to promote children and young people's input in decisions about the environment?

The Commission continues to monitor the policy landscape to identify opportunities for children and young people to inform decision-making, including about the environment.

Over the past few years the Commission has led work on children, young people and the built environment with the aim of encouraging policy makers and built environment professionals to understand that it is both good planning practice and good for the wellbeing of kids to involve them in decisions made about the built environment.

The benefit of involving kids in these decisions means that cities and towns can be built to better suit kids' needs and desires which will have long term benefits for their health and wellbeing and that of the wider community too.

This work is intended to create more and better opportunities for children and young people to independently:

- *enjoy regular, incidental exercise which can help reduce levels of obesity and poor mental health*
- *connect and develop relationships with other people in their community – neighbours, local shopkeepers, people on public transport*
- *meet up with friends*
- *take part in recreation*
- *be safe in the local neighbourhood*
- *test themselves out and thereby develop into independent and capable people.*

Make the safety, welfare and well-being of children our paramount consideration
Background Checks

5. Background checks for 2009-2010 were lower than 2008-2009, why might this be? (pg. 15)

During 2008-09 Approved Screening Agencies conducted 214,559 background checks compared to 212,468 in 2009-10. This represents approximately one per cent less checks between the two years.

During 2008-09 the Commission for Children and Young People Approved Screening Agency conducted 82,112 background checks compared with 72,742 in 2009-10. This represents approximately 11 per cent less checks between the two years. The Commission as an Approved Screening Agency undertakes background checking for a diverse range of child-related employment compared with the other Screening Agencies that currently undertake background checks for specific sectors such as health and education.

Background checking numbers can fluctuate from year to year. Background checks performed by the Commission in 2010-11 increased to 84,659. Anecdotally the Commission considers that the Global Financial Crisis may have impacted on movements in the labour market and the advertising of positions.

6. High risk applicants are being employed in child related positions – why is this? Is 95% an appropriate target for high risk applicants refused child-related employment? Why not 100%? (pg. 17)

The highest risk applicants – those with a conviction for a serious sex offence or violence against children – are automatically prohibited from working with children.

Risk assessments are used only where applicants have other relevant records, for example charges that did not result in a conviction, employment proceedings or apprehended violence orders.

A risk assessment takes into account not only the risks associated with the relevant record, but also the risks associated with the proposed job and the maturity of the employer's risk management strategies. Even people assessed as high risk may be effectively managed if the child-related position does not present opportunities for harming children or where the employer has very effective risk management strategies in place.

The new Working With Children Check to be introduced later in 2012 will bar applicants assessed as high risk from working with children. Employers will no longer have to decide whether or not to engage an applicant assessed as high risk.

7. The Commission audits a number of companies to ensure they comply with their Working With Children Check obligations (pg. 18-19):

- What happens following the audit?

The 2009-10 audit identified 25 independent schools that were not fully compliant with the Working With Children Check. These schools were advised of the steps they needed to take to achieve compliance. The Commission monitored their progress in the 2010-11 audit. The Commission found that all but two of these schools were now fully compliant. These two schools have

been further informed of their obligations and will face enforcement action if they remain non-compliant.

- What are the processes surrounding non-compliance? Are there penalties?

S41 of the Commission's legislation provides a penalty of 50 penalty units or six months imprisonment or both for employers who do not comply with their Working With Children Check obligations. The Commission must first serve such employers with a notice requiring compliance. To date, employers receiving such a notice have complied, so the Commission has not had to take legal action against an employer.

**Listen to children and young people, take their views seriously and promote their interests
Youth Advisory Council (pg. 12)**

8. What advice did the Council provide to the Minister for Youth? On what issues?
9. Was the advice well received? Was it acted upon?
10. Did the Minister ask for any further information or follow up meetings with the Council?

Responsibility for supporting the Youth Advisory Council was transferred to the Office of Communities on 8 March 2010. The Commission is unable to report on matters relating to Council.

The Office of Communities is the appropriate agency to provide information on the advice and follow-up from the Youth Advisory Council. Tony Wiseheart is the Manager of Youth Strategy and Participation.

**Focus on things that make a positive difference to children and young people, giving
priority to vulnerable children and young people
Children at Work**

11. A youth employment package was developed by the NSW Government in consultation with children and young people (pg. 7).

- How many children and young people were consulted?

In January and February 2010, the Commission consulted approximately 31 young people aged between 14 and 22 for the Premier's Supporting Our Young People package.

- How many consultation sessions took place?

Four focus groups were held in the Central Coast, Campbelltown, Liverpool and Wollongong.

- What were some of their main contributions?

Young people shared their personal experiences about navigating through complex educational, social and occupational environments. This can be particularly challenging during a significant period of development and transition where young people make decisions that will affect their future. Young people raised issues about leaving school early and having difficulties finding work. This may lead to further disengagement from the community.

- Was there a significant representation of vulnerable children and young people?

Consultations included sessions with employment and youth services where many if not all participants were unemployed. Some young people were from significantly disadvantaged communities and some were long-term unemployed. These young people were provided an opportunity to share their experiences to inform the development of the Supporting Our Young People package.

12. The Commission has developed processes to allow young people to give feedback on schools (pg. 8).

- Have these processes been used?
- Would the Commission say that they are popular?
- Have they been evaluated by the schools or independently?

The Commission is partnering with the Centre for Children and Young People at Southern Cross University and the NSW Department of Education and Communities (North Coast Region) to identify ways of supporting schools to develop a wider range of opportunities for students' voices to be heard within and outside the classroom.

This project is currently in a scoping phase with the intention of applying for an Australian Research Council Linkage Grant in November.

Work cooperatively with other agencies and organisations to achieve our goals

The Auditor-General recommended that all volunteer organisations are registered with the Commission to reduce the risk of prohibited people working with children. A register has been created and is continuing to grow.

13. How are organisations added to the register? Is it an opt-in process?

The register is intended as a tool for the Commission to reach volunteer organisations that provide services to children. Organisations may opt in to the register or may simply be added by the Commission. Organisations are added to the register when:

- *the Commission becomes aware of the organisation through its attendance at seminars or workshops*
- *the Commission actively undertakes a search of relevant websites;*
- *the Commission merges internal databases of key stakeholders; and*

- *when volunteer organisations subscribe to the Commission's newsletter.*

There are now 2,967 organisations in the Commission's register of volunteer organisations.

Under the new Working With Children Check, to be introduced later in 2012, all child-related employers will register with the Commission to verify their employees' Working With Children Checks. Child-related employment will include volunteer related activities. This new register will include volunteer organisations and will ultimately replace the existing register of volunteer organisations.

14. Does the Commission conduct ongoing research to identify relevant organisations?

Yes. The Commission has identified organisations through volunteering and other relevant websites as well as through Yellow Pages searches and contact with relevant peak bodies. However the Commission has found that while there are useful data sources on volunteering and volunteering rates, there are no strong data collections on volunteering organisations. The Commission is working with peak bodies in those sectors that have strong reliance on volunteers to make contact with volunteering organisations for the transition to the new Working With Children Check in late 2012

Child Death Review Team Annual Report 2009

Aboriginal Children and Young People

The crude mortality rate for Aboriginal children and young people is still significantly higher than for non-Aboriginal children and young people (particularly in 1-17 year olds where it is double). (Tables 1 & 8, pgs. 10 & 19)

1. Is enough is being done to close this gap? Are the current initiatives appropriate?

Responsibility for the CDRT transferred to the NSW Ombudsman in February 2011 and it is suggested that these questions are also be referred to the NSW Ombudsman. However, the Commissioner will continue to discuss issues and provide information and advice on child deaths to the Parliamentary Committee for Children and Young People as part of her role in monitoring children's safety, welfare and well-being.

The advice provided below is based on the findings of the CDRT Annual Report 2009, when responsibility for the CDRT still sat with the Commission, and are the views of the Commissioner.

The CDRT Annual Report 2009 noted that the identification of Aboriginal children and young people has been of ongoing concern for the Team and substantial efforts have been made over the years to improve coverage (p 372). The 2009 report continued to monitor Recommendation 7 of Trends in Child Deaths in NSW 1996-2005 (2009) "That the NSW Registry of Births, Deaths & Marriages monitor the identification of

Aboriginal children and young people who die, including the number of registrations where Aboriginal identity is not specified."

The 2009 Response from the NSW Registry of Births, Deaths and Marriages was that at the end of 2009, for persons aged less than 18 years, approximately 2% of deaths did not report Indigenous status. At the first half of 2010, 0.5% of death records did not specify the Indigenous status of the deceased. The Registry is developing a new system (LifeLink) that will enable Indigenous status data to be collected from the medical certificate stating the cause of death. It is intended that this information will complement data provided by funeral directors. It is advised that LifeLink was scheduled to be implemented in the fourth quarter of 2011. The Team responded that it notes the efforts made to improve the identification of Aboriginal children and young people who die and that the Team will continue monitoring this recommendation including progress made to develop LifeLink.

In addition, in its 2008 annual report the Team had noted that it would refer recommendations 1 & 2 of the report Trends in Child Deaths in NSW 1996–2005 (2009) to the Department of Premier and Cabinet for consideration. These recommendations concerned the development of infection prevention strategies for meningococcal and pneumonia that eliminate current inequities evident for infants, those living in Aboriginal communities, areas of low socioeconomic disadvantage and in regional areas.

The transfer of the Team's functions to the NSW Ombudsman was planned to occur immediately following tabling of the Annual Report 2008. This did not take place with the status of the transfer remaining uncertain until recently. In the context of the planned transfer, the Team determined that the approach to the Department of Premier and Cabinet and subsequent negotiations be deferred for consideration and action by the NSW Ombudsman

The 2009 report also observed that there was a higher incidence of death of Aboriginal children (and other groups of children), in the 16-17 yr age group from risk taking (p203) but there had been a decrease in the mortality rate for premature deaths for Aboriginal children between 2007-2008.

Apart from the observations and recommendations, and the reporting of rates of death of Aboriginal children from various causes, there was no further consideration of comparative death rates or initiatives to close the gap in mortality between Aboriginal and non-Aboriginal children in this report.

Suicide

Despite the general decrease in the number of deaths, there was an increase in the number of youth suicides. The report states that 6 of the youths had accessed a school counselling service and notes that school counsellors may not always be able to give the appropriate specialised care. (pgs. xxv-xxvi)

The Team recommends that more be done to remove barriers and improve referral to specialist youth mental health services.

2. Could more training be provided to school counsellors to recognise the signs displayed by at-risk youth or offer adequate care?

The views expressed below are those of the Commissioner, as a member of the CDRT who also has responsibility for monitoring child well-being and safety. It is suggested that this question also be directed to the NSW Ombudsman to obtain a current response on behalf of the CDRT.

School counsellors in NSW government schools are qualified, registered psychologists. They must also be qualified and experienced teachers. They thus should be adequately qualified to recognise the signs displayed by at-risk youth and offer care.

However it has been argued that the ratio of school counsellors to students is not adequate, that they have a complex and demanding role with a significant administrative burden, and that this can mean that counsellors may not be available when students need them. In addition to increasing the number of school counsellors, a coronial inquiry into the suicide of a student recently recommended that information exchange be improved between schools, so that the adequate support can be provided to at-risk students who transfer from one school to another. As children are more likely to seek assistance from a friend or family member than a school counsellor if they are distressed, peers and family members also need to know how to respond appropriately. Students may also prefer to seek help outside of the school environment, for reasons such as concerns about confidentiality, and school counsellors should have the capacity to refer students to appropriate support services for this purpose. These issues were raised in a 2011 submission the Commission made to DEC's review of school counselling services.

The Commissioner is a member of the NSW Suicide Prevention Ministerial Advisory Committee 2012. The NSW Suicide Prevention Strategy 2010-2015 is the NSW Government's key whole of government and community strategy for preventing suicide. The Strategy highlights schools as a critical location in identifying risks to children and providing pathways to care and support. Under Strategic Direction 5, Providing Targeted Suicide Prevention Activities, Outcome 5.5 commits the NSW Government to improving the understanding, skills and capacities of frontline workers in regard to suicide prevention. An action under this Outcome is to "provide access to training programs at undergraduate, post graduate and vocational levels." These programs are to be multidisciplinary and cross agency, and identify health professionals and education personnel as a target. The rate of school counsellors managing mental health issues is identified as a performance measure under this Outcome.

3. Are there sufficient counselling services made available to children and young people in schools or other community settings?

The views expressed below are those of the Commission, and not of the NSW CDRT.

As alluded to above, it has been widely claimed (Vinson Inquiry into Public Education in NSW; Australian Psychological Society; NSW Coroner) that the current ratio of school counsellors to students in NSW Government schools of approximately 1: 1000 is not adequate and that a ratio of 1: 500 is required. It is the Commission's understanding that the current review of school counselling services in NSW Government schools being undertaken by DEC will provide advice on the level of resourcing required.

In its 4 November 2011 submission to this Review, the Commission noted that "there is a current significant under-supply of school counsellors in NSW Government schools and ... this limits student access to counselling services and detracts from the quality of the service that can be provided." The Commission argued that a substantial improvement in the number of counsellors in NSW was required in the interests of student wellbeing. The Commission also argued that consideration be given to:

- Examining the feasibility of establishing a panel of counsellors that work across schools in a particular local government area or region and from which students (and parents and schools) could choose the counsellor(s) that best meet their needs*
- Using technology (for example video-conferencing or mobile devices) to provide access to counselling services in areas where the supply of counsellors is low, distances large or this is preferred by the child or young person*
- Providing dedicated travel budgets for counsellors to attend face to face meetings with children, families and schools across the areas they cover*
- Recruiting counsellors from a more diverse range of backgrounds*
- Investing more in the ongoing support and training counsellors receive and ensuring that they are equipped with the latest diagnostic tools and other resources.*

The Commission is aware that specialist Child and Adolescent Counselling Services and Youth Health Services exist to provide counselling in a community setting but does not have current information as to whether sufficient services are available.

Premature infants

The overall drop in the number of deaths of children aged 0-17 is largely accounted for by a drop in the deaths of premature infants in the first week of life (a decrease of 27 from 2008). (pg. xx)

4. What are the likely factors for this drop in the number of deaths of premature infants? Can we hope to see this become a regular trend?

The CDRT 2009 Annual Report indicates that compared with 2008 there was a substantial decline in the number of infants dying where other complications of labour and delivery were evident (34 deaths). It may be possible to attribute this decline to perinatal campaigns targeting risky practices such as smoking and

consuming alcohol in pregnancy and education of parents and hospital staff about safe sleeping practices. The 2010 CDRT Annual Report refers to premature deaths as one category of perinatal deaths. It is appears that the change in the way that these are defined means that the data in the 2010 Report is not comparable with that in other published reports

**A preliminary investigation of neonatal SUDI in NSW 1996-2008:
opportunities for prevention**

1. NSW Health have responded to the report indicating that they support the recommendations made to them and will ensure that advice on SUDI is considered in upcoming policy reviews, and additional emphasis will be given to antenatal education for all women. (NSW Child Death Review Team Annual Report pg. 108) Is this a satisfactory response?

This is now a matter for the NSW Ombudsman as Convenor of the CDRT. The views provided below are those of the Commission only.

The NSW Health response referred to above is provided in the NSWCDRT Annual Report 2010 published by the NSW Ombudsman. The Team's recommendation was that NSW Health consider the findings of "A preliminary investigation of neonatal SUDI in NSW 1996-2008- opportunities for prevention". NSW Health responded by indicating that it would do so and set the timeframe for this review. It may have been appropriate for the Team to also recommend that NSW Health indicate how they have addressed the findings of this report, and provide a copy of the findings of the review to the CDRT. It is suggested that the CDRT could request this.

In regard to recommendation 2, which states that "NSW Health assess compliance with the Babies Safe Sleeping in NSW Health Maternity Facilities policy", NSW Health responded that they support this recommendation, and that 72 maternity services had been audited to assess compliance. They reported that no babies were found to be co-sleeping or sleeping prone. NSW Health also reported that while some babies (number not provided) were found to be in unsafe sleeping positions, discussions with staff and mothers indicated that the child had been placed in that position by either the mother or a grandparent. NSW Health reported that the policy had been revised with the inclusion of additional emphasis on the need for antenatal education for all women.

Further details of plans for additional targeted and general continuing education about safe sleeping is strongly supported.

The audit of compliance with this policy was informed by reports by staff and mothers about babies found to have been placed in an unsafe sleeping position. It is possible that staff may not adequately recall or honestly report how a baby came to be in an unsafe position, and a more rigorous investigation of such events may be required. In addition medical staff should be alert to babies being placed in unsafe positions by mothers/ other visitors to inpatients, and address this quickly when it occurs.

2. NSW Health stated that the majority of babies who were inpatients on postnatal wards were sleeping in safe positions and those that were in unsafe positions were placed in those positions by mothers or relatives. (NSW Child Death Review Team Annual Report pg. 108)

Does more need to be done to educate relatives, particularly those visiting inpatients, in addition to new mothers?

While this is now a matter for the NSW Ombudsman, as convenor of the CDRT, the Commission's view is that education should not only be targeted at mothers but other family members such as grandparents and other relatives visiting inpatients in maternity wards. This could involve the display of information in maternity wards targeted at mothers/other visitors about safe sleeping positions.

3. SIDS and Kids support the recommendation that the risks to neonatal infants of unsafe sleeping environments should be further emphasised but indicated that as a small organisation they were unable to perform the necessary tasks without further funding which they failed to receive. (NSW Child Death Review Team Annual Report pg. 111)

- Is this issue something which the Commission may be able to highlight?
The Commission is no longer directly responsible for monitoring compliance with previous recommendation of reports of the CDRT, as this function has transferred to the NSW Ombudsman.

However, as a member of the Team and as a key stakeholder, the Commission could suggest that the Team write to the Ministry of Health seeking advice on what is planned in relation to community education on this issue.

- Has the Commission lobbied on behalf of SIDS and Kids to help them achieve funding?

The Commission has not taken up this matter with NSW Health to date.

The funding that SIDS and Kids had requested was to run workshops for NSW Health staff, and would not in any case have assisted them to reach all new mothers in NSW. It seems unlikely that one relatively small organisation could achieve this goal. A mass-media education campaign run by the NSW Government would probably be the best way to achieve this.

- Would the Commission consider working alongside SIDS and Kids to promote safe sleeping practices for neonatal infants?

The Commission would consider any request from SIDS and Kids along these lines.

4. The Committee notes that a large proportion of neonatal infants who died suddenly and unexpectedly had smoking evident in their household or during pregnancy (pg. 1).

- Is enough being done to educate families on the dangers of pregnant women or infants being around tobacco smoke?

The report 'A preliminary investigation of neonatal SUDI in NSW 1996-2008- opportunities for prevention' did not make any recommendations relating to the dangers of cigarette smoke to pregnant women. Assessing whether enough is being done to educate families on the dangers of pregnant women or infants being around tobacco smoke is now also a matter for the NSW Ombudsman as the Convenor of the NSW CDRT. The NSW Ministry of Health would be best placed to advise on existing initiatives in this area. The Commission would need to obtain this information from the NSW Ministry of Health at this Committee's request.

- The Committee notes that there was a large drop in SUDI following a campaign in 1997 aimed at unsafe sleeping arrangements (pg. 5). Would a similar approach be appropriate for the dangers of tobacco smoke?

The NSW Ministry of Health would be best placed to advise on this. The Commission would need to obtain this information from the NSW Ministry of Health at this Committee's request.

5. The report concludes that since SUDI occurs from the first day of life, strategies to protect infants need to target mothers at or before the birth of the infant, and staff working in maternity facilities (pg. 19).

- Is this now the case?

The NSW Ministry of Health would be best placed to advise on this. The Commission would need to obtain this information from the NSW Ministry of Health at this Committee's request.

- If not, at what stage do mothers and maternity facility staff focus on the risks that can increase SUDI?

The NSW Ministry of Health would be best placed to advise on this. The Commission would need to obtain this information from the NSW Ministry of Health at this Committee's request.

6. The report suggests that the NSW Forensic Pathology Services Committee requested an audit into the practices of forensic pathologists in the pre and post implementation phases to improve the identification of cause of death which was to take place at the start of 2011 (pg. 19).

- Has any progress been made on this audit? Does the Team have any results?

The CDRT Annual Report 2010 states that:

"In 2008, NSW Health informed the Team that the Sudden Unexpected Death in Infancy Post Mortem Protocol was implemented across all pathology facilities in 2006, and an audit of compliance would be undertaken in 2009. In 2010, the Department advised that the audit had found little change in practices of forensic pathologists before and after implementation. Five recommendations were made by Health to address this and a further audit was to be conducted at the start of 2011. In July 2011, NSW Health advised that the audit had been completed. The 2011 audit shows that compliance with the protocols is generally good and has improved since the review in 2009." (p109).

If the Committee requires any additional information this should be sought from the NSW Ombudsman as the Convenor of the NSW CDRT or requested by the Commission at the Committee's request.

- Can more be done to identify the cause of death in SUDI cases to assist prevention efforts?

This question is best directed to the NSW Ombudsman as the Convenor of the NSW CDRT.

Additional Questions on Notice for the 2011 report reviews

- 1 The Committee notes in the Commission's answers to the previous Questions on Notice regarding the transfer of the Child Death Review Team to the NSW Ombudsman that:
- "... the way the data is reported in the 2010 CDRT Annual Report is different to the way it was previously reported, which limits comparability with previous published reports and has made updating A Picture of NSW Children challenging"* (Answer to Question 8)

Can the Commission elaborate on the differences between the 2009 and the 2010 Child Death Review Team Annual Reports?

2. The Commission's answer to Question 10 regarding anti-bullying initiatives states that:
- "The Commission's revised participation toolkit, which aims to build capacity of organisations to engage with children and young people, will be released throughout 2012 and this will be provided to the Department, Catholic Education Commission NSW and the Association of Independent Schools to assist them in consulting with children and young people about anti-bullying initiatives."*

Can the Commission provide a more detailed timeframe for the release of this toolkit throughout 2012?

3. With regard to the Built for Kids guide and the Child Friendly by Design Resource Toolkit, can the Commission provide information on how and where these resources were distributed and how they were advertised?

4. The Committee notes that the NSW Commission for Children and Young People made a joint submission to the Australian Law Reform Commission's National Classification Scheme Review, along with the Commissioners from Victoria, Tasmania, and Western Australia in July 2011.

How does the Commission work with and maintain relationships with Commissions in other jurisdictions?

What are some of the other issues the Commissions have discussed as a collective?

5. What are the Commission's functions with respect to youth employment practices and discrimination and how does the Commission aim to improve the well-being of young people in the workforce and promote its work in this area?

Further questions on notice

Question 1

While the 2010 Child Death Review Team Annual Report is broadly comparable with the 2009 Report, differences in the presentation of the two reports and the lack of tables in the 2010 report meant that the data required to update the Picture of NSW Children needs to be derived from the text of the 2010 report and not in the tables.

The one important omission that limits reporting is the lack of Standard Errors (SE) with Incidents Rate Ratios (IRR) which were previously reported in the picture. These Standard Errors allows us to review the precision of an estimated IRR and determine if the differing risk of a group is actual or likely the result of chance. It should be possible to calculate this even given the limited data for 2010 in the report. It is also odd that the report presents some of this information in the appendix for all years but not specifically for 2010.

Question 2

We expect *Citizen Me*, the Commission's updated participation toolkit, to be ready for publication and launch by the end of June 2012. A further section on participation in the digital environment is expected to be ready for publication by the end of July 2012.

Question 3:

The first Child-Friendly by Design Resource Toolkit was introduced at the launch on 19 November 2010 in Albion Park. Prior to this a news bulletin was made available on the Commission website which provided further details on the toolkit, on its content, how it was developed etc. The bulletin also included a YouTube video that the Commission developed to showcase the voices of children and young people and their views on the built environment.

The main function of the toolkit is to support and complement the regional Child-Friendly by Design workshops which is a joint venture between the Commission and Healthy Cities Illawarra and to complement the Built4Kids resource. The toolkits are distributed and used as part of the workshops. The toolkits are primarily a Healthy Cities Illawarra publication and they are therefore responsible for its promotion, which they achieve via the workshops.

Built4kids was launched by the Commission in partnership with Healthy Cities Illawarra on 22 June 2009 at the Child Friendly by Design Business Breakfast in Shellharbour. This was also accompanied by a Commission news bulletin as well as additional information on the Commission website including links to download an electronic version of the publication.

Built4kids is also regularly promoted through Commission events such as the current seminar series on children, young people and the built environment and is made available for viewing at Commission stalls at events such as the 2011 Youth Health Conference, *It's Totally Important* which took place at the Sydney Convention Centre. Hard copies of Built4kids were given to people who attended the launch of the Commission's seminar series of children, young people and the built environment and details regarding Built4kids are also regularly included in Commission

publications on the built environment such as in New Planner (the newsletter of the Planning Institute of Australia) and Network News (the peak for after-school care).

Question 4

The NSW Commission works with all the other State and Territory Children's Commissioners and Guardians through the Australian Children's Commissioners and Guardians (ACCG).

The purpose of the ACCG is to strengthen the quality and effectiveness of strategic advocacy to promote and protect the safety, well-being and rights of children in Australia, particularly the most vulnerable or disadvantaged.

The ACCG aims to:

- promote children's rights and participation as articulated in the United Nations Convention on the Rights of the Child
- ensure the best interests of children are considered in public policy and program development
- give voice to the views of, and encourage direct consultation with, children and young people on matters that affect them
- encourage systemic improvement, and a robust evidence base, in areas that impact on the safety and wellbeing of children and young people
- raise the profile of Australian Children's Commissioners and Guardians, and
- be recognised nationally as an authoritative and credible source of advice and advocacy about children's rights and participation.

To achieve these aims, the ACCG:

- shares information, research and ideas at biennial meetings and through other processes such as the ACCG portal, email and teleconference
- identifies opportunities for collaborative action particularly in relation to matters of mutual interest and /or national significance
- maximises the impact of strategic and systemic advocacy by making joint submissions either proactively or in response to government and non-government consultation processes when it is appropriate to do so.

Membership of the ACCG is restricted to those individuals whose office or position of Commissioner or Guardian was established by Australian state, territory or federal legislation and who have a sole focus on promoting and/or protecting the rights, interests and well-being of children and young people within their jurisdiction.

Agreement to participate in joint State and Territory submission is considered on an issue-by-issue basis. As can be seen from the list of recent issues below much of the joint activity relates to federal initiatives and responsibilities.

Some of the recent issues considered by the ACCG include:

- Children in immigration detention
- Social inclusion for children leaving out of home care or who have already left under National Child Protection Framework 2012 Action Plan
- Interstate child protection transfers
- 17 year olds in adult prisons in Queensland

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
QUESTIONS ON NOTICE

- Indonesian children in Australian adult detention centres
- Inquiry into Foetal Alcohol Syndrome
- Establishment of a National Commissioner for Children and Young People

Question 5

In keeping with its broad mandate the Commission has the same functions in respect of any issue touching the wellbeing of children and young people 0-17 years of age, including youth employment practices and discrimination.

That said, youth employment practices and anti-discrimination also lie within other agencies' responsibilities including the NSW Industrial Relations Commission (which has a section dedicated to young people at work, the NSW Anti-Discrimination Board and the Fair Work Ombudsman.

The Commission has promoted the wellbeing of young people in the workforce through:

- A major research project and report on Children at Work (2005)
- A submission to the Inquiry into School and Work (2009)
- Working with the Department of Premier and Cabinet on the Youth Employment Strategy (2010).

The Commission continues to monitor the wellbeing of children in the workforce by collecting and publishing data on:

- Young people's employment, including combining education and employment, and impact of the changed school leaving age
- The individual income of children and young people
- Unintentional injuries in the workplace.

Appendix Two – Transcript of Proceedings

This appendix contains a transcript of evidence taken at a public hearing held by the Committee on 7 May 2012. Page references cited in the commentary relate to the numbering of the original transcript, as found on the Committee's website.

CHAIR: It is a function of the Committee on Children and Young People to examine each annual and other report of the Commission for Children and Young People and report to both Houses of Parliament in accordance with section 28 (1) (c) of the Commission for Children and Young People Act 1998. The Committee welcomes the Commissioner for Children and Young People for the purpose of giving evidence on matters relating to the following reports: the commission's annual reports for 2009-10 and 2010-11, the 2009 annual report of the Child Death Review Team and the report titled "A preliminary investigation of neonatal SUDI in NSW 1996-2008: Opportunities for Prevention", published in October 2010. Commissioner, I convey the thanks of the Committee for your appearance today.

MEGAN MITCHELL, Commissioner for Children and Young People, affirmed and examined:

CHAIR: In what capacity are you appearing before the Committee today?

Ms MITCHELL: I am the New South Wales Children and Young People Commissioner.

CHAIR: Would you like to make an opening statement before the commencement of questions?

Ms MITCHELL: I would.

CHAIR: Thank you.

Ms MITCHELL: Thank you for inviting me to discuss our work at the Commission for Children and Young People. Congratulations on your appointments to the New South Wales joint parliamentary Committee on Children and Young People. I am very much looking forward to our work together in the coming year. This will be the first full year that this Committee and the commission will be working together for the benefit of New South Wales children. I would be happy to answer any questions you have about past reports and current work of the commission.

Just a bit of background about the commission, the commission was established as an independent statutory agency in 1998 with strong bipartisan support, reporting to a parliamentary committee, this Committee. Our Act has been reviewed twice since then, with amendments made in 2005 and further recommendations currently with the Government from the second review of the Act. The New South Wales commission was one of the first to be established in Australia. It is a well-respected model that works effectively to advocate for the interests of children and young people, and all other States and Territories now have similar commissions—and indeed there is to be a Federal commission.

Our vision is to together make New South Wales a better place for children and young people. The relationship between the parliamentary joint Committee and the commission is central to this vision, and much of the commission's best work has been accomplished working with the Committee. The multi-partisan support enjoyed by the commission here in Parliament has greatly benefited children who are affected by so many government decisions. Beyond the Committee, the commission works with Ministers, government agencies and non-government organisations, including children service providers and peak bodies, and, of course, most important of all, we work with children and young people. Our remit is children aged nought to 17 years of age.

We have a whole-of-government focus and work to ensure children benefit from improved legislation, policies, practices and services. We support children to participate in decisions that affect their lives; we research, monitor and promote child safety and wellbeing; and we ensure employers support child safe and child friendly workplaces. We also administer the Working with Children Check and the sex offenders counselling scheme. Just to set the context in which kids live, I would like to provide some brief information from our online data book, "A Picture of New South Wales Children". Of the 7.2 million estimated total population of New South Wales in 2009, just over 1.6 million were children aged nought to 17. That is about 23 per cent of the total population.

While most children in New South Wales do well, children in some families are in difficulty. Fourteen per cent live in overcrowded households, 6.3 per cent had run out of food and could not afford to buy more at some stage in the last 12 months—in the period of the data book—nearly 8,000 were homeless and nearly 11 children in every 1,000 were living in out-of-home care in 2010. Looking out for and speaking up for our children, especially those at risk, is important work for us all to do together. Many of our successes, as I said, have been achieved through the cross-party work of the Committee, including the longstanding Children at Work project and two pieces of current work that have been developed out of inquiries of this Committee as well: the Middle Years of Childhood and Children and Young People in the Built Environment. These are continuing legacy projects for the commission.

In terms of the Middle Years of Childhood, which we define as 9 to 14, there was an inquiry conducted by this Committee in 2008, a report published in 2009 and 59 recommendations made, several of which were directed at the commission. During 2011 the commission held a seminar series which considerably advanced building the knowledge base on what is happening to children's bodies, brains and social development during this time as an informant to policy and program development. We have established a cross-agency governmental working group and we have rationalised those 59 recommendations into 10 proposed priority areas from within government that I am intending to put to this Committee for endorsement.

We have also held just recently a non-government organisation [NGO] roundtable on the middle years to facilitate exchange of information through that sector, and we are about to establish an expert panel to provide continued advice on this issue. We have also been active in children and young people in the built environment. That inquiry was first conducted in 2005 by this Committee and a report published in 2006. We released Built for Kids, which is a resource that came out of that inquiry, to help planners and planning professionals to engage kids in the development of child-friendly and accessible built environments. We also funded in 2010 Healthy Cities Illawarra to produce a resource called Child Friendly by Design. We have also worked with a range of councils using both of those tools in concert.

At the moment we have a four-part seminar series underway for planning and policy professionals in this area, called Beyond Playgrounds and Skate Parks. That is being very well attended. We are also working with the Planning Institute of Australia to support an award for best practice in child-friendly design. All of those things are underway at the moment. We have a number of other ways that we are currently fulfilling our legislative mandate. These are projects like preventing child injury. That is a new area of consolidated work for the commission. We have done work in that area before but we are actually developing a broader program and we hope to establish a child injury prevention team for New South Wales and provide advice to government on prevention initiatives and policies for kids.

We also have the "Picture of New South Wales Children", which I have talked about a bit before, which has a wealth of data about kids' lives in it and is very helpful for planning and policy development processes. We are currently redeveloping a resource called "Taking Participation Seriously". This is it; it is a bit clunky and old-fashioned now, books and things like that, but it is widely used and widely respected. So we are redeveloping that into a newly produced publication called "Citizen Me", and that has other contemporary resources for participation. We also run the Child Safe Organisations Program, which does training, education and compliance monitoring in relation to child safety and the Working with Children Check. As I noted before, we also administer the child sex offender counsellors accreditation scheme. As you know, we operate the Working with Children Check at the commission.

In exercising our functions, the legislation asks us to give priority to the interests and needs of vulnerable children, and we will be looking closely into developing ways of reducing risks for more vulnerable children at the same time as identifying and building the capacities of all children to be and grow and mature. As identified by the previous joint parliamentary Committee, the middle years in particular is a stage of accelerating growth and development, and aside from the profound physiological changes associated with puberty, which typically occurs at this time, major changes take place in the brain that relate to an individual's capacity for abstract thought, understanding consequences, managing emotions and decision-making.

But unlike previous thinking, we know that the brain retains its plasticity at this time and that there are significant opportunities to impact on brain development and behaviour during the middle years. This is also the time when children make some of the most critical transitions in their lives, for instance, from primary school to high school or starting work for the first time, and they generally become more independent of their families as friends and others in the community assume greater importance for them. Importantly, as well as it being a time of accelerating development, it can also be one where disadvantage also accelerates.

There are other areas of concern for us in terms of risks for children that I wanted to highlight to you. New South Wales has a higher than average rate of children in detention. In 2010 this was 371, and almost 60 of these were in unsentenced detention. We are also concerned about how the Keep Them Safe initiative, laudable as it is as a broadening of the child protection framework in New South Wales, is working to benefit children in New South Wales, and I will be watching that quite closely and monitoring its effectiveness. The area of juvenile justice and children at risk closely intersects with our work in the middle years as well as our work in the built environment. The recent debate in the media shows there is a wide range of views and emotions associated with this topic.

The commission is particularly looking to make a constructive contribution to improving responses to children and young people who offend, who are at risk of offending or

who are generally at risk. In conclusion, we share a wonderful privilege to be working for the children and young people of New South Wales. These are citizens who cannot vote and therefore need other ways of speaking up for themselves or having others, such as the people in this room, speak on their behalf. Thank you for giving me the opportunity to address the Committee, and I look forward to answering any questions you might have.

Dr ANDREW McDONALD: Can I ask you some specific questions?

Ms MITCHELL: Yes, certainly.

Dr ANDREW McDONALD: Would you like to give some general comments on where we should be going with the report "A preliminary investigation of neonatal SUDI in NSW 1996-2008"?

Ms MITCHELL: From our report we can see that there has been a significant reduction in sudden infant deaths over the period of the operation of the Child Death Review Team. In part, I would say that is to do with campaigns about safe sleeping practices for children. In terms of where we should go with that, I think we need to strongly maintain those public education campaigns about safe sleeping. In many cases of sudden infant death there is co-morbidity with smoking and substance abuse. Clearly, potentially some more targeted campaigns at particular groups of people in the community about those co-morbidity factors could be warranted as well.

Dr ANDREW McDONALD: You said that 27 out of 123 had drug and alcohol criminal violence, mental illness and narcotics. There has been a tendency to keep these mothers in hospital for longer after the birth but that is not always feasible because they frequently have multiple needs to go home. How should such people be monitored in the first few weeks after going home?

Ms MITCHELL: I would like to take that question on notice to think about it a little bit more. It does occur to me that if there is a need for the parent to go home earlier than would otherwise be beneficial a range of health and allied health professionals should work in a case-management role around those families. I would like to look into it a little bit more.

The Hon. GREG DONNELLY: I want to go through a series of reports and have a discussion with you about your knowledge of the reports and their recommendations. Have you read the 2007 "Report of the American Psychological Association Task Force on the Sexualisation of Girls"?

Ms MITCHELL: I am familiar with the report. I read a lot of reports. I am not sure I can clearly tell you that I have read that report but I am very much aware of it.

The Hon. GREG DONNELLY: Are you aware of its recommendations?

Ms MITCHELL: Correct me if I am wrong, the recommendations go to better regulation of sexualising imagery in the media. Is that correct?

The Hon. GREG DONNELLY: In part, yes.

Ms MITCHELL: That is as much as I know of it. If the Committee would like me to read it and come back I am happy to do that.

The Hon. GREG DONNELLY: No. In June 2008 the Senate Committee on the Environment, Communications and the Arts produced its report, "Sexualisation of Children in the Contemporary Media". Are you familiar with that report?

Ms MITCHELL: I am familiar with that as well but, again, it is difficult for me to comment on that particular report.

The Hon. GREG DONNELLY: Are you aware of the recommendations in that report?

Ms MITCHELL: I would have to re-familiarise myself with them. Might I say my appointment to this position was in 2010.

The Hon. GREG DONNELLY: In February 2010 a very significant report in the United Kingdom titled "Sexualisation of Young People" was reviewed by Dr Linda Papadopoulos. Are you familiar with that report?

Ms MITCHELL: The feeling I am getting from you is that there is a range of reports that the Committee would like me to be familiar with. That has not been a main focus of the commission's work. I would be very happy to take that on board.

The Hon. GREG DONNELLY: Please do not jump to conclusions. I am trying to work through some background information.

Ms MITCHELL: It is not an area that the commission has done a lot of work in. So while we would be familiar with them because they would come up, we would hear about them in the press and they would come across our desks, it is not an area in which we have had specific work at this time.

The Hon. GREG DONNELLY: I will refer to the February 2010 report that I just mentioned. Are you familiar with that report?

Ms MITCHELL: I am familiar with it but I could not tell you what its recommendations were.

The Hon. GREG DONNELLY: In June 2011 another significant report from the United Kingdom titled "Letting Children be Children" was released, and an independent review on the commercialisation and sexualisation of children was made by Reginald Bailey.

Ms MITCHELL: I do not know that report.

The Hon. GREG DONNELLY: On 5 March 2012 the French Parliament issued a report by the Senate "Hyper-Sexualisation: A New Fight For Equality". Are you familiar with that?

Ms MITCHELL: No, I am not familiar with that one either.

The Hon. GREG DONNELLY: An independent parliamentary report into "Online Child Protection" was released, dated 18 April 2012. Are you familiar with it?

Ms MITCHELL: I did see some press about that but I have not read the report.

The Hon. GREG DONNELLY: I have just mentioned a sample of numerous reports on the sexualisation of children and young people. You said, if I am quoting you correctly, that it is not a matter that the commission has been involved with or has turned its mind to. In light of the number of reports on this matter, why is that so? Why has this issue not been given a particular priority?

Ms MITCHELL: As I noted in my opening introduction, much of the commission's work has come out of the work of this Committee or inquiries held by this Committee. We have limited resources. It may be that other people are better placed to take that up. Obviously people are very active in that space. However, we can reprioritise our work if there is a will of the Committee to do so.

The Hon. GREG DONNELLY: Are any resources devoted by the commission to monitoring this material, discussing it and giving consideration to it?

Ms MITCHELL: Not at present.

The Hon. GREG DONNELLY: None at all?

Ms MITCHELL: We have some resources devoted to child protection issues.

The Hon. GREG DONNELLY: That is quite separate to this matter.

Ms MITCHELL: Not specifically to do with sexualisation.

The Hon. GREG DONNELLY: How regular are meetings of the Australian Children's Commissioners and Guardians?

Ms MITCHELL: They are twice a year.

The Hon. GREG DONNELLY: How many of them have you attended in your capacity as the commissioner?

Ms MITCHELL: I have been to three.

The Hon. GREG DONNELLY: Has the topic of the issue of the sexualisation of children and young people been on the agenda for those meetings?

Ms MITCHELL: I believe it has been at one of them. I would like to take that on notice and get back to you about that.

The Hon. GREG DONNELLY: Yes, please. What was discussed around that topic? Do you need to refresh your memory?

Ms MITCHELL: I would need to refresh my memory. What is in the back of my mind is that one of the particular States has this as a priority issue and is working on it and brought it to the agenda. I would have been discussing some of the things in some of those reports, and policy and other research initiatives that might be going on in the Australian context.

The Hon. GREG DONNELLY: Do commissioners and guardians, through your discussions with them, both formally at those meetings and perhaps informally, express concern about this mounting evidence?

Ms MITCHELL: Yes, there has been discussion about that. The commissioners and guardians look for opportunities to make those concerns known, particularly in Federal forums.

Ms MELANIE GIBBONS: Obviously the commission has suggested improvements to the Young Persons Reference Group. What has been incorporated into the creation of the newly formed Young People Advisory Group from those recommendations?

Ms MITCHELL: The group was formed earlier this year at the beginning of term in this year. In the past the advisory group for the commission was actually called a reference group. We wanted to ensure that they had more capacity for advice to be passed on to government if necessary. We also wanted to make sure that they are more supported than they were in the past. Following the evaluation of their functioning we sought to find two young people from six schools across New South Wales—two young people from six separate schools—and they would support each other as children. Also, there will be a teacher or a resource at that school that would also support those children. They have met and they are like best friends forever. They seem to really enjoy working together. They are already off and running in terms of some child-led research that they are doing for us in terms of what kids do after school. They are setting the research questions and they are going out to their school communities to undertake that research for us.

Ms MELANIE GIBBONS: How many times have they met?

Ms MITCHELL: They have met twice and they are about to meet again. They meet quarterly. In terms of what the evaluation showed and the changes that we made, I think they are much better supported. They are actually doing much more structured work related to government and commission priorities and they are also developing their capacities as co-chairs, as researchers, as leaders.

Ms MELANIE GIBBONS: Are the outcomes from them what you expected?

Ms MITCHELL: Yes, and it is early days. These kids are between 14 and 16 years of age but they are certainly a very impressive bunch of young people.

Ms MELANIE GIBBONS: For how long will those children be involved?

Ms MITCHELL: The model is a year long. We might consider extending it, but we will certainly stay with the school for two years. They might be different kids but one of the reasons we wanted them at that age is we do not want them to have to compete with doing the study associated with the Higher School Certificate.

The Hon. NIAL BLAIR: I refer to the information you supplied in answer to a question on notice about the KidsPoll. The commission says it is the most popular subscription design for young people, with more than 1,000 subscribers. You said in your opening statement there are 1.6 million children in New South Wales. How do 1,000 subscribers out of 1.6 million children sit with the commission's expectations for the sign-up? Is that something that is in line

with or below what you were hoping for? What is the commission doing to increase the popularity of the website?

Ms MITCHELL: Thank you for the question. I think we would be expecting more children to be connecting with us. "Let a thousand flowers bloom" is the strategy we are adopting. The KidsPoll is only one way to grab a kid's interest and get their views. The commission has gone out in the past with the "Ask the children" series—and will continue to do so—and conducted focus groups and surveys. We do online surveys. We have the *Feedback* magazine, which has 4,000 child subscribers. In the last year we have entered into the world of Twitter and Facebook. We have nearly 500 Twitter and Facebook friends. We are trying to explore all the options available to encourage more engagement with the commission by adults as well as children.

A lot of what we do is about changing adult views and practices as well as children's views and practices. We are in the process of redeveloping our website and as part of that process we will look at the KidsZone area—where KidsPoll is—to see what we might be able to do differently to engage more kids. We are facilitating for government an online engagement project with young people in the non-government sector. That should also give us more mechanisms to reach young people. We would like to have more young people connecting with us.

The Hon. NIALL BLAIR: We need One Direction or Justin Bieber to "like" you on Facebook and Twitter and it would go viral.

Ms MITCHELL: I could not agree with you more. A few weeks ago I went to work and the first thing I said was: If we Twitter today can we say the words "one direction" in there somewhere? Such as, "The kids in New South Wales are going in one direction—up."

The Hon. NIALL BLAIR: I would like more information on the project for preventing childhood injury that the department is working on. I know it is monitoring injury trends throughout the State and providing information. Could you give me a little more information about that and how that process is going to occur?

Ms MITCHELL: Yes. There have been injury prevention initiatives in New South Wales before. They have been focused on particular injuries such as quad bike injuries or falling out of windows. What is missing in the New South Wales context at the moment is a whole-of-government mechanism to look at serious childhood injury. The commission has been working with our colleagues in health and related sectors to think about how to develop a mechanism to provide that advice and research in the New South Wales context. In the first instance we are doing a couple of things: We have commissioned the Australian Institute of Health and Welfare to prepare a surveillance report on serious child injury in New South Wales. That should be released midyear. That will be a good starting point for having further discussion about how we can develop an injury prevention mechanism. In that context the Committee will appreciate there is a lot of preliminary research to do to scope exactly what we mean by "childhood injury": Is it intentional, unintentional? What data is available through hospital separation data or other data sources? How good is the coding around childhood injury? I can tell you it is not very good. What do we include and what do we scope out and what do we mean by "serious child injury"?

There is a lot of preliminary work to do to get the settings right. We have been doing that and we have developed a scoping paper which will be the subject of a roundtable discussion held later this year after the surveillance report comes out. That discussion will take place with a range of key experts in this area. We want to talk to them about what would work best and what kind of data should be included in order to get the settings right. We hope to establish a child injury prevention team in the same way as the child death review team worked. We can then focus on specific issues and trends as they come up.

The Hon. NIALL BLAIR: What control mechanisms do you have to ensure that we do not stop, as a result of the data, kids being kids? I can guess that the data will target horse riding, motorbikes, playgrounds, trees and weekend participation sport—and there is your range of injury origins wrapped up. I can look at my own son and what injuries he has had and they fall under those categories. What control measures is the commission putting in place? We want our kids to be active, experience risk and physically challenge themselves and each other; what control measures does the commission talk about in that scoping project to ensure that continues?

Ms MITCHELL: The scoping paper talks about that philosophical challenge. While we want to prevent serious injuries such as kids losing their eyes, having disabilities and those sorts of serious consequences, the commission acknowledges the importance of kids taking risks, playing sports, being healthy and developing as a normal child. It is really important to get that balance right and to not fall into the trap of over-regulating children's lives. It really is about serious child injury.

The Hon. NIALL BLAIR: I noted on the weekend that social debate includes the terms "helicopters" and "free-range". Parents are referred to as "helicopters" if they hover over their children and do not allow them to experience risk. The term "free-range" describes parents that allow kids to run free. Will this study investigate some of those areas?

Ms MITCHELL: Just to follow up on that, the last of the middle years seminars held in 2011 was about risks—real and perceived. It looked very much at that topic: To what extent are we preventing normal healthy development through over-regulating our kids and what is the impact of that on the lives of children? Does it impede brain development as well as just being able to develop normally?

Ms MELANIE GIBBONS: You mentioned children falling out of windows and some work the commission has done on that issue. In my electorate of Menai we have had two children in the last fortnight fall out of windows. What advice does the commission have on that issue and how has it responded, given the commission has done work on the subject previously? Do you know what the outcome of that work was?

Ms MITCHELL: The work that we have done is to analyse, from the New South Wales admitted patient data, the circumstances of falls out of windows. We provided that information to the Department of Health, and Premier and Cabinet are establishing a working group to look at what we can do about it. The circumstances are so different in each case. Sometimes it is about the security of the window, sometimes it is about supervision, sometimes there are deaths and sometimes there are injuries. Every circumstance is very different.

The Hon. JAN BARHAM: I will focus on the children at work situation. Has the commission followed up or updated the 2005 report and recommendations?

Ms MITCHELL: It is not something that is in our forward plan. Again, it could be timely if the Committee was interested in the commission doing more work in that area, given the change to the school leaving age, looking at those children who might not be flourishing during the last two years of school and their experiences of work.

The Hon. JAN BARHAM: The first recommendation from that report referred to research that was done to monitor the working lives of children over time. The report says that the research should be regularly repeated. Did that happen or was it a one and only?

Ms MITCHELL: It is my understanding it was a one and only but we can advocate around doing that.

The Hon. JAN BARHAM: Is there anything available on the website or in the production materials that inform young people about their rights at work? I have a particular interest after being shocked quite recently upon hearing about sexual harassment in the workplace for young people.

Ms MITCHELL: We did develop an "Ask the children" series on what kids think about work and at the end there are references to other sources they can go to for information such as WorkCover and Lawstuff and places that have that information. I should note at the present time it is the NSW Children's Guardian who regulates children's employment. That might be a question better put to the NSW Children's Guardian.

Dr ANDREW McDONALD: Alcohol is a major contributor to the child deaths in both of the reports. There has been controversy about availability of alcohol to the general community and to people younger than 18. Do you have any suggestions about whether this problem is increasing in people younger than 18 and if so what can be done?

Ms MITCHELL: The good news is that over the last 10 years risky alcohol abuse behaviours have significantly decreased with kids and I think that is probably due to the public health campaigns that have been mounted in this area. However, there is a tail of kids, a small proportion, which has remained stable and is indulging in very risky alcohol abuse behaviours. That has not shifted. I think that is the key issue in terms of targeted interventions.

Dr ANDREW McDONALD: The Child Death Review team reports the tail kids are aged 16, 17 and 18 years old: In terms of accidental death, has that changed or is it unchanged?

Ms MITCHELL: On the whole the rate of alcohol abuse has decreased amongst children. However, there is a significant group that has stayed stable and they drink and take other substances at dangerous levels. In terms of public and government intervention, the challenge is how to target those particular young people who are probably disengaged in very many other ways in terms of community life. These are the same children you will find in the juvenile justice system and out-of-home care system. We do know where they are but the challenge is to mount the kind of intervention that will make a difference to the lives of those children. I would say there are not enough of those specific targeted treatment programs for those groups and there needs to be more of them.

The Hon. JAN BARHAM: I asked a similar question about how you deal with cyber bullying. The alcohol issue has some resonance in my electorate where there are a lot of children at risk in the community. As a council we set up an opportunity for them to do peer education. We provided the resources and a bit of guidance but they did the material production; they organised the campaign. Have you considered whether it is more valuable for young people, particularly those at risk, to speak to each other rather than to have money, time and materials presented to them that have been written by adults?

Ms MITCHELL: That is a very good point. With these sorts of issues most children are more responsive to their peers or slightly older peers; they relate much better to them. I think we need to look for opportunities for them to have conversations to support each other. Children consistently tell us that that will have a much greater impact on them. We have been working closely with the Department of Education and Communities on anti-bullying initiatives; those sorts of in-school programs can have much more of a peer-to-peer focus as well. While bullying is a reality in the cyber world, it is a reality in the playground too. It can spread more quickly in the cyber world but it has just as much impact on kids when they are bullied. For instance, you can see sometimes in the suicide statistics or the attempted suicides, which will hopefully form part of our injury work, that bullying can play a part and that many of those kids either did not have anyone to turn to or they turned to their peers and their peers did not know quite what to do with the information. I think you are right that that is the area to focus on.

The Hon. JAN BARHAM: Do we have the capacity to reflect some resources towards that? For instance, a couple of years ago an advertising company employed some young people to do their promotional work so they would target young people. It is easy to do at the local government level but it is much more difficult to do at the State level.

Ms MITCHELL: I can see that there could be opportunities for that. As I have said, we are redeveloping our participation guide and resources and that is being led by kids. It is not for kids but it is something that they need to know will work for them, so they are actually reviewing the material. I think it is possible to involve kids in these sorts of initiatives, very much so.

CHAIR: In terms of children who are disengaging from school or disengaging from the community, are there any statistics around what proportion of them have suffered emotional injury in their childhood which has led to that?

Ms MITCHELL: Off the top of my head I cannot put my finger on it. I will take the question on notice and get back to you because I am sure there are some. It certainly is a phenomenon that we know: kids who are disengaged and who may end up in the juvenile justice system have significant trauma backgrounds. For instance, we know that kids from low socioeconomic backgrounds are five times as likely to be on an order of the court, and we know that around 40 per cent of kids in the juvenile justice system have cognitive and other impairments or a background of abuse. Those statistics are around. They give us cause to think about what we can do for those kids and how we can intervene. I will provide them to the Committee.

CHAIR: In your opening statement you said that 11 in every 1,000 children are in out-of-home care. I note that government agencies such as the Department of Education and Communities treat those children differently to other children. Do you feel it is within the

commission's brief to advise the Government on how to manage the competing interests of the safety of those children as opposed to their human rights?

Ms MITCHELL: Yes, I do, and that is of particular concern to me. In many ways it is good that they are treated as in a special situation and given particular resources and attention; however, at the same time they can be very marginalised and invisible so they do not get the same experiences as other kids—for instance, in terms of doing something great at sport and being reported in the paper, all that sort of stuff. I think there is a lot we can do in a policy sense to change the way we treat those children.

Mr ANDREW GEE: In one of the answers to questions on notice it was indicated that "The commissioner is exploring the option of holding a special inquiry in 2013". Are you able to provide the Committee with any further information today as to what type of special inquiry you may be considering?

Ms MITCHELL: In terms of pointing to the needs of those kids at risk who are disengaging from school and potentially offending and reoffending that I mentioned in my opening statement, I would be seeking to mount a community debate, perhaps through an inquiry, around what better interventions we can provide for those children. It seems to me that we have an issue here and that those children are not thriving in the community. They are being cycled through all sorts of systems that do not seem to be actually making a difference for them.

Mr ANDREW GEE: That would be a specific inquiry?

Ms MITCHELL: That is one option in terms of the commission's legislation. It is a way of potentially getting a whole lot of input into this issue in a pretty consolidated way and in a sensible timeframe. It is timely because there are a couple of things happening in the government sphere at this time—namely, the Government is reviewing both the Young Offenders Act and the Bail Act and by the end of the year we are to have a first stage evaluation of the Keep Them Safe initiative. With the range of things going on it could be beneficial to have such an inquiry to inform policy program and development in this area.

Dr ANDREW McDONALD: Returning to the issue of out-of-home care, is the number of children in out-of-home care higher than it has been in the past? If so, why and what will work in reducing that number?

Ms MITCHELL: You will probably get a lot of different views about this.

Dr ANDREW McDONALD: I am asking for your view.

Ms MITCHELL: Yes, it is higher; it continues to steadily increase. That is true of all jurisdictions in Australia and overseas.

Dr ANDREW McDONALD: It is the same in the rest of the world?

Ms MITCHELL: Yes, it is a general phenomenon in terms of the Western world at least. What is causing it? To some extent we have introduced mandatory reporting regimes that have meant we are alerted to abuse that is happening in society—that is a relatively recent phenomena over the past 20 years or so. The community is acutely aware of what is going on,

and willing to report and we have laws that oblige you to do something about that. In many cases that might end up with the removal of a child and that child being put into a different family environment.

Also we do not have as strong an early intervention and family support suite of services as we could have so that we could get in earlier and assist families when things are not going particularly well. So we have to heavily invest in the tertiary end of the system, instead of shifting the resources more into the early intervention and prevention area. People know this but we have not worked out how to do that yet very well. There are peaks of kids coming into care—in particular, I again go back to the middle years. There is a group of kids now coming into care aged around 9 to 14, which has happened more recently. Clearly there are issues with parenting or family functioning at that time, which means that the relationships disintegrate between the young adult and the parent and they end up in a care situation.

There have also been changes to the law that recognise the importance of permanency and stability. So you will get higher numbers in care for longer. That is probably a positive thing if they are in good out-of-home care situations. It is a complex issue. Others will say that the constellation of factors in family lives is increasing so that you are more likely to remove a child now. Things such as domestic violence, mental health and alcohol abuse are all happening in the same space. It makes it really hard to address those problems within a reasonable period of time in a way that makes it safe for the child to stay with them.

Dr ANDREW McDONALD: Are risk-adverse governments part of the problem?

Ms MITCHELL: To some extent I think that is right. I think the law reflects that, but I think it is a risk-adverse community too. We all might think back to our own childhoods when families would step in to help other families rather than ring the Department of Community Services [DOCS] helpline. I think that is a real issue for us to confront as a community.

Dr ANDREW McDONALD: It is my understanding that the current population of adults who were in out-of-home care as children have had pretty poor outcomes. What are we doing now that is different to prevent a similar scenario in 20 years time for this group who are now being removed?

Ms MITCHELL: There are some improvements. They are cumulative and they accompany various reports and inquiries into the out-of-home care system and the child protection system. There is a move to develop more family support services at the front end. It would be good to prevent some kids from going into the system in the first place but you have got to stay with those families too. It took them a long time to get into that state and it is going to take them a long time to get out of it. It is not a quick fix. I think the advent of permanency planning is a good one. It is really important for kids not to be in and out of foster care or residential care and back into dysfunctional families. That is probably the experience that creates the worst outcomes. The greater the stability a child can have, whether they are at home or in a foster care situation, the better. That is much more strengthened in the law now, in terms of what pathways you can have. There is also a focus now on leaving care supports; kids can be supported after leaving care such that they do not repeat the patterns of their parents—early pregnancies and things like that. There are some supports available for them in that period, financial and others, through both government and non-government agencies. But it is still an area that needs a lot of work and a lot of attention.

The Hon. NIALL BLAIR: I preface my question by saying that I am also a member of another committee that has recently been undertaking an inquiry into domestic violence. I am interested in your thoughts in relation to children and the lack of support and programs for those I would term as "the victims" of such events. From your comments it sounds as if we are very quick to remove children from situations rather than to remove the perpetrators and leave the children in a stable environment with appropriate supports and mechanisms. Do you have any suggestions as to where we should be increasing support for children? Should it be at school? Should it be through government agencies to keep them at home and provide stability so that they do not end up in out-of-home care?

Ms MITCHELL: The school setting is probably a really critical point of knowledge and intervention. Often it will be the teachers or the school counsellor who first notice something is going wrong. So we really do need to, I think, be using those mechanisms better than we do and get in early and work in an integrated way around a child for whom things might be going wrong, or their family. Child care settings too—you will be picking up clues at that setting even earlier. So we really need to work with those professionals to increase their capacity to identify risk and work together around that. That is not about more resources; that is just about doing things differently and upskilling. I think there is a lot of opportunity there to support kids who might be exposed to domestic violence.

The Hon. NIALL BLAIR: The commission's role with the schools, the counsellors and the actual care providers, other than the seminars that we have seen—for the 9 to 14 and those sorts of things—what ongoing support and education does the commission provide to those people to help them identify those issues and provide a voice for the children in those circumstances, and can that be enhanced?

Ms MITCHELL: It could be enhanced. We really work on a sort of population basis in most cases. We can look at service models and do look at service models and make recommendations to government. We are involved in some place-based initiatives to increase kids' participation. We could also do specific work with kids in these sorts of situations to better understand their needs. That is something that we could potentially do and I would be very happy to do something like that. We are very small so we cannot work with every school, for instance, so the kinds of things we could do are resources, policy advice and research. They are the main things we can do and spread that out into the community. I am on the domestic violence task force so I am bringing children's perspective to that, and I agree with you: we should be looking at more of the perpetrator removal programs. They do exist in New South Wales and we could do more of them. But I think it is also important to get the community understanding how witnessing violence impacts on children.

The Hon. JAN BARHAM: You mentioned the leaving care plans. Currently it is the case that only 17 per cent of young people receive them. Surely that is a crucial bit of support given to them before they leave care. Do you have any ideas about how that can be better improved and addressed?

Ms MITCHELL: New South Wales is probably one of the worst in the country for even doing leaving care plans let alone the quality of them. My suggestion for improving that is to make it part of the performance of caseworkers so people have to account for it. Also, there are system solutions too. If a child is about to leave care there should be systems developed, system flags to ensure that caseworkers know—and this is in the non-government organisation sector and in the government sector—it is time to do a case plan for leaving care. In a sense,

leaving care plans should be in development from the time that they start in care because you are looking towards their future. I think they could start a lot earlier than that even in terms of evolving into a leaving care plan, and that this should identify all the resources and supports that a young person will need to flourish out in the world.

The Hon. JAN BARHAM: Do you support the idea that that information or access to that information and support should be there after they leave care? I have heard that some young people are not keen to take up the opportunities; some workers have tried five times just to get an appointment with a young person and they do not turn up or they are not interested. But after they are out in the real world and experience homelessness and some of the other terrible issues, that is when they might be motivated to get some help, but the help is not really there.

Ms MITCHELL: Yes, of course, they should be able to come back at any time. If we are going to break that cycle of disadvantage through generations I think young people need to be able to come back. Being 18 is a whirlwind anyway, let alone if you have come from a care situation. Yes, you should be able to reconnect with parts of the system that will support you. Under the legislation there is the capacity to do that up until 25 now.

The Hon. GREG DONNELLY: Just some questions on financial statements. I have an immediate past financial report or the annual report and the one before that. You probably do not have the one before that but in terms of the financial year 2008-09 expenditure and income was \$9,376,000. We then look at the financial year 2009-10—and I appreciate that some of this is during the time when you were not the commissioner—and it increased to \$13,632,000. Then we look at 2010-11 and it goes back down to \$9,858,000. So it goes from \$9.3 million up to \$13.6 million and down to \$9.8 million. During that period—and once again I acknowledge that you were not the commissioner during all of that time—what was the effect of that change on the commission? Did that have a significant impact, as far as you know, on the capacity of the commission to carry out its work?

Ms MITCHELL: That anomaly, as I understand it—and I will check this for you—is due to a couple of things. One is that we were given, in the middle of that year when the spike happened, additional resources for the Office of Youth Affairs, which came into the commission. After one year it went out of the commission again—so it was a couple of people doing work on youth programs, which is now back in the Office of Communities again. That largely reflects those resources. So no, it did not have an impact. The other thing is I think there were some resources provided to do with the Wood inquiry. There were some resources provided, around \$3 million Virginia thinks, to do with the Wood inquiry amendments in terms of the Working with Children Check expansion. So there were some initial set-up costs for that as well. So no—only that it made us do more work.

The Hon. GREG DONNELLY: There is an explanation for that?

Ms MITCHELL: Yes, there is an explanation and I will get you the details.

The Hon. GREG DONNELLY: In terms of the current financial year—the last financial year was \$9.8 million—are we tracking approximately to that number this financial year, as far as you know?

Ms MITCHELL: We are. We are a little bit underspent primarily because there have been staff freezes across the public sector. We experienced that like everybody else, so we are a little bit underspent. But next year there will be a different set of accounts again because we will be moving, hopefully, to a new type of Working with Children Check with a revenue stream, so the accounts will look quite different again.

The Hon. GREG DONNELLY: Could I return to a theme in my earlier set of questions? I have some material here from the Commissioner for Children and Young People Western Australia website, which I will pass to you. I just took that off the website on Thursday or Friday last week. It is broken down into three separate sections but on the home page of the website there is a section about the sexualisation of children and young people. Have you seen that material before?

Ms MITCHELL: I have seen parts of it. I think, as I recall now, the Western Australian Commissioner was the one who raised that at the Australian Commissioners and Guardians meeting and provided some of this information.

The Hon. GREG DONNELLY: Was that one of the meetings last year that you attended?

Ms MITCHELL: It might have been even the first one that I attended the year before. But I will get back to you on that.

The Hon. GREG DONNELLY: In terms of the development of the new website for the New South Wales commission, how far down the track have you got in terms of developing what is going to be on that website?

Ms MITCHELL: Not very far; it is a blank canvas. People should feel free to seek particular resources.

The Hon. GREG DONNELLY: Do you think some consideration should be given to putting some material on the website regarding that matter?

Ms MITCHELL: I would be more than happy to do that.

The Hon. GREG DONNELLY: There is a detailed section there for parents in terms of advice and links and information.

Ms MITCHELL: And we do similar things; we have done it on guides for babysitting and we have all sorts of different resources or links to resources. We do that on a regular basis. One of the areas I am quite interested in is how children and parents manage the online world. That is another area I would like to potentially get into because I think it is quite difficult for both kids and parents to understand how to deal with all the online opportunities that come up. But I am very, very happy to do that.

The Hon. GREG DONNELLY: I note from the report you are obviously involved in having some meetings directly with young people to find out from them their thoughts in a range of areas. Do you actually have meetings with parents as well as part of your consultation?

Ms MITCHELL: It depends on the topic but yes we can.

The Hon. GREG DONNELLY: My question was: Have you had meetings with parents on issues or is it something you have not entertained before?

Ms MITCHELL: As I say, it depends on the topic. With the young people's advisory group we obviously met with all the parents in terms of their young people being part of our committee and what they want to get out of it. So we have got a relationship with those parents. In the middle years forums we had the participation of young people in those forums either directly or doing video diaries and things like that to talk about their experiences, and parents were involved in those discussions as well. Certainly on the development of the babysitting guide we talked to parents and children. So it depends on the topic. But certainly kids have told us they see themselves part of their family and so there would never be any problem talking to parents, and in fact we would be keen to talk to parents in all sorts of environments.

Dr ANDREW McDONALD: How have staff freezes affected the work of the commission and how many staff have been affected?

Ms MITCHELL: The freeze is on non-frontline staff. We have had an agreement that the Working with Children Check operators can be deemed to be frontline staff. So that has been good because we do not want to potentially diminish that service because it is a service to the public and it is to do with people's employment, et cetera. But in terms of other policy, research and corporate positions they need to be negotiated on an individual basis.

Dr ANDREW McDONALD: About how many staff were affected?

Ms MITCHELL: In the commission it is not very much; it is about three positions at the moment. In general we have managed to argue for the critical ones.

Dr ANDREW McDONALD: So about three frontline employees in the establishment?

Ms MITCHELL: At the moment, yes—2½, I would say.

Mr ANDREW GEE: In the 2010-11 annual report the results of stakeholder surveys were published and one of the figures contains the results of the surveys as to where the commission can do more. Where do you personally think the commission could be doing more?

Ms MITCHELL: I personally think the commission should be doing more in the space of vulnerable children. I do not think it is an area where the commission has done as much work in the past and it is really vital to the health of our community as a whole that we ensure that the needs of kids who miss out more than others are addressed in policy and service terms. But that is not to say we want to neglect the health and wellbeing of all kids, and we continue to do that platform work as well. As I have noted, I have a particular concern about kids who are hovering around the child protection and juvenile justice systems, that we are marshalling the resources that we have available to us in the community in the right way to give them positive experiences so they can fulfil their opportunities in life.

Ms MELANIE GIBBONS: Going back to the KidsPoll for a moment, obviously you collect their age to try to get a bit of an idea, but do you collect any other information? I am trying to find out whether the thousand are all city kids or all regional kids or whether it is diverse?

Ms MITCHELL: We do not have that information. We could do more in that area. It is not a scientific thing, it is more an engagement strategy, as I think some of those polls in the *Daily Telegraph* and other places are. It has an "entertainment with information-gathering" aspect to it. But it is something we could look at, to find out more information about them. We do not want to overburden them so that they think, "Oh my God, I have to fill in 1,000 questions, "I will just go yes or no." The most important thing about those is not really whether they say yes or no, it is their comments. The commentary they provide about their lives is really lovely and interesting and deep. We have one at the moment on how they get to school, because our built environment work leads us to promote safe, healthy walking to school. There is a comment there at the moment from a child, clearly in a rural area, who can sometimes get to school by bus and walking but on other days when the bus does not come has to be driven. They are interesting comments. We just had a poll about whether they think smacking should happen. It is interesting. Kids are really conservative about this issue: yes, you need discipline but within reason. The comments are enlightening about what kids think.

The Hon. JAN BARHAM: On the issue of vulnerable children, obviously those in care, Aboriginal children, the statistics are not good for knowing if they are vulnerable. How could you, within your budget, focus more on those young people who are vulnerable? How would you reorganise what you do to be able to give them more focus?

Ms MITCHELL: We have already been thinking about it, because a large proportion of the stakeholder survey participants said they felt the need to work more with vulnerable kids. It is certainly a focus in our middle years work, working across governments. So we can marshal the resources of the Government and all the government agencies to focus on the more vulnerable groups, and we have made that a priority within that work. In our online data book, our monitoring work, we certainly focus on vulnerabilities and we highlight areas where kids are vulnerable and which kinds of kids are vulnerable in what circumstances. So, from our monitoring and surveillance role we can highlight their issues. In our work on the participation we are looking to ensure that parts of that resource focus particularly on marginalised kids, on engaging marginalised kids. As decision-makers, how do you engage marginalised kids? We are contributing actively to policy debates about laws and services that come our way about what could be done for those more marginalised kids.

The Hon. JAN BARHAM: Unfortunately, one of your recommendations recently was not taken up. Was that in relation to the youth tribunal, about which you had written to us?

Ms MITCHELL: The mental health tribunal.

The Hon. JAN BARHAM: That is right, mental health. In areas like that, if your recommendations are not being heard—

Ms MITCHELL: In that case there was a debate in Parliament, which is a good thing, and we strongly believe that kids should have a focus within the new Mental Health Commission, which is a great initiative. One of the issues is that the Government has to think about lots of different parts of the population and it has to balance it out. It made a decision that it could focus on the needs of kids without having them named in the legislation. I understand that in the course of that debate the Government made a commitment that it would focus resources on children in that context. So, in a sense, that is a reasonable outcome. I will monitor it to make sure it occurs. I do not think the intention was not to focus on this; it

was simply a matter of a difference of opinion about how the legislation should be worded. At the end of the day, as long as we get the outcome we want.

The Hon. JAN BARHAM: Then it relies on you to monitor rather than a reporting mechanism built into legislation?

Ms MITCHELL: Indeed. We need to watch that space very carefully.

The Hon. JAN BARHAM: Will you have a special part of your reporting to address that?

Ms MITCHELL: I will.

The Hon. GREG DONNELLY: The consulting you do with children and young people as you travel the State, what do they tell you and what have they been telling you are the major issues that concern them growing up in New South Wales in 2012?

Ms MITCHELL: Consistently children are worried about bullying and the impact on them and their friends. They are concerned about the environment and how that gets managed. The most important people in their lives are their family and friends; so making sure there are supports around their family and friends is important to them, and their wellbeing and their happiness. They have problems getting about in certain places. You can imagine transport is a real issue for them. For younger kids, safety in the built environment is an issue for them as well. They are some of the major things that consistently kids have been saying to me in the last two years.

Dr ANDREW McDONALD: I know the Child Death Review Team report is a touchy subject. The team was from the Commission for Children and Young People in 2009 and from the Ombudsman in 2010. It seems 11 out of the 14 people are unchanged but there seems to be no representative from NSW Health on the Ombudsman's team. Is that an oversight?

Ms MITCHELL: My understanding is that Les White, the chief paediatrician, is on that team.

Dr ANDREW McDONALD: Is going to be?

Ms MITCHELL: And has attended meetings. If that was the case at one point, it is not now.

Dr ANDREW McDONALD: You mentioned that the reports are difficult to compare because of the different reporting. What is your take on the general trends of child deaths and where should we be focusing our attention?

Ms MITCHELL: The team has discussed in a priority setting the focus, and some of the issues that people raised were varied. I think people put to the team what their particular interest is. An area I am particularly interested in, and some others were too, was about unexpected deaths of children, like, heart attacks on sports fields, et cetera, and whether there are some prevention initiatives that could be mounted for example better assessment of health issues prior to that happening to them.

Dr ANDREW McDONALD: Do you know at a rough guess how many children we lose per year?

Ms MITCHELL: The data are really difficult because of the way they might be recorded. I will take that on notice. It is a small number, but there are a few. That is an area, for instance, I have an interest in. But there are varied interests, everything from neonatal and more work on safe sleeping practices and what happens in pregnancy to suicide and some of the congenital diseases. So, it is a very varied level of interest. What I am hoping to do, with my knowledge from what is happening in the trend area around deaths, is to bring that into the injury prevention area as well—where you are seeing either the burden of death or very preventable serious injuries and deaths.

Dr ANDREW McDONALD: This is the first generation we have heard is likely to have a shorter lifespan than their parents. Should bicycle helmets be compulsory?

Ms MITCHELL: I think it is worthy of community debate.

The Hon. JAN BARHAM: Built for Kids, can you advise me on how that was distributed and how it is getting out to local government?

Ms MITCHELL: Yes. It has been around since 2009 now. We know from our website it has had 91,000 downloads, so that is pretty good. It is available on our website. We promote it at our seminars on the built environment. We also promote it every time we visit a local council. If I am out there to see the children at Scone High School, I also drop in and see the local council and talk about what is happening in the built environment and alert them to it. We work closely with local councils to promote both Built for Kids and the Child Friendly by Design resource and we hold training sessions and forums in various local councils. That has a bit of a snowballing effect that is continuing to occur. We work with Healthy City Illawarra around that work. At the roundtable that was held here a year or so ago we had the Local Government Association with us and we talked to them about how we can promote it through their newsletters and things like that. We are just about to have a Child Friendly Design award, so that will be promoted through the Planning Institute. We will also promote Built for Kids through that. In the last year we have just reviewed Built for Kids, so we commissioned somebody to review it and see how it is being utilised. We may refresh it and refine it and think about other promotion strategies as well.

The Hon. JAN BARHAM: I asked about that because I have been on council for 13 years and I was not aware of it and staff had not brought it forward. Is there a practice where you have the resources to write to all councils or at least to elected representatives so they know about it and, at the moment, the idea of how it can be used? The previous Government developed a new local environment planning instrument. It would have been great if something was in that. My council is now looking at a development control plan. What often works is a template. The Local Government and Shires Associations have been very good at creating templates or template policies, something for a council from a region. You could design resources that can be used effectively by local government rather than have them saying, "Oh no, more work, we need another consultant." Is there availability for that?

Ms MITCHELL: We can do that. My understanding is that initially we did that; we wrote to all councils. The issue is who picks up the mail and who opens the package and what they do with it.

The Hon. JAN BARHAM: It needs to be done at both ends—the organisation and the elected body. Hopefully one or the other will pick that up.

Ms MITCHELL: In this review of how it is being used there will probably be some advice about how better to target people in councils. Yes, I am happy to do that again and do it better.

The Hon. NIALL BLAIR: My final question is around the changes to the Working with Children Check. Can you outline some of the key changes to the new system? I think my record in one year was three or maybe four checks on me from four different organisations.

Ms MITCHELL: As members know, the Working with Children Check has been in place in New South Wales for about 12 years and it was one of the first in the country. There have been a lot of changes and add-ons to it over time but at the moment most people would say it is a pretty clunky system; it has inefficiencies and it needs an overhaul. That was certainly the majority of opinion expressed through the review of our Act two years ago. Also, since New South Wales started the checks, other jurisdictions have put in place different kinds of Working with Children Checks that are much more streamlined and efficient. At the moment, as you pointed out, every time you change jobs in child-related work you need to get a new Working with Children Check. That means you could have four in a year, so there is considerable duplication. Also, it is very clunky and inefficient for the employers who have to facilitate these checks.

At the moment there are, in a sense, three different Working with Children Check systems, one for everyday paid employees, one for self-employed people and another system again for volunteers. That is confusing and they do not all get the same level of checking, so it is a protection issue. Kids do not get the same level of protection through those different systems. So, what did the review say and where is government going on this? In general, they are keen to support the recommendations of the review, which was done by Michael Eyres, which is that it move to a system where the check is portable and stays with the person for five years. You can do any child-related work in that period and the check will be portable. You will need to renew it every so often. For paid employees there will be a fee associated with it that will fund the expansion to volunteers not in the system at the moment, in particular. Volunteers, self-employed people and paid employees will be checked in exactly the same way. More records will be available to do that checking, so it will be a much more rigorous check, and a person will only get a clearance or a bar.

Another interesting aspect of the current system is that you could be barred or you could be cleared but be said to pose a risk. It is up to the employer at the moment to decide whether to proceed and employ a person, but they do not know what the risk is about. That is a really difficult situation in which to leave an employer. In the new system you will either be cleared or you will not be cleared. The quality of the assessment has to be spot on if you are going to deny somebody employment on the basis that they pose a risk to kids. That is why we need all the records and good quality assessors in that system. It will also be an online application, which you cannot do at the moment; it is all paper-based. The identity check component, which at present has to be done by the employer, will be done through what is now Roads and Maritime Services. Theoretically, when you go to renew your driver licence you will take another number and renew your Working with Children Check if you are, say, a childcare worker or a teacher.

The Hon. JAN BARHAM: I did not quite grasp what the situation is with volunteers and whether they will be associated with an employer. I have heard that some organisations are not doing the checks because of the time and cost involved. What will the future situation be with volunteer groups?

Ms MITCHELL: It will most likely vary depending on the volunteer group and its structure. We are talking to those groups to determine the best way to manage their volunteer checking. It will be an offence not to be checked and so it also will be an offence not to check that they are checked. It will be important to ensure that everybody who needs to be checked is checked, as it should be now, because otherwise they will be committing an offence. As with any new system it will take time for the community to understand it and comply with it, so we are working with various organisations, industry groups and volunteer peak bodies to ensure we have a reasonable phase-in for some of these groups. We will work to educate those communities so that they are ready to adopt it.

Ms MELANIE GIBBONS: The number of freedom of information and Government Information (Public Access) [GIPA] requests has been fairly consistent over the past few years. I think it was six and the other was seven, or nine and seven. Without going into detail, what types of information are being requested and who is looking for that information?

Ms MITCHELL: The Working with Children Check is exempted from that provision, so it is not in that area. I would have to take that on notice. I do not know what it would be.

Ms MELANIE GIBBONS: In general, what kind of information?

Ms MITCHELL: It might be staff-related issues. I will have to go back to it.

CHAIR: What do you see as the legacy the commission will leave over the next decade? In effect, what is your vision for the next 10 years?

Ms MITCHELL: It is such a privileged organisation, and to have this Committee in Parliament, so a legacy is a really important thing to think about. I would like to ensure that the work of the commission is understood and that it actually meets community needs; that children and government benefit from it; that decisions are taken that consider children; and that children are engaged in the decision-making processes. I would like to see a safer community as well as a community that is more welcoming of children so that they can be active in the community and participate in it. Progressively I would like to see, even though I cannot draw a direct causal link, an improvement in outcomes for all children, in particular those that are more vulnerable. I might suggest that this Committee consider doing some joint planning with the commission in terms of your work plan so that we can be working towards similar or complementary ends. That could be a good thing to do on a regular basis and to help me develop my next strategic plan, which will be happening soon.

CHAIR: On behalf of the Committee I thank you for giving evidence today.



Office of
Communities
Commission for Children & Young People



Obj File Ref: C12/0745

Ms Carly Maxwell
Director, Committees
Committee on Children and Young People
By Email: childrenscommittee@parliament.nsw.gov.au

Dear Ms Maxwell

I am writing regarding your letter about the Review of the 2009-10 and 2010-11 Annual Reports of the Commission for Children and Young People and Reports of the Child Death Review Team.

Thank you for providing me with a proof transcript of my oral evidence. Please find enclosed my corrected copy. I wish to also correct the following errors of fact:

- On page 6 paragraph 12, I noted the Young People Advisory Group meets quarterly. In fact they meet six times a year.
- On page 7 paragraph 2 of the transcript I mistakenly quoted a figure of 4,000 child subscribers to our e-bulletin and *Feedback* magazine. This figure relates to the total number of subscribers. The number of subscribers who indicate they are aged 17 or less is 508.
- On page 8 paragraph 9 my response in relation to the 2005 report and recommendations regarding the regular following up on Children and Work trends requires clarification. Supplementary information about a second research wave in 2007 which surveyed over 2000 students as well as on the development of a babysitting guide for young people and parents was provided in the Commission's 2007-2008 Annual Report. Regular ongoing information about children and work is provided as part of the Commission's Picture of NSW Children reports.
- On page 9, I surmised that around 40 per cent of children in the juvenile justice system have cognitive or behaviour problems or a history of these. In fact it is over 50 per cent.
- On page 14 paragraph 2, I wish to clarify my response in relation to staff freezes. The freeze currently applies to frontline and non-frontline services and all positions to be filled require approval from a range of DEC Committees.

If you would like more information about this, please contact me on 92867278.

Yours sincerely

A handwritten signature in blue ink that reads 'Megan Mitchell'.

Megan Mitchell
Commissioner
16 May 2012

Appendix Three – Questions taken on notice at public hearing

Questions Taken On Notice – Committee on Children and Young People Hearing held on 7 May 2012

1. On page 4 of the transcript the Dr Andrew McDonald asked:

You said that 27 out of 123 had drug and alcohol criminal violence, mental illness and narcotics. There has been a tendency to keep these mothers in hospital for longer after the birth but that is not always feasible because they frequently have multiple needs to go home. How should such people be monitored in the first weeks after going home?

Response:

The CDRT report *A Preliminary Investigation of Neonatal SUDI in NSW 1996-2008*, found that of the 123 Sudden and Unexpected Deaths in Infancy that occurred over this period, in 27 of the infants' families there was evidence of drug abuse, alcohol abuse, criminal behaviour, violence, and mental illness.

The report notes that 26 of these infants were identified as vulnerable: they had been reported to the Department of Family and Community Services before their death or a sibling had been reported in the three years prior to their death. One of these infants was living in foster care at the time of death.

The NSW Ministry of Health has a Maternal and Child Health Primary Health Care Policy 2010 which is meant to ensure the vulnerable mothers are identified pre and postnatally, and provided with the support and services they require. This Policy identifies a model for the provision of universal assessment, coordinated care, and home visiting, by NSW Health's maternity and community health services, for all parents expecting or caring for a new baby. Under this Policy, a comprehensive primary health assessment is to occur antenatally at the first point of contact with NSW Health during pregnancy, postnatally at the first health home visit and at 6 to 8 weeks following birth. A further assessment is recommended at 6 to 8 months postnatally. A psychosocial risk assessment is to form part of the assessment. In addition the assessment is to include a current or history of mental illness, substance abuse, child protection issues, domestic violence, physical, sexual or emotional abuse.

Following the antenatal assessment, a care plan for pregnancy and birth is to be developed. Where the family is identified as requiring additional support, the care plan should include postnatal care. The postnatal assessment is to involve review of this plan, and a further plan for the postnatal period is to be developed.

Mothers identified with Level 2 vulnerabilities (factors that may impact on ability to parent, for example unsupported parent, infant care concerns, multiple birth, housing, depression and anxiety) and Level 3 vulnerabilities (complex risk factors, for example mental illness, drug and alcohol misuse, domestic violence, current/history of child

protection issues) are to be provided with universal maternity and child and family health services, however case management is to be transferred to a more appropriate service, such as Brighter Futures, mental health and drug and alcohol services and relevant non-government organisations. Early intervention and prevention services are to be provided to mothers with Level 2 vulnerabilities. This should include ongoing and active follow-up/review such as day stay clinics, family care centres, specialist support groups and services, general practitioner, paediatrician or psychiatrist referral to 12 sessions of Allied Health assessment and care through 'Better Access Medicare Agreements'. Mothers assessed with Level 3 vulnerabilities are to receive a coordinated team management approach and referral to relevant needs-specific services such as Brighter Futures.

In addition, specific procedures exist under this Policy where child protection issues are identified. For example, prenatal reports may be made to Family and Community Services where there is judged to be a risk of significant harm to the child following the birth.

While the policies and procedures that the NSW Ministry of Health have in place appear adequate in principal, it is important that the system is monitored to check that these procedures are followed in practice. It is suggested that the NSW Ministry of Health be asked to provide advice on what is occurring in this regard¹.

2. On page 6 of the transcript the Hon Greg Donnelly asked:

Has the topic of the issue of sexualisation of children and young people been on the agenda for those meetings?

Response:

The sexualisation of children is an issue that has been on the Australian Children's Commissioners and Guardians (ACCG) agenda more than once since 2008, at the behest of several States and Territories in different contexts and remains current. In 2008 the ACCG discussed the Senate Inquiry into the Sexualisation of Children in the Contemporary Media, to which Victoria, ACT, WA and QLD and NSW made submissions.

The most recent work by ACCG members is a Tasmanian Inquiry (raised at the May 2010 ACCG meeting), which had a particular focus on the prostitution of children and young people. Work currently available for viewing on the website of the WA Commissioner regarding the sexualisation of children includes:

- Literature review
- Issues review

¹ The NSW Ministry of Health were asked to comment on a draft of this advice but were not able to respond in the timeframe that was available. The Ministry indicated that they would be willing to provide advice on this matter upon the request of the Committee.

- Guide/resources for parents and others

This is new work for the WA Commission and an update will be provided to members of the ACCG when they next meeting in May 2012.

3. On page 9 of the transcript the Chair Mr Cornwell asked:

In terms of children who are disengaging from school or disengaging from the community are there statistics around what proportion of them have suffered emotional injury in their childhood which has led to that?

Response:

The Juvenile Justice NSW 2009 *Young People in Custody Health Survey* represents 80% of young people in custody. It indicates that 27% of these young people had been removed from their families and placed in out of home care due to substantiated abuse or neglect. Significantly more young women than young men and young Aboriginal than non-Aboriginal people had a history of out-of-home-care. Only 28% of young people were attending school prior to custody. Of those who had left school, the average school leaving age was 14.4 years.

In regard to mental health, 87% had at least one psychological disorder and 73% had 2 or more psychological disorders. Young women and young Aboriginal people were more likely to suffer from a psychological disorder (for example a behavioural disorder, anxiety disorder, mood disorder, or alcohol or substance abuse disorder).

4. On page 12 of the transcript the Hon Greg Donnelly asked:

Just some questions on financial statements. I have an immediate past financial report or the annual report and the one before that. You probably do not have the one before that but in terms of the financial year 2008-09 expenditure and income was \$9,376,000. We then look at the financial year 2009-10 – and I appreciate that some of this is during the time when you were not the Commissioner – and it increased to \$13,632,000. Then we look at 2010-11 and it goes back down to \$9,858,000. So it goes from \$9.3 million up to \$13.6 million and down to \$9.8 million. During that period – and once again I acknowledge that you were not the Commissioner at that time – what was the effect of the change on the Commission? Did that have a significant impact, as far as you know, on the capacity of the Commission to carry out its work?

Response:

In March 2010 the functions associated with youth programs and the Better Futures grant program were transferred from the former Department of Community Services to Communities NSW based in the Commission. This transfer of functions included a funding transfer of

COMMISSION FOR CHILDREN AND YOUNG PEOPLE ANNUAL REPORT REVIEWS
QUESTIONS TAKEN ON NOTICE AT PUBLIC HEARING

\$4.392 million. Approximately \$3.5 million of this funding related to the Better Futures grant program. This accounts for the increase in funding in the financial statements between 2008-09 and 2009-10.

In July 2010 it was agreed that these programs would be located within Communities NSW rather than the Commission due to their capacity to manage a range of grants programs. The funding for these programs was therefore transferred from the Commission to Communities NSW.

The Commission's budget in 2009-10 and futures years includes \$1.3 million funding under the *Keep the safe: a shared approach to child well-being* funding program to expand background checking to additional categories of paid workers and high risk volunteers.

5. On page 16 of the transcript the Dr Andrew McDonald asked:

Do you know at a rough guess how many children we lose per year?

Response:

The *2010 Child Death Review Team Annual Report*, published by the NSW Ombudsman in October 2011, does not include details on deaths of children from unexpected causes as a specific category. This is also the case for the *Child Death Review Team Annual Report 2009*, published by the Commission in 2010. Categories used in these reports are based on the International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification (ICD-10- AM). As there is no category of this nature for child and infant deaths in the ICD-10- AM, reporting deaths of this nature would appear to be problematic.

The *2010 Child Death Review Team Annual Report* does report that diseases of the circulatory system accounted for 18 deaths registered in 2010, 3 of these being from pulmonary hypertension and 2 from ischaemic heart disease.

The *Child Death Review Team Annual Report 2009* identifies 14 deaths of children in 2009 attributed to diseases of the circulatory system.

6. On page 17 of the transcript the Ms Gibbons asked:

The number of freedom of information and Government Information (Public Access) [GIPA] requests has been fairly consistent over the past few years. I think it was six and the other one was seven, or nine and seven. Without going into detail, what types of information are being requested and who is looking for that information?

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
QUESTIONS TAKEN ON NOTICE AT PUBLIC HEARING

Response:

The majority of requests under the former *Freedom of Information Act 1989* and the *Government Information (Public Access) Act 2009* relate to the Working With Children Check. Individuals may request information from the Commission regarding relevant employment proceeding notifications.

Section 43 of the *Commission for Children and Young People Act 1998* provides for individuals to obtain and correct information on relevant employment proceeding notifications and that the normal fees or charges payable for access do not apply in relation to these applications.

Other requests for information are usually sought from individuals requesting copies of all documentation used by the Commission to undertake a risk assessment that is triggered when an application for a Working With Children Check identifies a relevant record.

Questions in Response to Answers Provided Following 7 May Public Hearing

1. In response to Question 1, the Commission notes that:

While the policies and procedures that the NSW Ministry of Health have in place appear adequate in principle, it is important that the system is monitored to check that these procedures are followed in practice.

Can the Commission liaise with the NSW Ministry of Health to obtain further advice on whether such a monitoring system is in place?

Yes. The Commission has previously tried to obtain this information from the NSW Ministry of Health in answering previous questions on this matter. The Ministry has indicated that it is willing to provide the advice but needs an adequate timeframe in which to respond. The Commission will follow up this matter. The backing of the Committee is an important lever.

2. In response to Question 5, the Commission states that:

The 2010 Child Death Review Team Annual Report does report that diseases of the circulatory system accounted for 18 deaths registered on 2010...

Can the Commission, as a member of the Child Death Review Team, liaise with the Convenor to recommend gathering further information concerning these 18 deaths?

Yes, the Commissioner will liaise with the Convenor to recommend gathering this further information.

Supplementary Questions for the Commission for Children and Young People

1. What is the Commission's view on spent convictions in respect of the Working With Children Check?

Spent convictions are part of the pattern of an individual's criminal history. The records accessed under the Working With Children Check are not disclosed to employers or other third parties and are used exclusively to assess risks that the person presents to children.

The Criminal Records Act 1991 and the Commission for Children and Young People Act 1998 both allow the use of spent convictions in the assessment of a person's risk under the Working With Children Check. The Criminal Records Act allows spent convictions to be disclosed for a number of purposes, including the Working With Children Check, consideration of employment as a judge or magistrate and several other defined roles.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
QUESTIONS TAKEN ON NOTICE AT PUBLIC HEARING

Governments around Australia have placed a high value on the protection of children and have accordingly all provided that spent convictions may be considered in assessing risks to children. All Working With Children Check programs around Australia access spent convictions.

The Working With Children Check uses statutory instruments and expert assessors to determine risks. This minimises the risk of unreasonable determinations based on a spent conviction.

Under the new Working With Children Check proposed in the Child Protection (Working With Children) Bill 2012, almost all decisions to bar an applicant can be reviewed by the Administrative Decisions Tribunal. This is an additional provision to ensure sound decision making regarding an applicant's risks to children.

2. What do you consider to be some of the challenges concerning this issue?

The police investment in vetting criminal records for the Working With Children Check is currently relatively low, as police do not need to assess whether a conviction may be disclosed. The cost of the Working With Children Checks would rise for all jurisdictions if spent convictions had to be vetted out of the records disclosed.

The expertise of risk assessors and the strength of the business processes within the Working With Children Check means that there is very low risk of any unreasonable assessment of risk based on a spent conviction.

It is appropriate that other bodies, including employers, who do not have the benefit of the Commission's rigorous assessment and review processes, do not have access to spent convictions.

3. Was this issue considered as part of the review of the Working With Children Check?

There has been no community pressure to remove spent convictions from the Working With Children Check. Removing them was not considered in the 2010 review of the Commission for Children and Young People Act 1998.

Given the current trends for services such as out-of-home care to be outsourced to non-Government organisations;

4. Has the Commission noticed a change in the number of Working With Children Checks it performs for these organisations?

To date, there has been no notable increase in the number of Working With Children Check conducted by the major non-Government

COMMISSION FOR CHILDREN AND YOUNG PEOPLE ANNUAL REPORT REVIEWS
QUESTIONS TAKEN ON NOTICE AT PUBLIC HEARING

organisations (NGO) out of home care providers since the transitioning process from Family and Community Services (FaCS) to the NGOs began. All current carers with FaCS should have a current WWCC, so they are not required to be checked again in their transition to an NGO.

However, should the transition process reveal carers who have not been checked, these will require new checks. The Commission will closely monitor this situation.

5. Does the Commission envisage that there will be a change should this trend continue?

All carers and adult household members of carers are currently required to undergo a Working With Children Check regardless of whether they are managed by FaCS or a non-Government provider. While checking for the non-Government OOH sector may increase following the transition of carers, this should be matched by an equal decrease in checking done by FaCS. Therefore the overall number of Working With Children Checks conducted for the sector is unlikely to increase significantly except in the cases noted in question four.

6. Was this issue considered as part of the review of the Working With Children Check?

The number of checks required in the new Working With Children Check will not be varied whether services are provided by a single government agency or by a number of non-Government organisations. The processes involved in the new Working With Children Check will be streamlined and simple, designed for ease of use across the entire child-related workforce.

In addition the numbers of carers are relatively low compared with other parts of the workforce that need to be checked

7. In the attached article (**attachment one**) by psychotherapist John Woods in the online edition of the UK Daily Mail dated 25 April 2012, he refers in detail to his clinical work treating children and young people exposed and addicted to pornography. In your consultation with children and young people, parents, carers, non government organisations, educators, academics and child development experts what reports, information, comments or feedback have you received about similar exposure and addiction to such material occurring in New South Wales?

This is a sensitive area with strict ethical guidelines applying to discussion of these issues with children under the age of 18. The Commission has no information on this issue arising from consultations with children and young people, parents or educators. The Commission has not specifically received information relating to, and is not aware of, recent research on addiction to pornography among children and young people in NSW.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
QUESTIONS TAKEN ON NOTICE AT PUBLIC HEARING

The Commission is responsible for operating the Child Sex Offender Counselling Accreditation Scheme which accredits counsellors working with adult and child sex offenders. A number of these counsellors work specifically with children. The Commissioner recently launched a book on juvenile offending titled "The internal world of the juvenile sex offender: through a glass darkly then face to face" by Timothy Keogh. This book contains valuable case studies and insights into juvenile sex offending.

8. At the meetings of the Australian and Children's Commissioners and Guardians (ACCG) is there a standing item on the agenda dealing with the sexualisation of children and young people. If not, why not?

The ACCG deals with a wide range of issues and there are no issue-specific standing items. The NSW Commissioner raised the sexualisation of children and young people at the recent June 2012 meeting of the ACCG to gain feedback on state perspectives and activity on this issue.

9. In your letter to the Hon Greg Donnelly MLC dated 27 February 2012 (attachment 2) you listed some of the key projects for 2012. Dealing with the issue of sexualisation of children and young people does not appear on the list. Why not?

The Commission is a small agency with a broad mandate and therefore has to set priorities for its policy and research agenda. The Commissioner would be happy to meet with the Committee to discuss future research and policy priorities. In the past it has not been clear what can tangibly be done at the state level to address the sexualisation of children. This is an issue of global reach and one where the Commonwealth has clearer, though still limited power to effect change. (for example, in the area of censorship laws)

The NSW Commissioner would be happy to seek information from the newly established Commonwealth Commission for Children and Young People about their intentions in this area.

10. With respect to the Commission for Children and Young People document "Strategic Directions 2011-2014":

- a) Who were the organisations consulted with respect to its development?;

As previously advised to the Committee, the Commission surveyed a range of stakeholders in the development of our new Strategic Plan. Input was sought from then Heads and Deputy Heads of Departments, Parliamentary Committee members, Expert Advisory Committee members, the Commission's Young Peoples Reference Group, the Minister for Youth, senior officers of the Department of Premier and Cabinet well as a range of non-government stakeholders including the

COMMISSION FOR CHILDREN AND YOUNG PEOPLE ANNUAL REPORT REVIEWS
QUESTIONS TAKEN ON NOTICE AT PUBLIC HEARING

Council of Social Service NSW (NCOSS) and the Association of Children's Welfare Agencies (ACWA).

In addition the Commission used the feedback from 41 separate submissions to the legislative review of the Commission for Children and Young People Act 1998 and 16 consultation sessions to inform the development of the Commission's Strategic Directions 2011-2014. A list of organisations consulted is contained at (attachment 2).

- b) Who were the educators, academics and other experts consulted with respect to its development?;

The Commission's legislation provides for the mandatory establishment of an Expert Advisory Group to assist the Commission in the exercise of its functions. The members of the Expert Advisory Group have child-related expertise in the areas of health, education, child protection, child developments, disabilities, the law, employment, sport or the arts.

The then Expert Advisory Group was one of the key stakeholder group consulted and their expertise sought in relation to the development of the Commission's Strategic Directions for 2011-14

- c) Who were the children and young people, parents and carers consulted with respect to its development?; and

The Commission's then Young People Reference Group was consulted as well as past members of our Young People's Reference Group. The Commission also consulted with peak bodies including CREATE, Inspire Foundation, Youth Action Policy Association and the Youth Justice Coalition. The Commission also received feedback from our regular communication tools.

- d) What was the length of the consultation period associated with its development?

Consultations commenced in May 2010 and continued through until April 2011.

11. What strategy and initiatives does the ACCG have in place to deal with the sexualisation of children and young people?

The ACCG is a forum for state and territory commissioners and guardians to discuss common issues across jurisdictions and to provide input to federal inquiries. Many of the commissioners and guardians focus exclusively on monitoring the safety and welfare of children in the state and territory child protection systems. The ACCG has no separate resources to devote to ongoing strategies in particular areas.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
QUESTIONS TAKEN ON NOTICE AT PUBLIC HEARING

12. What strategy and initiatives does the Commission for Children and Young People have in place to deal with the sexualisation of children and young people?

There are no strategies currently in place. Please refer to answer to Question 9.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE ANNUAL REPORT REVIEWS
QUESTIONS TAKEN ON NOTICE AT PUBLIC HEARING

ATTACHMENT 2

Commission for Children and Young People – Legislative Review Submission
and Consultations

Submissions

National Children's & Youth Law Centre
Education Centre Against Violence
NSW Family Services
Multicultural Youth Issues Network
Football NSW
NSW Sports Federation
Benevolent Society
Carers NSW
Unions NSW
Independent Educations Union
Australian Institute of Sport
Family Day Care Association
NSW Teachers Federations
Youth of the Streets
Australia Post
NSW Community Services
NCOSS
Youthsafe
Kidsafe
Catholic Commission for Employment
Relations
Association of Children's Welfare
Services
Community Child Care Co-operative
Children's Court
Expert Advisory Committee
Inspire Foundation
Save the Children
Child Care NSW
Youth Justice Coalition
National Investment for the Early Years
Department of Health
Department of Education and Training
NSW Ombudsman
Children's Guardian
CrimTrac
Youth Action and Policy Association
Volunteer Homes Visits
Five individual submissions

Consultations

Child Care NSW
Youth Action and Policy Association
Inspire Foundation
NSW Sports Federation
Community Child Care Co-operative
State Library of NSW
Youth Justice Coalition
Current Young Peoples Reference Group
Past Young Peoples Reference Group
Independent Educations Union
State Emergency Service
Association of Independent Schools
NSW Teachers Federation
Youthsafe
Kidsafe
National Children's & Youth Law Centre
Multicultural Youth Issues Network
The Benevolent Society
National Investment for the Early Years
Liquor Hospitality and Miscellaneous
Union
Association of Children's Welfare
Services

Appendix Four – Minutes

Minutes of Proceedings of the Committee on Children and Young People (no.3)

10.30am, Tuesday, 9 August 2011
Room 1153, Parliament House

Members Present

Mr Blair, Mr Cornwell, Mr Donnelly, Mr Gee, Ms Gibbons and Dr McDonald

Apologies

An apology was received from Ms Barham.

The Chair opened the meeting at 10.40 a.m.

1. Confirmation of minutes

Resolved on the motion of Mr Donnelly, seconded by Mr Gee, that the Committee confirm the minutes of the deliberative meetings held on 23 June 2011.

2. ***

3. The Committee's future work programme

The Committee discussed its future work programme.

- Resolved on the motion of Mr Blair, seconded by Mr Gee, that the Committee conduct an examination of each annual or other report of the Commission and the CDRT, not previously the subject of a report to Parliament, following the publication of the Commission's Annual report for 2010-2011 and the CDRT's Annual Report for 2010.

• ***

4. ***

5. ***

The committee adjourned at 11.12 am until a time and date to be determined.

Minutes of Proceedings of the Committee on Children and Young People (no.4)

12 noon, Tuesday, 13 September 2011
Room 1153, Parliament House

Members Present

Ms Barham, Mr Blair, Mr Cornwell, Mr Donnelly, Mr Gee, Ms Gibbons, Dr McDonald

The Chair opened the meeting at 12.04 pm

1. Confirmation of minutes

Resolved on the motion of Mr Donnelly, seconded by Dr McDonald, that the Committee confirm the minutes of the deliberative meeting held on 9 August 2011.

2. ***

3. Report review process

The Committee noted a briefing paper on the report review process for annual or other reports from the Commission on Children and Young People and discussed its future work programme.

The review of the Commission's Annual report for 2010-2011 would commence following its publication which is expected to be in late October.

The Committee agreed to hold its next deliberative meeting during the week beginning 21 November, at a time and date to be determined.

4. ***

5. ***

The committee adjourned at 12.39 pm until 9.30 am Wednesday, 14 September 2011.

Minutes of Proceedings of the Committee on Children and Young People (no.5)

8.31 am, Thursday, 15 March 2012
Room 1153, Parliament House

Members Present

Ms Barham, Mr Blair, Mr Cornwell, Mr Donnelly, Mr Gee, Ms Gibbons, and Dr McDonald.

1. Confirmation of minutes

Resolved on the motion of Mr Blair, seconded by Mr Donnelly, that the Committee confirm the minutes of the deliberative meeting held on 13 September 2011.

2. ***

3. ***

4. ***

5. Annual Report Review

The Committee discussed the draft questions on notice to be sent to the Commission for Children and Young People as part of the annual report review.

The Committee agreed to include a suggested question from Ms Barham on the subject of internet bullying education.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
MINUTES

The Committee agreed to include a suggested question from Mr Donnelly on the subject of the Commission gathering information on young people's issues from school counsellors.

The Committee resolved, on a motion of Mr Donnelly, seconded by Ms Gibbons, to send the amended questions on notice to the Commission for Children and Young People.

6. ***

7. ***

The committee adjourned at 9.10 am until a time and date to be determined.

Minutes of Proceedings of the Committee on Children and Young People (no.6)

9:04 am, Wednesday, 2 May 2012
Room 1153, Parliament House

Members Present

Ms Barham, Mr Blair, Mr Cornwell, Mr Donnelly, Mr Gee, Ms Gibbons, and Dr McDonald.

1. Confirmation of minutes

Resolved on the motion of Mr Donnelly seconded by Ms Barham, that the Committee confirm the minutes of the deliberative meeting held on 15 March 2012.

2. Review of the 2009-2010 and 2010-2011 Annual Reports of the Commission for Children and Young People and Reports of the Child Death Review Team

a) Answers to questions on notice

The Committee considered the answers received from the Commission for Children and Young People in relation to the Annual and other Reports review.

Discussion ensued.

Resolved on the motion of Dr McDonald, seconded Ms Gibbons, that the Committee send an additional question on notice requesting the Commission elaborate on the differences in reporting between the 2009 and 2010 Child Death Review Team Annual Reports.

Resolved on the motion of Ms Barham, seconded by Mr Blair, that the Committee send an additional question on notice requesting the Commission provide a more detailed timeframe for the release of the participation toolkit.

Resolved on the motion of Ms Barham, seconded by Mr Blair, that the Committee send an additional question on notice requesting information on how the Built for Kids guide and the Child Friendly by Design Resource Toolkit were distributed and how they were advertised.

Resolved on the motion of Mr Donnelly, seconded by Ms Barham, that the Committee send an additional question on notice requesting information on how the Commission works with other Commissions in Australia that have similar functions.

Resolved on the motion of Ms Barham, seconded by Ms Gibbons, that the Committee send an additional question on notice concerning whether the Commission views youth employment practices as falling under the functions and objectives of the Commission.

b) Notice of Hearing

The Committee noted the Notice of Hearing for Monday 7 May 2012.

c) Briefing note on public hearing procedures

The Committee noted the briefing note provided on public hearing procedures.

3. ***

The committee adjourned at 9.28 am until 1:00pm Monday 7 May 2012.

Minutes of Proceedings of the Committee on Children and Young People (no. 7)

1:02 pm, Monday, 7 May 2012
Jubilee Room, Parliament House

Members Present

Ms Barham, Mr Blair, Mr Cornwell, Mr Donnelly, Mr Gee, Ms Gibbons, and Dr McDonald.

1. Public Hearing: Review of the 2009-10 and 2010-11 Annual Reports of the Commission for Children and Young People and the 2010 Reports of the Child Death Review Team

The Chair opened the public hearing and gave a short opening address.

Ms Megan Mitchell, Commissioner for Children and Young People, affirmed and examined.

The Commissioner gave a brief opening statement.

The Chair and Committee members commenced questioning the Commissioner.

Questioning concluded, the Chair thanked the Commissioner and the Commissioner withdrew.

The public hearing concluded at 2:35 pm.

2. Deliberative Meeting (2:39pm)

a) Confirmation of minutes

Resolved on the motion of Mr Blair seconded by Ms Barham that the Committee confirm the minutes of the deliberative meeting held on 2 May 2012.

b) Publication orders

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
MINUTES

Resolved, on the motion of Mr Donnelly seconded by Dr McDonald, that the corrected transcript of evidence given today be authorised for publication and uploaded on the Committee's website.

Resolved, on the motion of Mr Blair seconded by Ms Gibbons that the answers to questions on notice from the Commission for Children at Young People, received 18 April 2012 and 7 May 2012, be authorised for publication and uploaded on the Committee's website.

c) General business

The Committee discussed sending additional questions on notice to the Commission for Children and Young People. It was concluded that additional questions would be an agenda item for the next meeting of the Committee.

The committee adjourned at 2.44 pm until a date and time to be confirmed.

Minutes of Proceedings of the Committee on Children and Young People (no.8)

12:31 pm, Tuesday, 29 May 2012
Room 1153, Parliament House

Members Present

Ms Barham, Mr Blair, Mr Cornwell, Mr Donnelly, Mr Gee, Ms Gibbons, and Dr McDonald.

1. Confirmation of minutes

Resolved on the motion of Mr Gee seconded by Dr McDonald, that the Committee confirm the minutes of the deliberative meeting held on 7 May 2012.

2. ***

3. Review of the 2009-2010 and 2010-2011 Annual Reports of the Commission for Children and Young People and Reports of the Child Death Review Team

a) Supplementary questions for the Commission for Children and Young People

Resolved on the motion of Dr McDonald, seconded by Mr Donnelly, that an additional question regarding the Commissioner liaising with the Department of Health be sent to the Commission.

Resolved on the motion of Dr McDonald, seconded by Ms Gibbons, that an additional question regarding the Commissioner liaising with the Convenor of the Child Death Review Team be sent to the Commission.

Resolved on the motion of Ms Barham, seconded by Mr Donnelly, that an additional question regarding Working with Children Checks for Non-Government organisations be sent to the Commission.

Resolved on the motion of Mr Donnelly, seconded by Mr Blair, that the Committee forward supplementary questions arising from the public hearing on 7 May to the Commission for Children and Young People.

b) Factual corrections sent by the Commissioner for Children and Young People

Resolved on the motion of Mr Blair, seconded by Mr Donnelly, that the Committee publish on its website correspondence received from the Commissioner for Children and Young People correcting errors of fact indentified in the transcript of oral evidence obtained at the public hearing held on 7 May 2012.

c) Answers to questions on notice from the Commission for Children and Young People

Resolved on the motion of Mr Blair, seconded by Ms Barham, that the Committee publish the answers to questions taken on notice by the Commissioner at the public hearing held on 7 May 2012 on its website.

The committee adjourned at 13:04 pm until a time and date to be confirmed.

Minutes of Proceedings of the Committee on Children and Young People (no.9)

1.03 pm, Wednesday, 5 September 2012

Room 1136, Parliament House

Members Present

Ms Barham, Mr Blair, Mr Cornwell, Mr Donnelly, Mr Gee, Ms Gibbons, and Dr McDonald.

1. Confirmation of minutes

Resolved on the motion of Mr Blair, seconded by Dr McDonald, that the Committee confirm the minutes of the deliberative meeting held on 29 May 2012.

2. Review of the 2009-2010 and 2010-2011 Annual Reports of the Commission for Children and Young People and Reports of the Child Death Review Team

a) Answers to follow-up questions taken on notice from the Commissioner for Children and Young People

Resolved on the motion of Dr McDonald, seconded by Ms Barham, that the Committee publish the further answers, dated 18 June 2012, to questions on notice by the Commissioner at the public hearing held on 7 May 2012 on its website.

b) Consideration of Chair's draft report on the Review of the 2009-2010 and 2010-2011 Annual Reports of the Commission for Children and Young People and Reports of the Child Death Review Team

The Chair spoke to the draft report which had been previously circulated.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE
MINUTES

Discussion ensued.

Resolved on the motion of Mr Gee, seconded by Ms Barham, that the draft report be the report of the Committee and that it be signed by the Chair and presented to the House.

Resolved on the motion of Mr Blair, seconded by Mr Gee, that the Chair and committee staff be permitted to correct stylistic, typographical and grammatical errors.

Resolved on the motion of Mr Gee, seconded by Mr Blair, that once tabled, the report be placed on the Committee's website.

3. ***

The committee adjourned at 13:35 pm until a time and date to be confirmed.