

PARLIAMENT OF NEW SOUTH WALES



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

Transcript of Proceedings, Written Responses to Questions and
Minutes

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

New South Wales. Parliament. 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 / Committee on Children and Young People. [Sydney, N.S.W.] : the Committee, 2010. 52 p. ; 30 cm. (Report ; no.7/54)

Chair: Mr. Robert Coombs, MP.

"October 2010".

ISBN 9781921686252

1. Children—New South Wales.
2. Youth—New South Wales.
3. New South Wales. Commission for Children and Young People. Annual report ; 2008-2009.
4. New South Wales. Child Death Review Team. Annual report ; 2008.
5. Children--Mortality—New South Wales.
 - I. Title.
 - II. Coombs, Robert.
 - III. Series: New South Wales. Parliament. Committee on Children and Young People. Report ; no.7/54

(DDC22) 305.23

Table of contents

Membership and staff	ii
Terms of reference	iii
Chair's foreword.....	iv
CHAPTER ONE - COMMENTARY	1
The transfer of the functions of the CDRT	1
Working With Children Check.....	2
The Statutory Review	3
Future directions	3
CHAPTER TWO - QUESTIONS ANSWERED BEFORE THE HEARING	5
Review of the 2008-09 Annual Report of the Commission for Children and Young People	5
Review of the 2008 Annual Report of the NSW Child Death Review Team....	21
CHAPTER THREE - TRANSCRIPT OF PROCEEDINGS	28
CHAPTER FOUR - QUESTIONS ANSWERED AFTER THE HEARING	39
Review of the 2008-09 Annual Report of the Commission for Children and Young People	39
Review of the 2008 Annual Report of the Child Death Review Team	44
APPENDIX 1 – COMMITTEE MINUTES.....	49

Membership and staff

Chair	Mr Robert Coombs MP, Member for Swansea
Deputy Chair	Hon Kayee Griffin MLC
Members	Ms Marie Andrews MP, Member for Gosford Mr Stephen Cansdell MP, Member for Clarence Mr Robert Furolo MP, Member for Lakemba Hon John Ajaka MLC Rev Hon Fred Nile MLC
Staff	Mr Jonathan Elliott, Committee Manager (from 5 July 2010) Ms Emma Matthews, Senior Committee Officer (from 2 June 2010) Ms Jacqueline Isles, Committee Officer Mr John Miller, Assistant Committee Officer
Former Staff	Mr Mel Keenan, Committee Manager (until 23 June 2010) Ms Cheryl Samuels, Research Officer (until 1 July 2010)
Contact Details	Committee on Children and Young People Parliament of New South Wales Macquarie Street Sydney NSW 2000
Telephone	02 9230 3060
Facsimile	02 9230 3052
E-mail	childc@parliament.nsw.gov.au
URL	www.parliament.nsw.gov.au/children

Terms of reference

The terms of reference for the Committee are set out in Part 6 of the Commission for Children and Young People Act 1998, sections 27-30 and Schedule 1.

Extract from the 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.
- (4) A reference in this section to the Commission includes a reference to the Child Death Review Team.

Chair's foreword

It gives me great pleasure to present this report of the Joint Parliamentary Committee on Children and Young People. In doing so, the Committee fulfils its statutory duties under s 28 of the *Commission for Children and Young People Act 1998* to examine each annual or other report of the Commission for Children and Young People and the Child Death Review Team and to report to both Houses of Parliament on any matter appearing in, or arising out of, any such report.

The Committee had intended to conduct its review of the annual reports earlier this year, however it resolved to postpone this work, pending the appointment of a permanent Commissioner for Children and Young People.

That appointment has now been made and, on behalf of the Committee, I would like to congratulate Ms Megan Mitchell and also thank Ms Jan McClelland for her exceptional contribution to the work of the Commission in her time as Acting Commissioner.

Both the annual reports of the Commission for Children and Young People and the Child Death Review Team identify some notable achievements, not least the launch of the Working With Children Certificate for Self Employed People, the release of 12 publications, preparation of 24 submissions to formal inquiries, and the tabling of the CDRT report *Trends in Child Deaths in New South Wales 1996–2005*.

This report examines those annual reports and some current issues relevant to the Commission's jurisdiction such as the Auditor-General's performance audit report on the Working With Children Check and the ongoing statutory review of the *Commission for Children and Young People Act 1998*.

Finally, as we approach the end of this Parliament, I would like to take this opportunity to thank Committee Members both past and present for their contributions. This report is a consensus document which reflects the bipartisan and constructive approach which this Committee has taken to the exercise of its oversight functions.



Robert Coombs MP
Chair

Chapter One - Commentary

- 1.1 On Friday 3 September 2010, the Committee conducted a public hearing in relation to the review of the 2008-2009 Annual Report of the Commission for Children and Young People (the Commission) and the 2008 Annual Report of the Child Death Review Team (the CDRT).
- 1.2 As preparation for the hearing, the Committee sent the Commissioner a series of questions on notice about matters raised in the annual reports as well as current issues relevant to the Commission's jurisdiction. The answers to these questions can be found at Chapter Two of this report.
- 1.3 During the course of the public hearing, the Commissioner took some questions on notice. The Commissioner also agreed to respond to any additional questions which the Committee might have following the hearing. The answers to these questions can be found at Chapter Four of this report.
- 1.4 The reporting periods for the Commission and the CDRT identify some notable achievements including:
 - launching the Working With Children Certificate for Self Employed People;
 - conducting 214,559 Working With Children background checks;
 - preparing 24 submissions to formal inquiries such as this Committee's Inquiry into Children and Young People Aged 9-14 Years in NSW;
 - proposing 219 recommendations in the above-mentioned submissions;
 - having 110 recommendations, from this year and previous years, agreed to;
 - releasing 12 publications such as *built4kids: A good practice guide to creating child-friendly built environments*, *Making the working world work better for kids*, and *Ask the Children: Mobile Me – Kids speak out about mobile phones*; and
 - tabling the CDRT report *Trends in Child Deaths in New South Wales 1996–2005*.
- 1.5 The commentary which follows focuses on a number of important issues arising from the Committee's reviews of both annual reports. These are the transfer of the functions of the CDRT to the NSW Ombudsman; the Working With Children Check; the Statutory Review of the *Commission for Children and Young People Act 1998*; and the Commission's future directions.

The transfer of the functions of the CDRT

- 1.6 It was one of the recommendations of the 2008 *Report of the Special Commission of Inquiry into Child Protection Services in New South Wales*, 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.¹
- 1.7 Whilst the CDRT was previously established through the *Commission for Children and Young People Act 1998*, the *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009* now has the effect of establishing the CDRT. It will be

¹ Special Commission of Inquiry into Child Protection Services in NSW. *Report of the Special Commission of Inquiry into Child Protection Services in NSW*, conducted by Hon James Wood, Sydney, November 2008, p. 953.

supported and assisted in the exercise of its functions by the staff of the Ombudsman's Office rather than those of the Commission.

1.8 The Commissioner informed the Committee that the full transfer of the CDRT to the Ombudsman's Office would take place in November this year, after the tabling in Parliament of the CDRT's 2009 Annual Report.

1.9 The Committee notes that the Commissioner would remain as a member of the CDRT and was pleased to hear the Commissioner say that:

The Ombudsman has also generously agreed that it is important that the Commissioner, as a member of that group into the future, continues to access and monitor the data that the team analyses and continues to take an advocacy role in terms of policy, system and program reforms to prevent deaths, including providing information and advice to this Committee on an ongoing basis, given the important role this Committee plays, focussing directly on the needs of children and young people.²

1.10 This Committee has every confidence that the Ombudsman and the Commissioner will effect a smooth transition of the functions of the CDRT and that it will continue its excellent work with the Ombudsman as its Convener.

1.11 The Committee looks forward to continuing to liaise with the Commissioner about the important and influential work of the CDRT in providing information about child deaths and in undertaking specialised research to prevent or reduce further child deaths.

Working With Children Check

1.12 The *Commission for Children and Young People Act 1998* requires that employers undertake pre-employment checks of paid employees in child-related work. This is known as the Working With Children Check (WWCC).

1.13 The WWCC seeks to protect children by reducing the risk of abuse in the workplace. Firstly, the check excludes anyone with a conviction for serious sexual or violent crimes against children. These are known as prohibited persons. Secondly, the check identifies and advises the employers about any person who, whilst not a prohibited person, might pose a risk to children because of their previous conduct.

1.14 Whilst the checking process is shared amongst five screening agencies (including the Commission) the Commission has the overall responsibility for the WWCC including the monitoring and auditing of screening agency practices.

1.15 In February 2010, the NSW Auditor-General tabled his performance audit report on the WWCC. The report made a number of findings including that the WWCC did not reliably identify all those who pose a risk to children and that it did not monitor the compliance of employers, the self-employed or volunteer organisations with their obligations or have a formal strategy to promote awareness of the WWCC.³

1.16 The Auditor-General's report made a number of recommendations to the Commission and the Committee used this annual review process to seek further information from the Commission on its current progress toward implementing those recommendations.

1.17 The Committee was pleased to hear that the Commission has:

² Commissioner Transcript of evidence, 3 September 2010, p 29.

³ NSW Auditor-General, *Working With Children Check: NSW Commission for Children and Young People*, Sydney, February 2010, pp. 2-4.

...undertaken new activities to increase its auditing and monitoring functions around employer compliance with the Working With Children Check in line with recommendations by the New South Wales Auditor-General's report made earlier this year.⁴

1.18 The Commissioner informed the Committee that the Commission would continue to implement the Auditor-General's recommendations to:

...streamline the check and to better regulate the check, and child safe organisations and we will continue to do that, regardless of what decision the Government makes on the future of the Working With Children Check system.⁵

1.19 The Committee's questions on notice to the Commission on the implementation of the Auditor-General's recommendations can be found at Chapter Two of this report.

The Statutory Review

1.20 Following the recommendations of the Wood Special Commission of Inquiry into Child Protection Services and the recommendations of the Auditor General's report into the effectiveness of the Working With Children Check, the Minister for Youth, Hon Peter Primrose MLC, announced a statutory review of the *Commission for Children and Young People Act 1998* in March 2010.

1.21 Section 53(1) of the Act requires the responsible Minister to conduct a review to determine whether the policy objectives of the Act remain valid and whether its terms remain appropriate for securing those objectives.

1.22 The Commission made 30 recommendations in relation to both Part 1 of the Terms of Reference, being issues associated with the Commission's policy, advocacy, research and education functions; and Part 2 of the Terms of Reference, being issues associated with the Commission's child-related employment screening (the Working With Children Check).⁶

1.23 The Committee's written questions to the Commission in relation to its submission can be found at Chapter Two and Four of this report.

1.24 Pursuant to its oversight functions in relation to the Commission, the Committee will continue to follow the progress of the statutory review with interest and looks forward to seeing the outcomes of that process in due course

Future directions

1.25 The Committee appreciates that the future direction of the Commission may be largely shaped by the outcomes of the statutory review. That being said, the Commissioner was able to identify a number of key activity areas for the Commission over the next three years.

1.26 The Committee was pleased to note that these included implementing the recommendations of its inquiries into *Children, Young People and the Built Environment* and *Children and Young People Aged 9-14 Years in NSW: The Missing Middle*:

⁴ Commissioner, Transcript of evidence, 3 September 2010, p. 30.

⁵ Commissioner, Transcript of evidence, 3 September 2010, p. 32.

⁶ NSW Commission for Children and Young People, *Submission to the Statutory review of the Commission for Children and Young People Act 1998*, Sydney, May 2010.

we are working with partners to review the efficacy of the *built4kids* document and resource material and forming additional partnerships with planners and local councils, and in particular embedding the practice of consulting with kids in the planning and design of public spaces. That is an area where we are continuing to implement the recommendations of the inquiry into the built environment and I think that will take us probably another 18 months to complete the recommendations that have been set for the Commission to undertake.

In terms of the middle years inquiry, there is quite a lot of work that could take us into both the medium and longer term, in particular undertaking research on the developmental, social, emotional and physical issues around the middle years and producing publications that help inform understanding about children in that area.

[...]

We are also very keen to review and revamp our capacities in engaging with children and young people, including for that middle years group, which is potentially a group that we have not engaged with as much as other groups and so we are wanting to look at what are the contemporary methods of engaging kids and helping them to participate in decision making and in research.⁷

- 1.27 In reviewing and revising its engagement strategies the Commission would also be looking to work with partners with expertise in the areas of mental health, disability and connecting with diverse communities.⁸
- 1.28 The Committee welcomes the Commission's commitment to developing its work in the important area of stakeholder engagement and looks forward to hearing further from the Commission on its progress.
- 1.29 The Commissioner also informed the Committee that the Commission's strategic planning would include a review of its performance indicators and measurement tools:
- The Commission is entering a new strategic planning cycle in 2010-11 and a key aspect of this will be to develop new performance indicators and measurement tools. In undertaking this work, we will seek to benchmark our results against comparable organisations, including other Commissions around Australia.⁹
- 1.30 It is the Committee's view that good performance management regimes are the key to delivering good outcomes and the Committee is confident that in annual reporting, the Commission will find many examples of best practice among those reports which have been commended in both the Premier's Annual Reports Awards and the Australasian Reporting Awards.

⁷ Commissioner, Transcript of evidence, 3 September 2010, pp 31-32. See also: Chapter 4, Question answered after the hearing No.1.

⁸ Commissioner, Transcript of evidence, 3 September 2010, pp. 36-37. See also: Chapter 4, Question answered after the hearing No.3.

⁹ See Chapter 2, Question answered before the hearing No. 2.

Chapter Two - Questions Answered Before The Hearing

Review of the 2008-09 Annual Report of the Commission for Children and Young People

Performance Reporting

1. Does the Commission review its Annual Report against best practice? For example the assessment criteria for the Premier's Annual Reports Awards or the Australasian Reporting Awards?

The Annual Report is one of the Commission's key mechanisms to account for its performance. The Commission continues to make modifications to its Annual Report to meet best practice standards and as part of its culture for continuous improvement. The 2008-09 Annual Report demonstrates our commitment to adopting best practice reporting principles in reporting on outcomes and achievements.

The NSW Audit Office's checklist for better practice has been followed to produce the report. This entails providing performance information that demonstrates accountability for the expenditure of public monies.

The Commission's officer in charge of the team that produces the Annual Report also attends the Australasian Reporting Awards seminar and feedback sessions. These principles enable the Annual Report to communicate the organisation's objectives in a clear and measurable way with results and outcomes explained.

In the 2008-09 Annual Report we have reduced the reliance on photography and economised on page layout which has enabled a reduction of nearly 20 pages, without impacting on content or readability.

2. Has consideration been given to providing report users with performance measures and indicators that show, for example, the:

- a. Key performance indicators linked to agency goals for each key result area?**
- b. Performance targets and comparison of results against target for each key result area?**
- c. Adequate explanation of deviation from targets?**
- d. Review of results for the last 5 years?**
- e. Benchmarking of results against comparable organisations?**

The Commission's Annual Report is organised around its key results areas:

- Children's issues (children benefit from improved legislation, policies, practices and services).
- Participation (children participate in the decisions that affect them).
- Safety (child deaths are prevented; child-related employers adopt practices that reduce risk of harm to children).

The narrative of the Commission's Annual Report includes indicators and measures, explanation of deviation from targets, and review of the last one to three years' work. The

Commission acknowledges that these elements of the report could be more clearly highlighted.

The detail of performance against targets for the Working With Children Check (WWCC) is reported in tables 2, 3 and 4 at pages 20-22 of the Annual Report.

The Commission will commit to reviewing the approach to its 2010-11 Annual Report as suggested by points (a), (b), (c) and (e) of the Committee's question. In relation to point (d), the Commission believes that reviewing results over a three year period is likely to provide a better and clearer picture of trends and performance over time. This approach would also dovetail with the Commission's plans to report on the well-being of NSW children on a three yearly basis.

The Commission is entering a new strategic planning cycle in 2010-11 and a key aspect of this will be to develop new performance indicators and measurement tools. In undertaking this work, we will seek to benchmark our results against comparable organisations, including other Commissions around Australia.

Better Futures Regional Strategy

3. The Committee is pleased to note that the Commission itself is reviewing the Better Futures Strategy and would appreciate receiving a progress report on how that evaluation is progressing.

In September 2009 Youth Strategies and the Better Futures Grants and Subsidies program were transferred from the Department of Human Services, Community Services to the Commission, now located within Communities NSW.

The then Minister for Youth requested that the Commission undertake a review of the Better Futures Regional Strategy (Better Futures) at the time of the transfer. The review of Better Futures was to consider current research and include consultation with children and young people, service providers and key stakeholders and was initially intended to be completed by 30 June 2010. Also to be considered in the review were the recommendations contained in:

- *Keep them Safe: a Shared Approach to Child Wellbeing.*
- The Joint Parliamentary Committee report *Children and Young People Aged 9-14 years in NSW: the Missing Middle.*
- The review of the NSW Government Youth Action Plan *The Way Forward: Supporting Young People in NSW.*

Due to the complexity of issues to be considered as part of this review and to allow interested parties time to provide feedback on the program to date, the Minister extended the review period for a further twelve months to 30 June 2011. It was also decided that funding for all Better Futures projects currently supported during the 2009-10 period would be extended for a further period of twelve months.

One of the recommendations from the Ministerial Review of the Commission was that the Youth Strategies and Better Futures Grants and Subsidise program reside within Communities NSW as it administers other similar community-directed programs.

Consequently, the review of Better Futures is currently being undertaken by Communities NSW. The Commission will contribute advice to the review of Better Futures and will ensure that the revised Strategy is consistent with the key recommendations contained in the Committee's *Children and Young People Aged 9-14 years in NSW: the Missing Middle* report.

Actions taken to date for the review include:

- Analysis of *Keep them Safe, Children and Young People Aged 9-14 years in NSW: the Missing Middle* and the review of *The Way Forward: Supporting Young People in NSW*.
- Analysis of the distribution of Better Futures funds from 2007-08 to 2009-10 across regions and against category of service (e.g., transitions, youth sector development, sporting).
- Completion of a stakeholder survey to all Better Futures grant recipients.
- Collation of grant recipients' details on grants project activities conducted since 1 July 2009 including progress towards the project outcomes and performance measures in the Service Specification or Service Agreement.

Injury Prevention

4. How is the Child Injury Prevention Reference Group structured, what are its terms of reference and how often does it meet? How might progress toward the plan's key objectives be measured?

The Commission's Child Injury Prevention Reference Group, chaired by the Commission, is made up of representatives from the: NSW Department of Health; NSW Motor Accidents Authority; NSW Office of Fair Trading; NSW Roads and Traffic Authority; University of NSW Injury Risk Management Research Centre; NRMA; Youthsafe; Kidsafe; and the Australian Centre for Agricultural Health and Safety.

Its Terms of Reference are:

- To raise awareness and build commitment across the government and nongovernment sectors about the importance of a co-ordinated inter-agency approach to injury prevention for children and young people under 18 in NSW.
- To contribute information, knowledge and expertise to the development of interagency plans to address the level of unintentional injury for children and young people in at least one of the following areas:
 - Falls from buildings and structures, including windows.
 - Off-road use of motor cycles or other vehicles.
 - Safe socialising and transport options for young people.
- To oversee the implementation of inter-agency plans.
- To monitor progress made against inter-agency plans.

The Reference Group was formed in April 2009 and has met on three occasions. Its work in 2009 predominantly had a research focus including looking at models of interagency partnerships, overseas experiences of injury prevention initiatives and an audit of the injury prevention policy landscape in NSW. The Commission also commenced discussions with the Westmead Children's Hospital about a potential partnership in the area of falls from buildings and the use of off-road motor cycles and other vehicles.

Funding will be allocated to this project in 2010-11 and it is expected that advice about inter-agency models for injury prevention for children will be completed by June 2011. The advice will also consider how progress in this area can be best measured, including for example: levels of community awareness about injury prevention strategies; take-up of injury

prevention strategies; activities of the Reference Group; and partners and a reduction in injuries to children in targeted areas.

The Commission will also continue to consider children's injury as part of its broader monitoring and reporting role.

Children and Poverty

5. In relation to children and poverty: Has an alternative source of funding been targeted for the proposed project in partnership with the Benevolent Society and RMIT University?

In October 2008, the Commission applied for funding through the Foundation for Children but was unsuccessful. A project proposal has been developed on children and poverty and further consideration will be given to securing other sources of funding as part of the Commission's strategic planning process. The focus of the research is children's experiences of poverty, and the implications for policy and program development.

The Commission will also continue to monitor the issues for children living in poverty via "A Picture of NSW Children" and seek to work in partnership with organisations that undertake research and/or deliver services to children affected by poverty such as the Benevolent Society, the Smith Family, Mission Australia, the Brotherhood of St Laurence and the Salvation Army.

6. Can you inform the Committee about how the Commission will advocate on behalf of children in poverty given that this is a complex whole of government policy issue?

Traditionally, in the Australian context, poverty has been understood primarily in relation to income and in relative terms. The National Centre for Social and Economic Modelling (NATSEM) defines the poverty line as half the median OECD equivalised household disposable income. More recently, this understanding of poverty has been challenged by a multi-dimensional understanding of deprivation, also referred to as social exclusion.

Where child deprivation is measured using family income, as the key focus, the impact of poverty on children can be missed. As a result, researchers are starting to uncover how to capture the intersection between economic and social deprivation and how poverty impacts on children. The Commission plans to collaborate with research bodies looking at this issue. One such group is the Social Policy Research Centre, which the Commission is currently collaborating with to develop "A Picture of NSW Children".

The Commission has made previous attempts to have research funded based on a sociology of childhood where children are to be understood as social actors in their own right. To date, the Commission has not been successful in securing funding for this research.

The Commission's study into children's understanding of well-being demonstrated that children understand that money allows them to do things – it enables them to participate – as well as purchase commodities.

Children also spoke about the emotional costs associated with 'going without' including concern about their parents' anxiety resulting from financial hardship, shame and exclusion.

The Commission has a strong focus and commitment to the participation of children, which is a guiding principle in the Commission's legislation and is applied to all of the work undertaken by the Commission.

The Commission's work on investing in the early years of childhood focussed on addressing inequality and poverty by improving access to both universal and targeted supports. The

Commission will continue to consider the issues around vulnerability and poverty across all of its priority areas in 2010-11. The Commission will continue to monitor the issues relating to children's poverty via "A Picture of NSW Children" and seek to form partnerships with organisations that undertake research and/or deliver services to children affected by poverty such as the Benevolent Society, the Smith Family, Mission Australia, the Brotherhood of St Laurence and the Salvation Army. The Commission's role within these partnerships will be to support the development of research and policy responses that are child-centred and informed by children's perspectives of poverty.

Youth Homelessness

7. What further developments have there been since the Youth Homelessness Forum in August 2009 and will the Commission's future research and advocacy work include a focus on youth homelessness?

In August 2009 the Commission supported the NSW Youth Advisory Council to host a Youth Homelessness Forum in partnership with the Salvation Army, the Youth Accommodation Association (YAA), the Inspire Foundation and the Association for Child Welfare Agencies (ACWA).

The forum was held to help identify and promote strategies and solutions to prevent young people becoming homeless. The forum was an opportunity for young people affected by homelessness to have their voices and views heard by government and those in a position to deliver services and supports that directly affect children's lives. The event encouraged young people and others involved with providing services to them, to share their experiences of preventing and addressing youth homelessness.

A number of activities such as consultations, workshops and on-line forums were used in the days leading up to the event, to hear the views of young people. Over 100 young people were consulted through these mechanisms. The event covered significant issues on youth homelessness, and gave the organisers a clear understanding on how to prevent young people becoming homeless.

A report was produced that was presented to the then Minister for Youth by the NSW Youth Advisory Council for government to consider when implementing policies and programs aimed at preventing young people from becoming homeless.

Responsibility for supporting the NSW Youth Advisory Council has been transferred to Communities NSW. The Commission has been advised that the Council is reviewing the report that and has met with representatives of Housing NSW to discuss its contents.

The key priorities for the Commission's research, policy and advocacy work in 2010-11 are: further developing child-centered consultation and research practices; children in the middle years; injury prevention; the built environment; and the development of a "Picture of NSW Children".

The prevention of youth homelessness is a priority for both the Commonwealth and NSW governments and remains a priority for the Commission within the research and policy parameters described above. The National Partnership on Homelessness commits the Commonwealth and States to an additional \$800 million to improve the response to homelessness.

The Commonwealth will provide an additional \$400 million over four years from 2009-10, and States will match this with a \$400 million commitment.

The NSW Government's Homelessness Action Plan includes providing support to young people who are homeless or at risk of homelessness. Actions include:

- Supporting young people leaving care and juvenile detention by including the introduction of a *No Exits into Homelessness* strategy.
- Helping young people aged 12 to 18 years who are homeless or at risk of homelessness to re-engage with their family where it is safe to do so, maintain sustainable accommodation and engage with education and employment.
- Increasing housing assistance to families experiencing domestic violence.
- Improving the pathways for young people into long-term, secure housing.

Housing NSW is also leading the development of regional plans to address homelessness which the Commission has contributed advice to.

The Housing NSW Youth Action Plan includes a priority area on addressing homelessness and key projects to prevent homelessness for young people include:

- South West Sydney Youth Hub.
- The Inner City Supportive Housing and Support Project for Young People.
- Juniperina Housing and Support Project.
- Nepean Youth Homelessness Project.

The Commission is a member of the Housing and Human Services Senior Officers Group and will monitor and contribute to the efforts to prevent youth homelessness through this forum.

Built Environment

8. The Committee would be interested to hear in further detail about:

- Your proposal to develop an education program which would build advice around participation of kids in different age groups.

- How the Commission will further promote the use of *built4kids*.

The Commission is in the process of establishing an advisory group to support a coordinated and inter-disciplinary approach to promoting child-friendly built environments in NSW. Members of the group will have a key role in promoting the use of *built4kids*. The Commission will be seeking advice shortly from key stakeholders about the Terms of Reference and membership of this group. The Commission will provide regular information to the Committee about progress.

The Commission has agreed to fund Griffith University to undertake a survey of local councils to assist the Commission to understand how *built4kids* is being used, the support needs of local government in implementing the principles and practices outlined in *built4kids* and how the indicators impact on the planning processes.

The Commission is considering broadening the reach of this survey given the strong interest in the publication from the Commission's website. At the 30 June 2010 Built Environment Roundtable held in Parliament, the Commission reported that there had been over 45,000 downloads of *built4kids* from its website since September 2009.

The Commission is developing a contract with Griffith University to undertake this work and discussions are currently taking place about the approach and methodology for this research.

Findings from the survey, which will be shared with the Committee, will be used to support further promotion of *built4kids*, develop an information and education program targeting the different sectors involved with designing, constructing and maintaining built environments. The Commission will continue to focus its efforts on educating professionals about supporting children to participate in decision-making about the design of the built environment, including for different age groups, promoting the use of *built4kids*, partnering with councils and other groups to showcase best practice.

Linked to this is the Commission's work on the middle years of childhood. The Commission is in the early stages of developing a paper on the developmental needs of children in the middle years. The Commission will extend this work to include children in the later years of adolescence to contribute to its work on the built environments. The paper will contribute to the Commission's advice around participation of kids in the different age groups.

A priority for the Commission's research, policy and advocacy work in 2010-11 includes further developing child-centered consultation and research practices. This will also feed into the Commission's work on the built environment.

State Plan

9. Can you explain how the Commission works with the Premier's Department to increase participation of children and young people in implementing children's participation in the State Plan?

The Commission worked with the Department of Premier and Cabinet to support children to participate in the development of the 2006 State Plan and the revised 2009 State Plan which led to young people being included as a specific target population.

A priority for the Commission's research, policy and advocacy work in 2010-11 includes further developing child-centered consultation and research practices.

The Commission is currently working with its Young People's Reference Group on this issue and will develop an options paper to consult with NSW Government agencies, including the Department of Premier and Cabinet, about flexible and responsive consultative practices when seeking the input of children and young people in the development of public policy and programs. This will also support agencies to meet their obligations under the Premier's Memorandum for Youth Participation.

The Commissioner has met with the Deputy Director General of the Department of Premier and Cabinet to discuss mutual priorities, including in relation to participation, and is scheduled to hold discussions with the Premier's newly appointed youth adviser shortly.

(See also, Commission's response to Question 10 in relation to complaints made by children and young people.)

10. In relation to the priority areas [S8, customer satisfaction with government service; S4, increasing levels of attainment; F4 embedding prevention and early intervention into government services] which have not yet been progressed, what further action, if any, has been or will be taken to increase young people's participation in those areas?

Priority area S8: customer satisfaction

A principal function of the Commission as per Section 11(b) of the Commission's Act is:

To promote and monitor the overall safety, welfare and well-being of children in the community and to monitor the trends in complaints made by on behalf of children.

There are a number of agencies that take complaints from children and young people in NSW. The Commission will undertake work in 2010-11 to:

- report against the number of complaints made by children by agencies and topics; and
- work with agencies to improve data collection and to appropriately respond to the issues raised.

A copy of this advice will be provided to the Department of Premier and Cabinet, who has responsibility for the State Plan.

The Commission will also consider how it can work with NSW Government agencies to strengthen complaints taking policies and practices in relation to children and young people to ensure that they can participate in the development of service improvements.

Priority area F4: prevention and early intervention

Early intervention and prevention for children is now a strong part of the policy landscape as evidenced by the Council of Australian Governments (COAG) early childhood reform agenda and initiatives such as the NSW Government's Brighter Futures program.

The Commission previously undertook extensive work in the area of prevention and early intervention for the early years of childhood and will continue to keep a watching brief in this area.

The Commission's work on the middle years of childhood will include a strong focus on prevention and early intervention. As part of its work on the middle years, the Commission is currently contributing to the Communities NSW review of the Better Futures Regional Strategy and has participated on the Department of Human Services, Community Services Vulnerable 9-15 years Working Group. Both include a focus on prevention and early intervention and the Commission is providing advice to agencies about supporting young people's participation in the design, delivery and evaluation of services.

Priority area S4: increasing levels of attainment

As part of developing "A Picture of NSW Children" the Commission will continue to monitor initiatives to increase levels of attainment, including raising the school leaving age to 17 in NSW. The Commission will monitor the levels of attainment in NSW, how they compare with other states and territories and whether or not they have increased over time.

WORKING WITH CHILDREN CHECK: RECOMMENDATIONS FROM THE AUDITOR GENERAL'S PERFORMANCE AUDIT

To reduce the risk of prohibited people working with children (by December 2010)

11. The Auditor-General recommends that the Commission have all volunteer organisations register with the Commission [Recommendation 1a]. In its response, the Commission describes this as 'one approach' to achieve greater compliance with the WWCC and one that would require statutory change.

What is the Commission's view on the utility of the Auditor-General's recommendation and what other approaches might be effective in achieving this outcome?

The *Commission for Children and Young People Act 1998* currently provides that volunteer organisations must ask volunteers in child-related employment to declare that they are not

prohibited from working with children. A small subset of these volunteer organisations must also register with an Approved Screening Agency for the WWCC.

The Commission's response to the Auditor-General acknowledged that the Commission could only create a register of volunteer organisations on the basis of goodwill, as it has no statutory authority to compel volunteer organisations to provide the Commission with information. Nevertheless, the Commission has implemented this recommendation using the goodwill of volunteer organisations and publicly available information. The Commission's volunteer register contains almost 500 organisations.

The concerns underlying the Auditor-General's recommendation were that volunteers in child-related employment are (in the main) not subject to the WWCC, and that volunteers with prohibiting records may sign declarations and not be caught out. A register of volunteer organisations will not overcome the problem of volunteers not being subject to the full WWCC. The Commission has recommended in its submission to the current legislative review that volunteers and paid employees who work with children be equally subject to the WWCC. This is consistent with the WWCC programs in other states.

12. The Auditor-General recommends that the Commission move to direct lodgement of Prohibited Employment Declarations by volunteers [Recommendation 1b]. In its response, the Commission describes this as a form of volunteer accreditation, which may be considered in the Statutory Review of the *Commission for Children and Young People Act 1998* (the Statutory Review).

How might the Accreditation Model proposed by the Commission in its submission to the Statutory Review deliver the risk reduction outcomes envisaged by the Auditor-General in Recommendation 1b? Should this model not be adopted as an outcome of the Review, then how might the Commission address Recommendation 1b?

As the Auditor-General found, the current legislation imposes few real barriers against prohibited persons volunteering with children.

The Auditor-General's recommendation 1b was intended to give the Commission ready access to Volunteer Declarations for auditing, and to simplify the obligations of volunteers and volunteer organisations. The Auditor-General envisaged an on-line system where volunteers could register a declaration that could be accessed by any volunteer organisation. At the same time, evidence that volunteer organisations had checked these declarations could be stored on-line, saving them from the need to retain bulky hard copy declarations.

The model proposed by the Commission would provide for on-line application for a WWCC by all volunteers and employees covered by the legislation. The outcome of the WWCC would be either an authority to work with children or the refusal of this authority. Applicants with an authority to work with children would be provided with a unique authorisation number. Employers and volunteer organisations would be obliged to verify that the applicant had a valid authority to work with children. It is envisaged an on-line system would record each verification by registered volunteer organisations or employers. The Commission would monitor these verifications to make sure employers were not engaging unauthorised people to work or volunteer with children.

If the government does not adopt such a model, the Commission could still provide online declarations for volunteers, through an upgrade IT system currently being built. A legislative change would be required to oblige volunteer organisations to register to use the on-line checking system.

13. The Auditor-General recommends that the Commission undertake regular audits to check that volunteers are completing Prohibited Employment Declarations and are not prohibited persons [Recommendation 1c]. In its response, the Commission states that it will commence a full program of volunteer declaration audits in mid 2010.

How is this program progressing?

This program is up and running, with 1,306 Volunteer Declarations checked in 2009-2010. The Commission has not identified any prohibited persons signing this Declaration.

The Commission planned to check 8,600 Volunteer/ Student Declarations in 2009-2010. This was dependent on early changes to the former Prohibited Employment Declarations, so that the Commission could obtain all the personal data required to conduct a criminal records check. The review of the WWCC was deferred while the Ministerial review of the Commission took place in late 2009 and while the Auditor-General conducted his performance review of the WWCC at the same time. The new forms became available at the end of March 2010, and became compulsory on 25 May 2010. This meant that the Commission was unable to complete the targeted number of checks.

In 2010-11, the Commission projects it will complete the annual target of 8,600 checks of Volunteer/Student Declarations.

14. The Auditor-General recommends that the Commission ensures organisations and parents check that self-employed people have current WWC certificates [Recommendation 1d]. In its response, the Commission states that it will commence a major community information campaign in 2010.

Could the Commission provide a brief update on the progress of this campaign?

The Commission deferred a comprehensive campaign in response to a change in the date by which self employed people were obliged to obtain a certificate.

When the NSW Government brought forward the review of the Commission's legislation to May 2010, it also deferred the obligation for self-employed people to obtain a certificate until May 2011. This was to make sure that self-employed people would not have rapid change in their WWCC obligations over the coming year.

The Commission advertised the changed requirements in the media, appropriate business publications and through the Commission's website, as well as writing to significant government and non-government employers and stakeholders to advise them of the changed commencement date.

To improve compliance with the Working With Children Check (by December 2010)

15. The Auditor-General recommends that the Commission undertakes regular audits to ensure all employers who are required to request the check are in fact doing so [Recommendation 2a]. In its response, the Commission supports the proposal in principle but notes that the size and scope of a compliance program would be determined by the funds available.

The Commission's Annual Report notes that additional resources have now been provided [AR, p.10]. How is this work progressing?

The additional funding referenced on page 10 of the Commission's Annual Report has supported the three specific programs undertaking new WWCCs, auditing volunteer

declarations, and extending the child-safe child-friendly program. The auditing of employer compliance has been internally supported by re-organising Commission resources.

The Commission developed three new audit programs to ensure that employers are requesting WWCCs:

- The first program, already piloted, is to contact registered employers who have stopped requesting checks, to find out why they have stopped. The Commission contacted 200 such employers and is currently analysing the response to these contacts. The Commission will roll out this program in 2010-2011.
- The second program, to commence before December 2010, is to identify childrelated employers who have not registered for the check, and find out why they have not done so. The Commission has completed its program planning and is currently obtaining lists of employers in child-related areas. The Commission will report on the outcomes of this program in the 2010-2011 Annual Report.
- The third program has recently commenced, with the first of the targeted employer groups contacted. The first round audits will commence in September 2010.

16. The Auditor-General recommends that the Commission implements provisions to only check certain short term employees once every 12 months [Recommendation 2b]. In its response, the Commission anticipates the implementation of the new ESS database and its proposals to the Statutory Review.

Could the Commission provide an update on progress with the ESS database and how its proposals to the Statutory Review might address Recommendation 2b?

The Commission's submission to the review of the *Commission for Children and Young People Act 1998* proposes a regime which would require applicants for child-related employment to have a check that authorised them to work for any employer or organisation. The authority would remain in place for a fixed period before needing renewal. This approach would overcome the current requirement for frequent rechecking of applicants when they move between casual and short term placements.

The Commission has contracted with Connected Solutions Group to build a new operating system to replace ESS. The contract provides that Connected Solutions Group will build the new system in phases, so that it can be adjusted to meet the requirements of an accreditation system, especially if an accreditation system is to shortly replace the existing pre-employment check.

The current system does not provide this capacity, so it is unable to detect repeat checks on a single applicant. Whether the new operating system supports the current approach or accreditation, it will provide the capacity to uniquely identify an applicant. This means that whatever system is ultimately agreed to by the Parliament, the Commission should be able to reduce the repeat checking of employees undergoing multiple checks within a short period.

17. The Auditor-General recommends that the Commission screen applications and only process checks for child-related employment [Recommendation 2c]. In its response, the Commission notes that statutory change is required to make the WWCC simpler to understand, implement and enforce. Pending the Statutory Review, the Commission states that it will undertake more training and education for employers using the WWCC.

What additional training and education has been undertaken and how might the Commission's proposals to the Statutory Review make improvements to the screening process?

The Commission conducted 18 Child-safe Child-friendly workshops across NSW for the volunteer sector. These workshops attracted 306 people from 226 volunteer organisations. Five of the workshops were held in Sydney, and 13 in regional centres.

The Commission conducted a further 63 workshops throughout NSW to help employers understand 2010 extensions to the WWCC. These workshops included practical steps to help organisations manage risks to their children. These workshops attracted 1,047 people from 265 organisations.

Altogether, the Commission ran 83 workshops involving 1,353 people and 491 organisations, an increase of 83 per cent over the workshop program offered in 2008-09.

To improve the screening process, the Commission has proposed simplifying the current definitions in the WWCC. Currently employers need to work through four separate tables to find out which, if any, of the 14 different check categories they should use. It is a significant demand on employers and on Approved Screening Agencies (ASA) which help employers to use the WWCC. It remains a challenge for Approved Screening Agencies to identify checks submitted incorrectly and follow them up.

The Commission proposes that there be only one check category for all types of engagement – volunteer, paid, licensed or contracted – and a simpler definition of child-related employment, with options for user payments.

To improve risk estimate outcomes.

18. The Auditor-General recommends that the Commission ensure consistent practices amongst screening agencies (by December 2010) and complete the evaluation of AWARE as planned [Recommendations 3a and 3b respectively].

In its response to Recommendation 3a the Commission recognises the challenges presented by the 'distributed' system of checks in NSW as opposed to centralised checks in other jurisdictions. The Commission proposes that the costs and benefits of the 'distributed' system be further assessed through the Statutory Review to make improvements to the screening process.

How might the Commission's proposals to the Statutory Review address the challenges of the distributed system?

With regard to Recommendation 3b, how is the evaluation of AWARE progressing?

The Commission has suggested to the legislative review that an accreditation system replace the current sector based pre-employment checks. The Commission sees an accreditation model working through a centralised operations unit that undertakes all checks. The resulting consistency of practice and outcome is especially important in a system that results in authorisation to work in any child-related sector, or a refusal of authorisation that can be judicially challenged.

The ASAs were originally established because they had existing expertise in servicing their particular sectors. There were five of them: Sport and Recreation, Community Services, Health, Education and the Catholic Commission for Employment Relations.

The first two have given up their ASA status, assigning their sectors to the Commission. The Commission considers that in an accreditation model that authorises an applicant to work in all sectors, a sector based assessment is no longer required.

The Commission proposes to work with the major child-related employers, including the Department of Education and Training and NSW Health to deliver a check that supports their recruitment processes and practices, noting that the Check can never be a replacement for thorough assessment of suitability at recruitment.

The current AWARE tool is not suited to the proposed assessment model. The Commission is proposing to develop a new approach to assessment for the accreditation model – or to replace AWARE if the accreditation model is not adopted – by mid 2011. The Commission will engage major partners and stakeholders in this project to make sure that the model is transparent and meets the needs of the community.

To manage risks following employment (by June 2010).

19. The Auditor-General recommends that the Commission ensure employers of significant risk employees implement Child-safe Child-friendly strategies [Recommendation 4a]. In its response, the Commission states that it will need to investigate statutory options for achieving this outcome and the Committee notes the Commission's recommendations to the Statutory Review (xxix and xxx).

If these recommendations are not adopted then how does the Commission propose to ensure employers of significant risk employees implement Child-safe Child-friendly strategies? How will you evaluate progress toward this goal?

The Commission cannot compel any particular conduct by employers when they engage applicants assessed as significant risk.

Any person convicted of a serious sex offence, murder or kidnapping of a child or serious violence against a child is prohibited from child-related employment. For other applicants with less serious records, employers currently receive advice about the level of risk arising from these records so they can take steps to manage those risks. The scheme does not envisage that the only way to manage risks is by not engaging the applicant.

When an ASA identifies any risk to children from the applicant's history, it contacts the employer to assess the risks within the applicant's proposed role and within the employer's organisation. The ASA then writes to the employer listing the identified risks and possible mitigation strategies. This is part of the AWARE model of risk assessment.

The Commission has developed a program to follow up the employer's management of risks where significant risk applicants are engaged. This program involves contacting each employer in this small group and seeking their advice on how they propose to manage the risk associated with the engagement. Where necessary the Commission will also meet the employer to discuss options. The Commission will confirm the agreed approach and contact the employer after six months to find out how well it has worked.

Attending Child-safe Child-friendly workshops may also be an agreed action. Promoting Child-safe Child-friendly materials and actions in all organisations continues to be a strong focus of the Commission, and will help to mitigate risks associated with high risk employees. It should be noted that under an accreditation model, it will be an offence to employ a

prohibited person and employers will only know if a person does or does not have an authority to work with children.

The Commission is starting this new program in the first quarter of 2010-11.

20. Can you inform the Committee about how the Child-safe Child-friendly training program will be conducted in future? What do you see as the main challenges and opportunities? How will you evaluate the outcomes of the program?

The Child-safe Child-friendly program is a critical part of the Commission's work to keep children in our community safe, and the Commission sees it as the continuing focal point for effective ongoing regulation of employers. It is currently funded by a three year allocation; 2011-12 is the last year of the current funding arrangement.

In 2010-2011, the Commission trialled new approaches for this program, running a large number of short courses as well as the standard full day courses. Courses were run every Thursday for two months at the Commission. Newly registered employers and other employers making inquiries to the Commission were invited to attend.

Attendees were asked what additional support might assist them and a number of additional short courses were identified for development. To meet this demand, modules within the full day course will be developed into additional short courses.

Regional Organisations of Councils and peak organisations have been actively engaged and strong relationships within government and the community have been established to pursue the child safe program.

Work has been undertaken for new employer groups whose contact with children does not require the WWCC. For example, the Commission worked with community language schools, whose teachers are volunteers and do not get checked, so they understood how to provide a child safe environment. Key Child-safe information was also translated into four community languages to continue supporting their needs.

The legislative review is expected to provide new opportunities and directions for the child-safe child-friendly program, as the regulatory and quality assurance functions of the Commission become better defined. The challenges will be in defining the Commission's regulatory roles, and in securing the necessary resources to support this work. The Commission will be exploring possible strategies, including evaluating the current Child-safe Child-friendly program.

21. The Auditor-General recommends that the Commission identify people that have committed a prohibited offence while in child-related employment and advise police [Recommendation 4b]. In its response, the Commission notes that it supports ways to identify people already working with children who present a danger to them and acknowledges that the Auditor-General's recommendation 'is one way to do this'. For such a system to work with the WWCC, there is in the Commission's view, a requirement for statutory change.

How might the Commission's proposals to the Statutory Review provide an opportunity to achieve this outcome?

The Commission has proposed an accreditation model for the WWCC. One of the benefits of an accreditation model, already realised in Victoria, Queensland and Western Australia, is that police can provide alerts when a person authorised to work with children has been charged with or convicted of a new offence. NSW Police already provide this service for the NSW Certificate for Self Employed People. NSW Police are keen to support the WWCC and have advised their willingness to provide these alerts for all authorised people.

The continuous monitoring of authorised people allows the checking agency to act when a person - whose previous record did not suggest a risk - starts to present a risk to children. The Commission proposes that the checking agency be given authority to remove or suspend a person's authorisation if new records indicate a serious risk to children. Employers would need to remove such people from child-related positions, and would have a legal authority for taking that action.

22. The Auditor-General recommends that, in order to improve the reliability of checks, the Commission review its approach to collecting and analysing relevant employment information and review the usefulness of apprehended violence orders (by December 2010). The Commission states that it supports this recommendation and that the current arrangements are due for a full review.

How might the Commissions proposals to the Statutory Review provide an opportunity to achieve this outcome?

The Commission proposed to the legislative review that Apprehended Violence Orders no longer be collected for the WWCC. The submission states the identified problems with AVOs as:

- *The subjects of AVOs are almost always unaware at the time that an AVO could affect future job opportunities, and do not take opportunities to challenge the Order.*
- *AVOs are often sought in the course of bitter relationship breakdowns; when risk estimates are undertaken years later, the applicant may recant, saying he or she did not in fact fear harm from their partner.*
- *It is standard Police practice to list all children of a household in an AVO, whether or not there is any evidence that the Order's recipient presents a particular risk of harming the children, other than the harm caused by an adult partner's fear of violence.*
- *More children are now taking out AVO against peers; these matters are rarely disputed so both sides of the case are not heard.*
- *Recording of information about AVOs is not extensive, so it is hard to get information about the conduct that led to the order.*
- *Consistency with Family Court Orders that cannot currently be accessed.*

AVOs usually last for three years and then lapse. The Act provides that AVOs never lapse for the purposes of the WWCC. These issues raised concerns about the use of AVOs in the WWCC.

This process is not a sound process for records relied on in the WWCC. Other jurisdictions do not use AVOs in their processing except where breaches of AVOs are criminal records that would be considered in all WWCCs.

This is not to say that AVOs cannot contain material that helps to determine whether an applicant poses a risk to children. The Commission proposes that breaches of AVOs be relevant records for the WWCC, triggering a risk assessment. The Commission also proposes that when an applicant has other records that trigger a risk assessment, any AVOs taken out against the applicant are considered in assessing risk. AVOs then would not trigger a risk assessment, but would be considered if another record triggered a risk assessment.

The Commission proposed to the legislative review that Relevant Employment Proceedings needed reconsideration for the Check because of the following limitations:

- *Definitions:* The definitions of reportable conduct in the Act are broad and are variably interpreted by employers and operators, resulting in trivial matters that do not indicate a risk to children being reported. In addition the Commission receives a very low number of notifications in the categories of neglect, psychological harm, ill-treatment and acts of violence. This suggests either a low incidence of such conduct or difficulties in identifying it in the workplace.
- *Thresholds:* The thresholds for reporting to the Commission are complex and lead to confusion amongst employers and operators, resulting in both under-reporting and over-reporting of matters.
- *Employer expertise:* The current provisions require employers to maintain a high level of expertise in making employment decisions, such as determining when conduct causes psychological harm to a child.
- *Review:* There is no legal capacity for the Commission to remove matters that are trivial or demonstrate no risk to children from the database. This can have a significant impact on employees and their future careers, without necessarily being in the best interests of children.

In an accreditation system, the Commission would determine on a “yes/no” basis whether a person can work with children. Any decision not to accredit, including decisions based on REPs, would be reviewable by a court. This might explain the limited use of employment proceedings in accreditation-based WWCC in other jurisdictions.

In other jurisdictions the only employment proceedings that can be considered are those that have been determined through a judicial or quasi-judicial process – like an industrial court determination, or a registration made by a registration or licensing authority.

Again, this is not to say that REPs cannot contain material that helps to determine whether an applicant poses a risk to children. The review is exploring other options for obtaining relevant employment proceedings for use in the WWCC.

COMMISSION'S SUBMISSION TO THE STATUTORY REVIEW OF THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE ACT 1998

23. “The Commission recommends the consolidation of sections 12, 13 and 14 of the Act, with the effective removal of the requirement outlined in section 13(2) that the Commission consult with children in exercising its functions, and, in particular, before making any significant recommendations. The Commission suggests instead that it must have regard to the United Nations Convention on the Rights of the Child.”

Could the Commission advise the Committee as to why it is suggesting "must have regard" rather than a statutory obligation to comply with the United Nations Convention on the Rights of the Child?

The guiding principles contained in the Commission's legislation are aligned with the United Nations Conventions on the Rights of the Child (UN CROC). In particular, that the views of children are to be given serious consideration and taken into account in decisions that affect their lives (Article 12 of UN CROC).

UN CROC places a number of obligations on member states via its 54 Articles and many of these Articles relate to the provision of government supports and services to children and their families.

The Commission is an oversight agency and does not deliver direct services to children, making it inappropriate for the Commission to have a statutory obligation to comply with the

Articles of UN CROC. The Commission is a statutory authority established under its own legislation that:

- Advocates for child-centred policy development and decision-making in government.
- Monitors the impact of policy on children.
- Takes a holistic view of children irrespective of the specific issues dealt with by human service line agencies.
- Develops processes to obtain the views of children to build knowledge and understanding about children's lived experiences.

The Commission's recommendation within its submission to the review of its legislation is consistent with its role, as outlined above, and is also consistent with the provisions contained in the legislation of Children's Commissions and Guardians in other states and territories.

The Commission will continue to work with government to support agencies to uphold and promote the rights of children as part of its broader policy, research, advocacy and monitoring role, and consider articulating these principles in its forward strategic plan.

24. The Commission proposes to retain its principle functions of conducting, promoting and monitoring public awareness [section 11(g)] and research [section 11(h)] but not in relation to training [section 11(f)]. How does the Commission propose to ensure that training in relation to issues affecting children is conducted, promoted and monitored?

The Commission views training as one mechanism available to transfer knowledge about children's lives. The Commission's primary role is to develop this knowledge which is available through its publications and initiatives. As stated in the Commission's response to the legislative review, conducting, promoting and ongoing monitoring of training on these issues is more appropriately undertaken by other agencies.

The Commission has responsibility for child protection issues in work place settings. As part of this work the Commission does provide training and resources to support organisations to become 'child-safe' (see Commission's response to Question 20). The Commission is one of a number of agencies responsible for training and this role will continue in 2010-11.

Review of the 2008 Annual Report of the NSW Child Death Review Team

VOLUME 1: EXTERNAL CAUSES OF DEATH

Mortality Rate

25. Between 1996 and 2008, the directly standardised mortality rates for 0-17 year olds have dropped substantially [Table 5, p.13]. What are the likely factors contributing to this trend?

Annual reporting by the Child Death Review Team (the Team) provides information on patterns and trends in death primarily for surveillance purposes. The reports help identify potential problems such as variations in mortality rates for different causes of death across time, across geographic areas, and across socio-demographic groups.

Where potential problems are identified, some research might be undertaken including the collection of additional information, to understand what the specific problems are and how they might be addressed.

There have been improvements in prevention since 1996: at a primary level in changes to healthier lifestyles and behaviours; at a secondary level in the provision of better health services for screening; and at a tertiary level in improvements in the quality of medical procedures in treating and rehabilitating persons diagnosed with disease or morbid conditions, or suffering from injury.

The Team's report *Trends in Child Deaths in New South Wales, 1996-2005* identified that the greatest changes in mortality rates across that period occurred for infants, where there were substantial declines associated with prematurity, sudden unexpected death in infancy (SUDI), and congenital malformation.

The decline in SUDI appears to be continuing. However the decline in deaths associated with prematurity and congenital malformations has not continued, these deaths have been erratic across recent years.

For teenagers, in comparing the period 1996-00 and 2001-05 there were substantial declines in drug-related deaths and fatal assaults, particularly by other teenagers. Since 2005, however, there appears to be no further trend.

Aboriginality

26. The Committee notes the high death rates for Aboriginal children in comparison to non-Aboriginal children [Table 1, p.40]. Do you have any comments to make about the type and extent of initiatives required to reduce Aboriginal child deaths?

Unless the Team specifically researches the causal factors contributing to death it is not in a position to identify those factors with any degree of confidence.

Without that specific research, advice on factors likely to be contributing to the higher rates can only be offered based on the Team's collective professional knowledge and judgement.

What initiatives would be appropriate to reduce Aboriginal deaths depend on the identification of what the critical risk factors actually are.

Notable in the surveillance statistics is that for the entire period from 1996-2008, deaths from diseases and morbid conditions is twice as high among Aboriginal as non-Aboriginal infants. For one to 17 year olds, the difference in mortality rates is not statistically significant at the 90 per cent level.

For 2008 only, however, the crude mortality rate for Aboriginal infants was 60 per cent higher than for non-Aboriginal infants – substantially higher, but lower than the average across the 1996-08 period. That implies things may be improving for Aboriginal infants, though much work still needs to be done.

The evidence strongly points to the need to evaluate the quality of health services to them.

Most infant deaths are from diseases and morbid conditions.

For the period from 1996-08, Aboriginal infants were more than four times as likely to die from external causes as non-Aboriginal infants, but annually numbers are small and deaths are rare.

Remoteness

27. The CDRT report *Trends in Child Deaths in NSW 1996-2005* identified that those living in remote and very remote areas were three times more likely to die from external causes than those living in major cities [*Trends in Child Deaths in NSW 1996-2005*, p.23]. In 2008, those children and young people in outer regional areas had a

much higher crude mortality rate than other areas [2008 Annual Report, Table 10, p.23]. What factors are likely to be contributing to the higher rates?

Unless the Team specifically researches the causal factors contributing to death it is not in a position to identify those factors with any degree of confidence.

Without that research, advice on factors likely to be contributing to the higher rates can only be offered based on the Team's collective professional knowledge and judgement.

For deaths across the period 1996-08, the difference in mortality rates from external causes of death for those living in outer regional and remote areas is estimated to be over twice the rate of that found in major cities, and a third higher than that found in inner regional areas.

A somewhat different pattern holds for deaths from diseases and morbid conditions, where mortality rates for those living in outer regional and remote areas is estimated to be only slightly higher than was found in major cities, where death rates were comparable to inner regional areas.

That might suggest that health services for the treatment of diseases and morbid conditions are equitably distributed overall; and that other factors associated with external causes are more common in regional, and particularly outer and remote areas.

These might be infrastructural factors (such as the quality of roads, the availability of supervised sports and swimming facilities, and access to good after school care) cultural/behavioural factors, such as a possibly higher risk-taking culture among children and young people in rural areas, or the same risk-taking propensity but higher frequency of risk-taking behaviours, which might be a function of lifestyle alternatives.

Fatal Assault

28. What mechanisms are in place to ensure that NSW Community Services (Department of Human Services) is informed of the trends in fatal assault data in relation to child deaths?

Membership of the Team includes a representative from the Department of Human Services, Community Services.

In addition the Convenor of the Team writes to the Director General detailing the findings of the report and drawing attention to those that are of particular relevance to the work of Community Services.

Suicide

29. The report notes that the form of coding of suicide deaths used by the Australian Bureau of Statistics is conservative and identifies the possibility of underreporting [p.137]. What are the current debates about the type of evidence used to classify a death as a suicide death?

The definition of suicide remains contentious both in terms of the age at which a child is considered capable of taking their life and the evidence needed to say that a suicide has occurred – intent needs to be demonstrated.

Currently NSW Health is examining this issue in their review of the *NSW Suicide Prevention Strategy*.

Sudden Unexpected Deaths in Infancy (SUDI)

30. The Standardised Autopsy Protocol for Sudden Unexpected Death of an Infant, adopted for use in June 2008, was reportedly used in seventeen of the 31 autopsies. For the remaining 14 cases there was no information in the autopsy report to indicate the use or otherwise of the protocol [p.163]. What further steps are required to ensure that the Protocol is used across all cases and that its use is documented?

In its report into sudden unexpected deaths in infancy the Team recommended that pathologists should follow an agreed protocol and make consistent decisions.

In consultation, NSW Health developed a protocol which was adopted in March 2006. In 2007 the Team asked NSW Health to report on the use of the protocol. A compliance review of the protocol was conducted by NSW Health in 2009.

This review found *'little change in the practices of forensic pathologists in the pre and post implementation phases'*. Five recommendations were made to address this. The NSW Forensic Pathology Services Committee has requested another audit to be conducted at the start of 2011 to ensure that the recommendations are implemented and that the Protocol is being successfully implemented. The Team will continue to monitor and report on the use of the protocol.

Illicit-Drug Related Deaths

31. In 2008 the most common illicit drug found in association with the 10 deaths of the young people who died an illicit-drug related death was cannabis. What role does cannabis play in these types of deaths [p.185]?

The purpose of the Team's Annual Report is to identify patterns and trends in child death including identifying the factors that might be associated with particular causes of death such as cannabis in illicit-drug related deaths.

Specific purpose research would be required before the Team could make comment on this issue.

Research to Practice

32. Has there been any evaluation of the extent to which the data in the CDRT report is utilised and whether it is in the most appropriate format for end-users?

The design of the report has developed over time in response to requests for more detailed information and feedback from the members of the Team many of whom represent the government agencies who are critical end users of the information contained in the report. As a result the report now contains both the description of deaths and more detailed data tables.

The report has been designed for a range of audiences including policy makers, researchers, and the community.

To meet the needs of these varied audiences the key findings are presented at the beginning of the report. Detailed information is provided within the various chapters for readers who require more detailed information. The detailed data tables are provided as an appendix.

The Commission distributes the report to a range of interested persons and organisations including non government agencies working to prevent deaths such as YouthSafe, Kids Safe and SIDS and Kids; medical professionals working in particular areas of morbidity and mortality; government agencies including Community Services, NSW Health, Police Service,

Local Councils; Attorney Generals; and relevant national and international researchers and research bodies working in the area.

The Commission also monitors the down-loads of the report to assess interest. The 2008 Annual Report was viewed on the Commission's website 9,690 times from 29 October 2009 to 28 May 2010.

The Team's functions will be transferred to the NSW Ombudsman in November 2010.

33. What mechanisms are in place or could be introduced to assist in ensuring that these research findings result in changes in practice?

The Team monitors and reports on the recommendations it makes. This monitoring continues until the Team is satisfied that the required policy or practice changes have been made.

In addition the government representatives on the Team work with their individual agencies to promote the required change and assist their agency in developing the appropriate mechanisms for achieving the change.

VOLUME 2: DISEASES AND MORBID CONDITIONS

Nationally Comparable Data

34. The Committee notes that the Australian and New Zealand Child Death Review and Prevention Group (ANZCDRT) met on 10 March 2009 [p.2]. What is the current status of the classification framework for system failures in child deaths and a data dictionary to guide the collection and reporting of child deaths?

The work of the ANZCDRT (the Group) is undertaken within the resources of each jurisdiction so the progress of work is dependent on the resources that can be allocated to the tasks.

On 19 April 2010 the Group met to discuss the response to the *National Framework for Protecting Australia's Children 2009-2020*, in particular Outcome 4, Strategy 4.4: *Support the Australian and New Zealand Child Death Review Committee to develop more consistent data to help better understand the circumstances of child death and how these could be prevented.*

The scope of this Strategy includes not only a data dictionary but also a co-ordinated approach to addressing identifying risk factors for child death.

The Group is currently developing a proposal for submission to the Commonwealth Department for Families, Community Services, Housing and Indigenous Affairs (FaCHSIA) that will focus on collaborative research to be undertaken using jurisdictional data. The aim of this work is to investigate modifiable risk factors for particular causes of child death at a national level.

New Zealand has responsibility for the work to achieve a classification framework for system failures. They have been unable to allocate sufficient resources to further develop this framework.

Recommendations 1 and 2 – Meningococcal Infection Prevention Strategies in Aboriginal Communities, Areas of Low Socioeconomic Disadvantage and in Regional Areas [Committee Report 4/54, P.5]

35. Page 367 of the 2008 Annual Report notes that NSW Health does not support these recommendations in their current format and that these recommendations would now be referred to the Department of Premier and Cabinet. Has this occurred and has the Team received a response as yet?

The transfer of the functions of the Team to the NSW Ombudsman was planned to occur immediately following tabling of the 2008 Annual Report. This did not take place with the status of the transfer remaining uncertain until recently.

In the context of the impending transfer, it was determined that the approach to the Department of Premier and Cabinet and subsequent negotiations be deferred for consideration and action by the NSW Ombudsman.

Recommendation 9 – Development of a Definition of Chronic Conditions Excluding Conditions Relating to Mental Health for Children and Young People. [Committee Report 4/54, p.5]

36. Page 367 of the 2008 Annual Report notes that NSW Health does not support this recommendation as the work is outside the scope of the agency and that the Team will now approach WHO regarding this recommendation? Has this occurred and has a response been received?

Before approaching the World Health Organisation (WHO), the Team have undertaken an extensive investigation of the International Classification of Diseases, Australian Modification (ICD-10-AM), developed by the WHO to determine if this classification can be used to identify children with chronic conditions.

These investigations have been positive and work is currently underway to test the approach developed. This approach uses the current ICD-10AM classifications for *personal history and certain conditions influencing health status*. If successful the Team will adopt this approach.

Methods

37. Pages xxviii and 377 of the Annual Report note that data verification undertaken by the Team of case records provided by the NSW Registry in 2008 and again in 2009 revealed a discrepancy of over 250 deaths for the period 1996-2008. Has the Team received a response from the Registrar as to why this discrepancy occurred?

The Registrar has advised that human error in the manual specification of data extraction procedures was the likely cause. To address this, the Register has standardised and automated the data extraction process and transferred the responsibility to the information Services Branch.

38. Page 377 also notes that the Registrar of Births, Deaths and Marriages Victoria (RBDMVIC) has yet to agree to provide information on deaths of children and young people usually resident in NSW in ways that enable the Team to fulfil its monitoring and reporting responsibilities. Has RBDMVIC provided a satisfactory reason as to why they are not able to provide this information, when other jurisdictions are able to?

Like all jurisdictions the RBDMVIC are not willing to provide information that might allow a child to be identified. Agreement has been reached with RBDMVIC on the extent of child specific information; outstanding is what can be reported from the information.

RBDMVIC have adopted the same reporting rules as the Australian Bureau of Statistics (ABS), namely that data cannot be reported when any number is less than five. For example, the Team could report that six females died but not that three of these six females drowned, one died by suicide, and two died as premature infants.

This requirement means that the Team cannot report on deaths within geographic locations if there are less than four deaths of a particular type in a given area. Since some causes of death are rare this is a likely outcome.

RBDMVIC have advised that they are not prepared to deviate from the position adopted by the ABS. The data rules applied by the ABS are part of a larger issue that is beyond the scope of the CDRT.

The changes to the coverage of the Victorian Consultative Council on Obstetric and Paediatric Mortality and Morbidity to include all children 0-17 years makes it possible for the Team to obtain the information it requires through the Council. The Council have provided and will continue to provide the information the Team.

Limitation of Current Analysis Options

39. During the review of the CDRT report *Trends in Child Deaths in NSW 1996-2005*, the Commissioner informed the Committee that the Commission was currently exploring partnerships with institutions and groups who have sufficient authority to analyse smaller data groups [Committee Report 4/54, pp.6-7]. What progress has been made on this?

Investigations of analysis options will require partnerships over an extended period. Due to the uncertainty surrounding the timing of the transfer of the functions of the Team, the Team determined it was best to defer the commencement of these negotiations.

Chapter Three - Transcript of Proceedings

REPORT OF PROCEEDINGS BEFORE

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

REVIEW OF THE 2008-09 ANNUAL REPORT OF THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE AND THE 2008 ANNUAL REPORT OF THE CHILD DEATH REVIEW TEAM

At Sydney on Friday, 3 September 2010

The Committee met at 9.30 a.m.

PRESENT

Mr R. D. Coombs (Chair)

Legislative Council

The Hon. J. G. Ajaka
The Hon. K. F. Griffin
Reverend the Hon. F. J. Nile

Legislative Assembly

Ms M. T. Andrews
Mr S. R. Cansdell

MEGAN MITCHELL, Commissioner for Children and Young People, Level 2, 407 Elizabeth Street, Surry Hills, affirmed and examined:

CHAIR: The Committee has received a detailed response from the Commission to its questions on notice relating to the 2008-09 Annual Report and the 2008 Annual Report of the Child Death Review Team. Commissioner, do you wish this response to be part of your evidence today and be made public?

Ms MITCHELL: Yes I do.

CHAIR: Before we proceed with any questions, would you like to make a brief opening statement?

Ms MITCHELL: Yes I would, Chair.

CHAIR: Before you do, there are two reports as we know it. Could you just give us some indication if you are going to deal with one first and then we ask questions, or are you going to deal with both of them?

Ms MITCHELL: I will just deal with both of them. I am very pleased to be here today before this Parliamentary Committee to speak about the activities of the Commission. I have already had the pleasure of meeting with some Committee Members since my recent appointment and I look forward to building our relationship and sharing ideas and information. In the meetings I have had with Members so far I have been extremely impressed by your commitment to the children of New South Wales and the communities they live in. I note that the Commission's governance arrangements through this Committee give much strength to the Commission's work.

I note that the Committee and the Commission have had and currently have a respectful and productive relationship and I welcome the opportunity to make a positive forward contribution to that arrangement. As Members are aware, I was not in the role of Commissioner or Convener of the Child Death Review Team for the period covered by today's hearing and, as such, if I need to I might seek your indulgence from time to time to call on other members of the staff of the Commission, or to take matters on notice if I cannot accommodate your issues.

The two Annual Reports are helpful in identifying the Commission's strong past achievements and what the current and future focus of the Commission's work and priorities needs to be. One area concerns the future of the Child Death Review Team. I wanted to let the Committee know that I have this week met with the New South Wales Ombudsman who has agreed that the full transfer of the team will take effect in November, after the tabling to Parliament of the 2009 Annual Report. I welcome the clarification around the transfer of the function and the Commission's staff and we are working hard to enable smooth transition of the data and other resources that support the team.

The Commission, of course, will continue to support the good work of the team which culminated in the 2008-09 release of the team's ground breaking report on child death trends over a 10 year period. The Ombudsman has also generously agreed that it is important that the Commissioner, as a member of that group into the future, continues to access and monitor the data that the team analyses and continues to take an advocacy role in terms of policy, system and program reforms to prevent deaths, including providing information and advice to this Committee on an ongoing basis, given the important role this Committee plays, focussing directly on the needs of children and young people.

The 2008-09 year was also a 10 year milestone for the Commission and a number of other significant achievements occurred. Many of those have laid the foundations for the important work that continues today.

The Commission's submission to the Wood Inquiry into Child Protection Services in New South Wales led it to being part of an interagency unit established in March 2009 to develop the Government response to the report of the inquiry. The Commission expanded the Working With Children Check to cover those people not presently included in the Working With Children Check system as a direct result of that inquiry. This includes those who are in self-employed child related work and those who volunteer to work with disadvantaged children or vulnerable children, and adult household members and kin and foster carers.

More recently we have recommended through the review of the Commission's legislation that volunteers who work with children also be subject to the Working With Children Check. This would be consistent with developments in other states and territories. The Commission has also undertaken new activities to increase its auditing and monitoring functions around employer compliance with the Working With Children Check in line with recommendations by the New South Wales Auditor-General's report made earlier this year.

The Commission has been using its auditing powers to ask employers to provide documentary evidence of their activities in relation to the check. We are sending approximately 200 letters a week to child related employers to help them comply with their legal obligations. Our aim is to establish their registration status and ensure they are conducting Working With Children Checks on all relevant employees.

In addition, a number of key employment sectors have attended the Commission's education and training workshops throughout the period of the report and beyond, which aim to support their efforts to be child safe organisations. Enhancing the Commission's capacity to be an effective regulator and quality assurer of organisations that work with children is a critical component of our current and ongoing work. I am happy to expand on the Working With Children Check area when answering the Committee's questions, if needed.

Another interest for the Committee has been the Commission's role as a driver in the development of Child Friendly Built Environments in New South Wales. Following on from two parliamentary inquiries the built environment is a current and ongoing priority for the Commission.

In the 2008-09 reporting period the Commission produced 12 publications, including *built4kids: A Good Practice Guide to Creating Child Friendly Built Environments*. It also released its report of its consultations with kids about this topic. Earlier this year Jan McClelland, as Acting Commissioner, outlined the progress of that project to Parliament and I am happy also to follow up with further details on answering the Committee's questions on notice if needed.

Linked to the built environment is the Commission's work on the middle years of childhood and in 2008-09 the Commission put forward the views of children in its submission to the Committee's Inquiry into Children and Young People Aged 9 to 14. The Committee has clearly articulated in its report on the middle years a strong leadership role for the Commission in this area, particularly in promoting a whole of Government response to the middle years of childhood. This was reiterated by Committee Members in Parliament when the report was tabled in 2009 and I welcome the Committee's continuing interest, support and advocacy in this area. I also look forward to the opportunity this presents for the Commission and the Committee to continue working together to develop new knowledge about this critical and poorly understood area of children's development.

Our submission to the inquiry was one of 24 submissions to formal inquiries prepared by the Commission in the 2008-09 reporting period, the majority of which included the views of children and young people. Seeking the views of children and young people and communicating them back to Government and other stakeholders continues to be a key Commission priority.

As members are aware, in the last 12 months the Commission has experienced an intense period of review of its structure, operations, focus and legislative framework and given the list of questions that the Committee has provided on notice, it is clear that the members are very interested not only in what the Commission has achieved previously, but also the ways we are meeting our commitments and our forward agenda. The Commission is currently in the process of a new strategic planning cycle which will help to clarify our future directions, building on existing commitments and determining where our resources are best targeted to meet stakeholders' expectations. Many of you have already provided input to that process and I thank you for that.

The Committee's questions provide a good opportunity for me to indicate the Commission's progress in building on its past achievements. Thank you for giving me the opportunity to make an opening statement.

CHAIR: Thank you very much for that. We might then go to a question session and I note that there are quite a number of questions here that we have circulated amongst the members. In all likelihood we will not get through all of those questions but I would ask from the outset whether or not you would be happy to receive those questions at a later time?

Ms MITCHELL: Yes.

CHAIR: They would probably go through the same sort of acknowledgement and procedures as questions on notice.

Basically, what do you see as the major issues which the Commission will have to deal with in the medium term, say the next two or three years, and in what areas relating to children and young people do you envisage that the Commission will have to most concentrate its resources?

Ms MITCHELL: In the medium term, I am thinking that would be the next three years as a medium term.

CHAIR: Yes.

Ms MITCHELL: From my analysis of what the Commission is involved in at the moment, there is quite a lot of unfinished business that needs to be dealt with, in particular in the area of the built environment where we are working with partners to review the efficacy of the *built4kids* document and resource material and forming additional partnerships with planners and local councils, and in particular embedding the practice of consulting with kids in the planning and design of public spaces. That is an area where we are continuing to implement the recommendations of the inquiry into the built environment and I think that will take us probably another 18 months to complete the recommendations that have been set for the Commission to undertake.

In terms of the middle years inquiry, there is quite a lot of work that could take us into both the medium and longer term, in particular undertaking research on the developmental, social, emotional and physical issues around the middle years and producing publications that help inform understanding about children in that area. We are also committed to working with the Department of Community Services within Human Services on a pilot

program for integrated interventions for that group and we are also building a picture of New South Wales children. We hope to have a first publication early next year, which will have a focus on the middle years, profiling their demographics, their characteristics and promoting their understanding of the middle years. Those are some of the medium term priorities in those two areas.

We are also very keen to review and revamp our capacities in engaging with children and young people, including for that middle years group, which is potentially a group that we have not engaged with as much as other groups and so we are wanting to look at what are the contemporary methods of engaging kids and helping them to participate in decision making and in research.

Obviously a key part of our work going forward will be implementing the recommendations of the legislative review of the Commission and while we can anticipate some of that, it is a matter for the Government to make some decisions about where it wants to go in that area and obviously we will be implementing those changes. Regardless of that, we need to continue to implement the Auditor-General's recommendations from its report earlier this year, to streamline the check and to better regulate the check and child safe organisations and we will continue to do that, regardless of what decision the Government makes on the future of the Working With Children Check system.

CHAIR: Regarding your future work, and I think this Committee is recognised as a proactive one, taking into account of course the 9-14 years old report, the Kids in the Built Environment et cetera, in analysing and setting a future direction do you feel that the Committee can in any way assist in recognising those goals? It is a two-way street here and we would be very open to any suggestion that you might make in relation to us giving assistance to realising that direction. Secondly, I suppose, and it will probably come out of the review that is currently being undertaken in relation to performance indicators, do you think that there will be a requirement to revisit those indicators and make appropriate amendments?

Ms MITCHELL: In terms of our annual reporting or in terms of the indicators in the built environment?

CHAIR: We are talking about overall performance.

Ms MITCHELL: At the moment our Annual Report reflects a results-based accountability approach, so it has planned results, some intermediate results and some results, that is how it is structured. While I think there is some good information in there, I do believe as part of the strategic planning that we are doing now that it would be appropriate, and the Committee's suggestion is welcome, that we review the indicators that we have in place and that we could have in place and we build a more robust accountability framework through the annual report. We will look at, as the Committee suggested, other reports that might be considered to be best practice and also that of other commissions around the country and potentially overseas as well, to see how we can build better and more robust accountability indicators.

CHAIR: With the Child Death Review Team transfer of functions, what does that actually mean physically to the Commission? Does that mean that you will lose people, that you will lose resources, or will they stay within the group? How is that transfer actually going to take place, in anticipation of it happening?

Ms MITCHELL: In anticipation of the transfer we have not sought to fill positions as they have become vacant. In fact, while resources and positions will transfer to the Ombudsman, people will not and that has been agreed with the Ombudsman. We will relinquish \$220,000

of salaries to the Ombudsman for that purpose and I understand that the Ombudsman has an agreement with the Government to augment that as well in order to do the functions.

CHAIR: In future hearings it will be the responsibility of the Ombudsman to answer any questions and outline future directions of the Child Death Review Team?

Ms MITCHELL: The Ombudsman has a preference to report to only one Committee and that was the import of my comment previously. If that is the case, I would seek to continue to provide this Committee with information as a member of that team, because I think it is really critical information for the welfare of children for this Committee to be aware of and assess against other information that it has in front of it.

CHAIR: I agree with that, but the point I am trying to get to is it will be the responsibility of the Ombudsman, will it not, and please correct me if I am wrong, to prepare papers in relation to annual reports and the like in relation to CDRT responsibilities?

Ms MITCHELL: Yes, that is right. That is correct.

The Hon. KAYEE GRIFFIN: Just following on from the last comments of the Chair, I am sure that the Committee would certainly want to be able to still access information in relation to trends because of the effect it does have on the rest of the work of the Commission and obviously the oversight role that this Committee plays. I hope that when the transfer does take place that obviously that information is going to be able to come to this Committee via yourself. That is just a comment. My question would be, and this is a future thing, if you, as Commissioner, impart that information to this Committee what sort of process would there be for us - it is probably very much up in the air at the moment because this Committee would obviously want a process to be able to go back and get further information or question some of the trends and so on with the Child Death Review Team, so I suppose that really is not a question that can be answered at the moment. Could I go on to the participation of children and young people within the Commission? What has been the impact on the Commission to date of bringing the Youth Advisory Council under the auspices of the Commission?

Ms MITCHELL: I will have a go at this but I might have to defer to my colleagues. My understanding is that the support for the Youth Advisory Council, being within the Commission, was only for a period and in fact at this juncture supporting the Youth Advisory Council is now again one of the functions of Communities NSW. So while there was a brief time where that was a function of the Commission and the Commission worked with that council, and I believe one of the things that it worked closely with that council on was around youth homelessness, including conducting a forum on youth homelessness, that function is now with Communities NSW. The impact has been the ability to establish a relationship with it and I think that is a good thing and I really think that the Commission should have a relationship with the Youth Advisory Council in some way, noting that that council is the Minister's council.

The Hon. KAYEE GRIFFIN: Does the Commission have a representative on that council?

Ms MITCHELL: No, but we also obviously have a committee of young people. The Commission has another committee of young people called the Children and Young People's Reference Group and it has a number of young people of various ages on that as well.

The Hon. KAYEE GRIFFIN: Given that there is the Youth Advisory Group, the Young People's Reference Group, Kids Advisory Panel and so on, is that sufficiently representative, in your opinion, or perhaps the Commission's, in terms of dealing with some

of these issues, remembering the work that is already going on with the built environment and also the middle years, or the outcome of the middle years inquiry? Are those groups sufficiently representative of, say, marginal groups, and that is: children and young people with a disability, rural and regional young people, Aboriginal and Torres Strait Islander children and young people and children from culturally and linguistically diverse communities? Do you think that those three groups can cover all of that, or is there a need for some other specialist groups, perhaps committees that may need to be formed to look at specific areas?

Ms MITCHELL: I do not know the composition of the Youth Advisory Council in detail but while the reference group has young people from around the State, so from rural areas, and there is a level of diversity of experience and background, I would have to agree with you that those 12 young people do not represent a sufficient diversity of interests and neither could 12 young people, I think, of children and young people across the State. In all of the projects that the Commission does we will need to ask children about their experiences and their views from diverse communities. This is an area for reviewing and revamping our consultation strategies and we will do that as part of our ongoing program of work, in the built environment and the middle years in particular. We will seek to build access to a range of kids from a range of communities and we will document how we will do that as well, so that you can be assured at the end of the day that that has happened.

The Hon. KAYEE GRIFFIN: In your opening address you spoke about the built environment and councils that the Commission was working with. Which councils is the Commission working with on the built environment at the moment? The question can go on notice.

Ms MITCHELL: We will take it on notice and I will get back to you on the detail of that partnership, but I think there are other opportunities as well through the Committee that this Committee recommended be established. We have now got that process in train to form other partnerships with other councils and I think there was quite a lot of appetite for that at the round table that the Committee sponsored. So I think there are many other opportunities, especially in areas where there might be more diverse kids from diverse backgrounds and I would be very supportive of that.

Rev. The Hon. FRED NILE: Following up that area in question, as you know your Commission now has responsibilities for this extended age group not just up to 18 but to 25, and particularly representation of young people. What impact is that having on the Commission and its work focus?

Ms MITCHELL: Well again, this is another area where for a brief period we had responsibility for youth policy and now that function has transferred back into Communities NSW, so in fact at the moment unless the legislative review recommends something different, we remain focussed on 0-18 years old, so it has not had an impact yet. If that review recommends a change to 0-25 or 0-21, then we would obviously need to think through the resourcing implications and where we target resources. All the other commissions across Australia have a focus on 0-18. The reason is because they are the most vulnerable children and young people who do not have other ways of organising and having representation.

Rev. The Hon. FRED NILE: You are happy to keep the Commission's focus on that age group up to 18?

Ms MITCHELL: Yes, I am.

Rev. The Hon. FRED NILE: I note too that in the background material that you have an involvement with the Child Injury Prevention Reference Group and it is apparently chaired by you or someone on the Commission. Are there any other interagency groups that the Commission chairs or is responsible for, or is it particularly the Child Injury Prevention Reference Group?

Ms MITCHELL: We do chair that group. We will also chair the steering group on the built environment. We are just about to establish that one as well. The extent to which the middle years work might involve interagency work, there might be a capacity there to chair a group moving forward as well. We are certainly participating on groups to do with the middle years, along with the Department of Human Services. We are participating on a range of other groups but those two, I think, are the main ones that we chair.

Rev. The Hon. FRED NILE: Do you personally chair those groups, or do you allocate them to staff members?

Ms MITCHELL: No, I will chair them. If there are other groups that I do not know about we will let you know.

Rev. The Hon. FRED NILE: You will take that on notice?

Ms MITCHELL: Yes, okay, thank you.

The Hon. John AJAKA: Can I ask you the money questions? I know that certain aspects are now leaving your Commission and, for example, going to the Ombudsman and of course with that goes money. At the end of the day when you become positioned do you consider that your Commission is sufficiently resourced to meet the targets you want to meet, to meet the short-term goals?

Ms MITCHELL: The Commission has 58.4 staff. 22.4 of these are currently conducting the Working With Children Checks. We have also a number of vacancies at the moment as we are in the middle of a staff freeze as well and we are also pending the result of the legislative review, so at present I would say we do not have the full complement of resources that we need to do all the work that we need to do to the quality that we would like. As I said, we are in the middle of a strategic planning exercise and part of that exercise is to allocate resources to functions. I would be in a better position to answer that question when we finish that exercise and we also know where the legislative review is taking us, because clearly if there is a massive change to the Working With Children Check system and the regulation of it, we will need to think about the resources required to develop new systems, retrain staff, build new regulatory models, build new business rules, do research into new risk assessments, et cetera, and all of that is a bit of an unknown. We are trying to anticipate that at the moment and are doing quite a lot of work, modelling what that would involve and I would like to take the opportunity to come back to the Committee when we have a strong view of the resourcing implications and what our current structure and resource needs are to meet that challenge.

The Hon. John AJAKA: Keeping that in mind, what would assist me and, I believe, the rest of the Committee, is when this occurs it would be easier for me if you said in the simplest terms, "John, we need to do project X. We are unable to do it because we have a shortfall in our budget of half a million dollars". We can then look at what the project is, the importance of that project, can that half a million dollars be found, as opposed to the would you like more money type question, which means absolutely nothing because the short answer would always be: Yes please.

The other side of the coin may be that we really should not be dealing with projects A, B and C any more. The amount of money going into them cannot justify the ultimate result. If we took that money and put it in these other projects, that would give us a far better outcome. That is the type of basic information I would like when you are ready to convey that. That would be most helpful.

Ms MITCHELL: Okay.

The Hon. JOHN AJAKA: Can I go to another area, and this comes from listening to the television? Lately there has been a lot of talk about increasing mental health problems with young people and it is always very scary when you hear that, and then you hear some of the factors being mobile phone in their bedrooms, computers in their bedrooms and all of these other weird and wonderful aspects. Is the Commission looking at the aspect of mental health? Is it just something where we are hearing there is an increase and in fact it does not exist, or is it in fact increasing?

Ms MITCHELL: In the work on the middle years, the Commission is and will be looking at issues to do with mental health. It is certainly active with partners in that area in terms of gathering information about the reality and the perception of mental health issues for young people. There is quite a lot of evidence to suggest that the complexity of the contemporary world is at least highlighting that mental health is an issue for young people and it is an issue earlier in their lives and I think it is something that we really should be keeping a very strong handle on.

I was reading a report on homeless men the other day and that report indicated very high levels of mental health problems that manifested themselves quite young in their lives for them to get to that point. I do think there is probably a lot there in terms of people who experience mental health problems early in life which is either not detected or not treated or addressed and then the trajectory of those young people into adulthood is not a particularly positive one. I think it is a real issue. The extent to which it is, I think, is where the Commission can do some work with partners who have the expertise in this area. Certainly as part of our project on the middle years these will be a focus on that.

The Hon. John AJAKA: I cannot remember the exact name of the Commission that Stepan chairs, I think it is the Community Relations Commission, but is much work being done by your Commission in relation to the area of multiculturalism, ethnic affairs and the issues being faced by children from differing backgrounds and whether any certain groups feel that they are being singled out, or vilified, or finding it very, very difficult to adjust because of their very different culture?

Ms MITCHELL: My answer would be I do not think that the Commission is doing much in that area.

The Hon. John AJAKA: Is that a yes we are not or a yes we are?

Ms MITCHELL: Yes we are not. Personally I think it is an area where we have to do a lot more, as part of that engagement strategy I was talking about reviewing and renewing. We need to get much better at connecting into those communities. I think that some relevant work will be in the picture of New South Wales children. There will be some information in there that will help us understand and profile the diverse communities of young people. The next challenge is to get to those young people and to hear what they have to say about their lives and their perception of their lives. I do think they will be very different. They will face particular challenges that we need to understand better. It is a priority for me, so we will seek to advise you further on how we have managed to do more in that area.

The Hon. John AJAKA: If you can check with Stepan and his Commission, maybe there could be a very good synergy between the two Commissions because they may have already done quite a bit of the work, but they are focussing generally whereas you are focussing on that specific area of young people.

Ms MITCHELL: Yes.

Ms ANDREWS: Commissioner, I think we all recognise that governments and society as a whole have done quite a lot to help young children with disabilities but could you outline to the Committee what programs the Commission has implemented or is planning to implement relating to children with a disability?

Ms MITCHELL: I am going to need to take that one on notice. I know that there was some previous work done in this area but I am not particularly familiar with it, so I will provide that information.

Ms ANDREWS: Can you also tell us if you are planning to implement further programs in that area?

Ms MITCHELL: In terms of the future plans what I am hoping to do is, as I mentioned, link those sorts of issues into the ongoing commitments we have, in particular the built environment, and you can imagine there is a critical link there for kids with disabilities being able to access the built environment, but also in terms of the middle years— very much trying to link the ongoing commitments we have with a focus on vulnerable kids, including those with disabilities.

Ms ANDREWS: The Committee notes that the Commission's Annual Report is now available on the web site as a PDF download. Is the Commission considering providing a PDF alternative file type that might be more accessible for blind or visually impaired persons?

Ms MITCHELL: We will examine that. I think that is a very reasonable suggestion and I think if we are an accessible organisation our information should be accessible to everybody who would like to look at it.

Ms ANDREWS: Will the Commission advocate the use of a child impact statement by departments in the development of whole of Government policies and programs as recommended by the Joint Standing Committee in its report *Children and Young People Aged 9-14 Years in New South Wales: The Missing Middle?*

Ms MITCHELL: Thank you for that question. There has been quite a lot of debate about whether a standalone child impact statement is an appropriate approach or whether another approach might be to embed the culture of considering children's issues in the design of policies and programs and I think that debate is yet to be resolved. I am very happy to take the notion to Government, noting that there may be other ways of achieving the same end.

Mr CANSELL: Commissioner, it seems that the Working With Children Check is consuming a major part of your budget, 22-odd people if we concentrate on that. Does the Commission work in cooperation with other agencies or do you believe that this really should be moved away from the Commission for Children and Young People so you can focus on more relevant projects and research into problems that our youth are facing?

Ms MITCHELL: Thank you for that question.

Mr CANSELL: I am happy for you to take it on notice.

Ms MITCHELL: I think I can answer that question. There are still several agencies conducting Working With Children Checks, including the Commission. In fact the Commission's work on operating the Working With Children Check, those folk that do that, the 22 people you spoke about, actually now already report directly to Communities NSW, so that separation has started to occur. Because of the past relationship with those people doing the check it is still a very close relationship on a day-to-day basis and will be for some time, especially as the check changes and reforms itself. So I agree with you that the way of the future, regardless of how the check looks and feels, is a screening agency that operates that check, located somewhere within Government. At the moment it is within Communities NSW and possibly with some of those other screening agencies in some of the other departments also amalgamated within that check to create efficiencies, that would in fact free up the Commission to focus more on the policy, advocacy, research and regulatory work to do with the check and child safe organisations more generally.

Mr CANSDELL: It was brought up a few times around the table over the last couple of years that families with disadvantaged children, disabilities, multicultural issues, these are things I think the Commission would be far better concentrating on, rather than doing the policing and checking and people's status.

Ms MITCHELL: Yes.

The Hon. John AJAKA: Commissioner, going back to the built environment and the cooperation of councils, it would be good from our perspective, and I hope it would not happen, if you find that you are not receiving the appropriate cooperation from councils that you let us know. When we look at the built environment and I think we mentioned it at the round table, you have this situation for example just in my own area where you will have a little park that is never used by anybody, there are no resources there whatsoever and if you move along there is an absolutely fabulous large park that is also not being used by anyone because there are no resources, and yet people will hop in their cars and drive kilometres away to find something. Councils, from my perspective, are not doing enough to properly resource a fundamental area. They seem to be focussing on leaving existing small parks that do not seem to be achieving anything for the youth of today. If you could focus on that as well and get back to us on that it would be really helpful.

Ms MITCHELL: I am happy to do so. One of the benefits of the new committee that this Committee has recommended be established around the built environment is that it will have on it representation of the Local Government and Shires Association and they seem to have a lot of goodwill towards this project and so I think that would be a great inroad into the councils of New South Wales.

CHAIR: Should we have any further questions, as I have already indicated, I suggest that we put these questions to you on notice and you might respond to us in written form.

(The witness withdrew)

The Committee adjourned at 10.19 a.m.

Chapter Four - Questions Answered After The Hearing

Review of the 2008-09 Annual Report of the Commission for Children and Young People

QUESTIONS TAKEN ON NOTICE

1. On page 6 of the transcript the Hon Kayee Griffin asked: In your opening address you spoke about the built environment and councils that the Commission was working with. Which councils is the Commission working with on the built environment at the moment?

In November 2007 the Commission partnered with Wollongong City Council to document its planning procedures, identify opportunities to improve participation with children and young people in decision making and develop a 'good practice guide' for local government. Although a decision was taken not to release the documentation because it was too specific to the experiences and practices of Wollongong City Council, some aspects of this work was incorporated into *built4kids* and the Commission developed a better understanding of the operations of local council in relation to the built environment.

The Commission is currently working with local councils involved with the Child Friendly Cities Network which include, but are not limited to: Wollongong City Council; Auburn City Council; Penrith City Council; and Shellharbour City Council. The Commission will host a meeting of the Child Friendly Cities Network in February 2011.

The Commission has also written to key NSW government agencies and non-government organisations inviting them to participate on the Children, Young People and the Built Environment Advisory Group. The Local Government and Shires Associations, the peak industry bodies for local government in NSW, have been invited to participate on the Advisory Group.

Finally, up to 35 local councils will be invited to participate in a survey of local councils that the Commission is funding Griffith University to undertake to: determine how *built4kids* is being used by local councils and other professional sectors; the impediments to implementing the principles and practices outlined in *built4kids*, especially consultation with and inclusion of children; what changes are required to support the implementation of the principles and practices outlined in *built4kids*; and how the *built4kids* principles and practices impact on planning processes.

2. On page 6 of the transcript Rev the Hon Fred Nile asked: I note too that in the background material that you have an involvement with the Child Injury Prevention Reference Group and it is apparently chaired by you or someone on the Commission. Are there any other interagency groups that the Commission chairs or is responsible for, or is it particularly the Child Injury Prevention Reference Group?

The Commission currently chairs the following inter-agency groups:

- Child Death Review Team
- Approved Screening Agencies Group
- Child Injury Prevention Reference Group

Questions Answered After The Hearing

- Children, Young People and the Built Environment Reference Group (inaugural meeting to be held in October 2010)
- NSW Advisory Panel on the Middle Years of Childhood (NSW government agencies will meet at the Commission in November 2010 to inform the membership of this group).

The Commission is also represented on the following inter-agency groups:

- Australian Children's Commissions and Guardians Forum
- Housing and Human Services Senior Officers Group
- Communities NSW Joint Services Planning Working Groups (volunteering, Western Sydney, regional NSW and data)
- Senior Officers Committee on Mental Health
- Senior Officers Committee on Drugs and Alcohol
- Premiers Council on Active Living
- Obesity Senior Officers Group
- Sudden Infant Death Advisory Committee
- Australian Research Alliance for Children and Youth (ARACY) network
- University of NSW Arts and Social Sciences, School of Social Sciences and International Studies, NSW Children's Court Advisory Committee Group.

3. On page 8 of the transcript Ms Andrews asked: Commissioner, I think we all recognise that governments and society as a whole have done quite a lot to help young children with disabilities but could you outline to the Committee what programs the Commission has implemented or is planning to implement relating to children with a disability?

The Commission works in partnership with NSW human service agencies as part of its broader policy, research and advocacy work as well as on its specific projects. It is the role of human service agencies, and not the Commission, to deliver services and programs to specific groups of children.

In relation to children with disabilities, the NSW Government agencies with specific portfolio responsibilities to children with disabilities include: Department of Human Services, Ageing, Disability and Homecare; Department of Human Services, Community Services; the Department of Education and Training; and the Department of Health.

As reflected in the Commission's submission to the statutory review, the Commission has a broader mandate of promoting the views and interests of children across government and all of its human service agencies. Issues relating to disability are addressed through the Commission's work on preventing child death and injury. Information about children with disabilities will also be included in "A Picture of NSW Children" that the Commission is developing in collaboration with the University of NSW Social Policy Research Centre.

ADDITIONAL QUESTIONS

Organisational Issues

4. The Committee notes some applications for funding in 2008-09 were unsuccessful. Does the Commission conduct reviews of unsuccessful funding applications?

The Commission's 2008-09 Annual Report refers to two projects that did not receive funding. These projects were *Children's understanding of poverty* and *Ethical issues in*

children's participation in research. The Commission supported the applications for funding that were made to the Australian Research Council (ARC) Discovery Project by both RMIT Melbourne and the Queensland University of Technology respectively. Only universities or similar academic institutions can apply for ARC Discovery grant funding. Feedback was provided to the universities as to why the applications for funding were not successful.

Consultants

5. What kind of specialist knowledge and expertise was required by the Commission to perform its responsibilities in 2008-2009?

The projects that consultants were engaged to provide specialist knowledge and expertise in 2008-09 were:

- Development of the business case to meet NSW Treasury requirements to fund the replacement of the Employment Screening System.
- Review of the Working With Children Check relevant employment proceedings to improve policy and practice.
- Specialist technical advice concerning IT communications and communications upgrades.
- Designing and facilitating workshops to build the capacity of Aboriginal men to tackle child sexual assault.
- External review of IT project implementation.

Consultant	Project title	Project description	Cost
BSR Solutions	Employment Screening System Upgrade	Development of the business case to support the Commission's proposal to fund a new Employment Screening System Review	\$49,500
C Quinn Consultancy	Review of Relevant Employment Proceedings	WWCC relevant employment proceedings to improve policy and practice.	\$9,227
Sage Consulting	IT Communications	Specialist advice to resolve software issues impacting on critical communications systems	\$1,920
RPR Consulting	Building the capacity of Aboriginal men to tackle child sexual assault	Designing and facilitating of workshops	\$3,400
Teknowledge	ESS Online System Development	External review of project implementation of the ESS Online System	\$360

6. If you anticipate engaging consultants in the coming year, could you elaborate on your plans and reasons for doing so?

In 2010-11 the Commission will engage BSR Solutions who were responsible for preparation of the business case used to secure the funding for the rebuild of the Employment Screening System. BSR Solutions have been involved with the project from its inception and have experience in IT business services as well as experience in NSW government IT operations and procurement.

BSR's involvement in the development phase of the project will be minimal, as they will only assist in providing advice on the project at key points throughout the development period. It is envisaged that no other external consultants will be engaged for the project although specialists in software/hardware configuration may be required for "one off" jobs.

Children and Poverty

7. In answer to Question on Notice No.6 the Commission states that funding for research based on sociology of childhood, has not been successful to date. Does the Commission intend to continue to seek funding for this research?

In the next 12 months, the Commission does not intend to seek funding for this research as the work program for 2010-11 has been set. As previously communicated to the Committee, the Commission will focus on: the built environment; the middle years of childhood; injury prevention; reporting on complaints made by children; developing "A Picture of NSW Children"; and developing appropriate consultative methods with children and young people. However, this issue will be reviewed in 2011-12 as part of the Commission's regular forward planning process. In 2010-11, the Commission will continue to consider the issues around poverty across all of its priority areas.

8. In answer to Question on Notice No.6 the Commission identifies a number of organisations that undertake research or deliver services to children affected by poverty. How will these partnerships be structured and what specific functions would the Commission undertake?

The Commission will continue to monitor the issues for children living in poverty via "A Picture of NSW Children".

There are a number of agencies that already undertake research and/or deliver services to children affected by poverty such as the Benevolent Society, the Smith Family, Mission Australia, the Brotherhood of St Laurence and the Salvation Army.

As outlined above, the Commission's work program for 2010-11 has been set. If the Commission is able to undertake this work in 2011-12, its role within these partnerships will be to support the development of research and policy responses that are child-centred and informed by children's perspectives of poverty.

Monitoring Well-being

9. What priority will be given to the monitoring of well-being using the indicators framework and what resources will be committed to this area in future?

The Commission developed an outcomes framework for monitoring children's well-being following the release of its research report *Overview of Children's Understandings of Well-being*. In this study, 126 children and young people were interviewed about what well-being meant to them.

In order for the Commission to monitor children's well-being using this framework, new data sources are required as the information is currently not collected. However, developing new data collections requires a long-term commitment and resources.

In the interim, the Commission is focusing its efforts on publishing "A Picture of NSW Children" which will report against data already collected about NSW children.

The Commission will release this report in 2010-11. This report will contain descriptive information and statistics on children in NSW and is intended to be a resource for government, policy and research professionals and the community about children in NSW.

10. If, as recommended by the Commission in its submission to the Statutory Review, well-being is made the paramount focus of the policy and research role of the Commission and of the guiding principles, what impact will this have on your future annual reporting?

Three principles identified in Section 10 of the *Commission for Children and Young People Act 1998* underpin the Commission's work. These principles are:

- a) The safety, welfare and well-being of children are the paramount considerations.
- b) The views of children are to be given serious consideration and taken into account.
- c) A co-operative relationship between children and their families, and between children and their community, is important for the safety, welfare and well-being of children.

The Commission's submission to the statutory review recommended removing the references to 'safety' and 'welfare' as they are recognised as aspects of well-being. Therefore, there will be no impact on future annual reporting.

Submission to the Statutory Review of the Commission for Children and Young People Act 1998

11. How can the Commission promote the United Nations Convention on the Rights of the Child within NSW policies and services, in addition to its participation in the national policy development forum?

Australia is a signatory to the United Nations Convention on the Rights of the Child (UN CROC). As part of its obligations under the international human rights framework of the UN, Australia is legally required to ensure that its treaty obligations are implemented and enforced.

Securing the rights of children under UN CROC is the responsibility of governments at all levels and the community. By working in partnership with government agencies, non-government organisations and individuals in the community, the Commission has a role in promoting UN CROC as part of its policy, research and advocacy work as well as through its projects. In 2010-11, these include: the built environment; middle years of childhood; injury prevention; reporting against complaints made by children and young people; and developing appropriate consultative methods with children and young people. The Commission has integrated the principles of UN CROC into this current strategic planning process.

12. What are the challenges to developing an ongoing advocacy program in relation to the Convention in the NSW context?

As outlined in the Commission's response to Question 11, securing the rights of children under UN CROC is the responsibility of governments at all levels and the community. The Commission's role in relation to UN CROC is to work in partnership with others to ensure that the rights of children are upheld. There are opportunities that exist within all aspects of the Commission's policy, research and advocacy work as well as its specific projects to advocate for greater compliance in NSW against the Articles of UN CROC.

The key challenge for the Commission is that rights are indivisible and the 54 Articles contained in UN CROC cannot be considered individually. This creates significant complexity for the Commission in:

Questions Answered After The Hearing

- Advocating for child-centred policy development and decision-making in government.
- Monitoring the impact of policy on children.
- Taking a holistic view of children irrespective of the specific issues dealt with by human service line agencies.
- Developing processes to obtain the views of children to build knowledge and understanding about children's lived experiences.
- Preventing harm to children in the work place.

The challenge is not unique to NSW and exists in all jurisdictions. The Commission is a small agency and cannot undertake this work alone. In order to develop a comprehensive advocacy program in NSW in relation to UN CROC, the Commission would need adequate resources to undertake this work over a longer term.

13. The Commission proposes not to retain its principle function of accrediting counsellors and programs for individuals convicted of sexual offences against children. Which organisation would fulfil this function in the absence of the Commission?

The Commission has suggested that accreditation of professional counsellors may be more appropriately done by another body. The Commission will enter discussions with alternative agencies, including NSW Health, about the best approach for the future management of this accreditation program. Until an alternative approach is agreed, the Commission will continue to accredit child sex offender counsellors.

Review of the 2008 Annual Report of the Child Death Review Team

ADDITIONAL QUESTIONS

Organisational Issues

14. How might you summarise the main achievements of the Team during the 2008 reporting year and what set-backs, if any, did you experience?

The Child Death Register was redeveloped based on the findings of the study *Trends in Child Deaths in New South Wales 1996-2005*. This included the addition of the International Classification of Diseases, Australian Modification (ICD-10-AM) codes for classifying the psychosocial and socioeconomic circumstances of the children and their families and where relevant, the health services accessed. The Team identified that these codes do not allow all the information required to be captured such as final school year examination stress, school bullying, problems related to sexual identification, problems in relationships with friends, domestic violence and drug abuse in the family. The Team approached the lead author for the ICD-11 revision to include additional child specific codes in the classification. Over the coming year the Team will continue these negotiations.

The definition of chronic conditions for children and young people has been challenging for the Team. In 2009 the Team commenced an investigation of the use of the ICD-10-AM for this purpose. These investigations have been positive and work is continuing to test the approach developed. If successful the Team will adopt this approach for future reporting.

The Team developed its research proposal to examine the demographic profile and risk factors, causes of death and circumstances of neonatal sudden unexpected deaths in order to consider prevention in greater depth. The research follows from the Team's previous reports *Sudden Unexpected Deaths in Infancy: the New South Wales experience (2005)*

and *Trends in Child Deaths in New South Wales 1996-2005 (2008)* which included an examination of sudden unexpected deaths in infancy.

The transfer of the functions of the Team to the NSW Ombudsman was planned to occur in June 2009. The Team negotiated this transfer to occur immediately following tabling of the 2008 Annual Report.

15. The Committee appreciates that the Team maintains the register of child deaths, classifies those deaths and analyses the data to identify patterns and trends relating to those deaths. To what extent is the Team formally or informally aware of the Report being used to inform policy decisions throughout NSW?

The Team influences policy decisions directly through the recommendations it makes and monitors.

Recent examples include:

- The NSW Department of Education and Training developed *Supporting students in the HSC years of schooling: Information for Schools and Managing Students at Risk of Suicide* for school counselling staff.
- The *School-Link* program includes a module on how to assess and manage depression and related disorders.
- Department of Education and Training provided information on coping with study related stress to address suicide deaths that occur in this context.
- The Motor Accidents Authority (MAA) Board has identified the reduction of driver deaths of under 16 year olds as a priority for its next few years and has incorporated it into the MAA's Road Safety Plan.
- NSW Health Policy Directive *Deaths- Management of Sudden Unexpected Deaths in Infancy*.
- NSW Health Standardised Autopsy Protocol for Sudden Unexpected Death of an Infant (NSW).
- Amendment of the *Swimming Pools Act 1992* to address issues related to swimming pool fencing.
- Establishment of the Injury Prevention Reference Group to assist in the integration of injury policy and service delivery in incidents concerning off road bikes, falls from windows and safe alternate transport for young people.

Indirectly the Team's Convenor and members work collaboratively with others to effect change. This includes influencing through giving presentations, committee membership, providing policy advice, promoting findings, and the take up of recommendations and research information.

16. Were any potential problems identified in the 2008 Annual Report the subject of research by the Team?

In preparing the 2008 Annual Report the Team identified the sudden and unexpected deaths of neonatal infants as requiring further investigation. In 2009, the Team obtained approval from the Minister to undertake a research study to examine the demography and risk factors, causes of death and circumstances of neonatal sudden unexpected deaths in order to consider prevention in greater depth.

The research follows from the Team's previous reports *Sudden Unexpected Deaths in Infancy: the New South Wales experience (2005)* and *Trends in Child Deaths in New South*

Wales 1996-2005 (2008) which included an examination of sudden unexpected deaths in infancy.

Substantive Issues

17. The 2008 Report indicates that drowning deaths occur in different bodies of water such as swimming pools, bathtubs and natural bodies of water (both still and flowing) as well as amongst different age and cultural groups. Is there a particular cause of drowning that you consider requires increased intervention?

Drownings in private swimming pools or spas are a particular concern and the persistence of the pattern of children aged 1-4 years accessing a pool without the knowledge of their parent or other carer via a pool gate or latch in a state of disrepair is alarming. The Team believes that drownings in private swimming pools or spas are among the deaths which are most straightforward to prevent.

In 2008 the Team recommended that the *NSW Swimming Pools Regulation 2008* require local authorities to inspect all swimming pools notified within their area and monitor compliance with the legislation. The Team believed that this could occur through councils developing a plan for inspection and monitoring over a period of years, and reporting periodically against the plan.

In responding to this recommendation this year the Department of Local Government advised that following a comprehensive review, the *Swimming Pools Act 1992* was amended in December 2009. Based on research, a cost-benefit analysis and extensive community consultation undertaken as part of that process, a mandatory swimming pool inspection program by local authorities was not introduced. It is the Departments' belief that the most effective way to keep young children safe around backyard swimming pools is to ensure that they are responsibly supervised at all times.

The Team strongly recommends that the NSW Government provides local councils with adequate resources to ensure monitoring and compliance against the requirements of the legislation.

18. Four of the 12 children and young people who died as a result of suicide in 2008 left either a note or sent an SMS to a friend or parent informing them of their suicidal intent. The CDRT has previously identified that whilst one quarter of the children and young people who died by suicide told a friend or family member of their intention to commit suicide, in almost every case, the person informed did not act on the information, either because they did not take the suicide seriously or the child or young person insisted they promise not to tell anybody. Are you aware of any work which has been done, or is likely to be done, to assist community members to respond when they have been advised of a child or young persons' intention to commit suicide?

Through its research and monitoring the Team has found that when children and young people tell someone of their intention to suicide it is most often a friend. Based on this the focus of efforts in this area would have the greatest benefit with a focus on assisting children and young people to pass on concerns they may have to an appropriate person.

The Team understand that *School-Link* statewide framework address this. In addition the Inspire Foundation's Reach Out program provide specific materials on their website that explains to children and young people the importance of telling others of their concern and how to go about this.

In regard to knowledge in the community, Outcome 3.2 of *The NSW Suicide Prevention Strategy 2010-2015* aims to increase community awareness of what is needed to prevent suicide. The strategy will continue to develop and implement programs that raise awareness of suicide prevention and at risk people and conduct a social marketing campaign to raise awareness of suicide prevention and people at risk.

In its 2009 Annual Report the Team has again raised this as an issue and intends to recommendation further action.

19. In 2008 the crude mortality rate for young people who died an alcohol-related death in outer and remote areas was much higher than for other areas. Similarly, the CDRT report Trends in Child Deaths in NSW 1996- 2005 identifies that during the period 1996-2005 those living in outer regional and very remote regions were three times more likely to die from an alcohol-related death than those in major cities. Are you aware of any work which has been done, or is likely to be done, to address the trend of young people dying alcohol-related deaths from outer and remote areas being higher than from other areas?

In 2008, 11 children and young people died an alcohol related death. Four died by suicide and five in transport fatalities. For all these young people alcohol was not the cause of death but part of the circumstances of the death.

Four of the 11 deaths concerned young people who lived in outer and remote areas of NSW. Given the causes of death for these young people strategies aimed at reducing drink driving and suicide prevention are appropriate.

The Roads and Traffic Authority (NSW) targets risky driving including drink driving for young drivers. The Commission is unaware of any specific targeting of young people in outer and remote areas.

Strategic Direction 5 (i) of *The NSW Suicide Prevention Strategy 2010-2015* specifically targets local communities in rural areas to enhance their capacity to develop strategies and services that address the underlying causes and contributory factors for suicide.

20. The Committee notes that there are no recommendations made in the 2008 Report. Is the reason for this that there are no new issues identified in this report, or that further research would be required to make appropriate recommendations?

The Team makes recommendations in the context of the recommendations it has previously made and is currently monitoring.

In its 2008 Annual Report the Team monitored and reported on 15 recommendations that it had made in its previous reports. These included recommendations made in its Annual Reports and in the two special reports: *Sudden Unexpected Deaths in Infancy: the NSW Experience* (2005) and *Trends in Child Deaths in NSW 1996 -2005* (2008).

In its 2008 Annual Report the Team did not identify any issues that required further recommendations to be made.

Annual reporting by the Team provides information on patterns and trends in death primarily for surveillance purposes. The reports help identify potential problems such as variations in mortality rates for different causes of death across time, across geographic areas, and across socio-demographic groups.

Questions Answered After The Hearing

Where potential problems are identified, it is most often the case that further research is required to understand what the specific problems are and how they might be addressed before any recommendations can be made.

Appendix 1 – Committee Minutes

Minutes of Proceedings of the Committee on Children and Young People (No. 26)

Tuesday 1 December 2009 at 12.30 p.m.
Room 1043, Parliament House

Members Present

Mr Robert Coombs MP (Chair) Hon Kayee Griffin MLC (Deputy Chair)
Hon John Ajaka MLC Ms Marie Andrews MP
Mr Steve Cansdell MP

7. Review of the 2008-2009 Annual Report of the Commission for Children and Young People

The Chair noted that the Report was tabled on 29 October 2009.

Resolved on the motion of Mr Ajaka, seconded by Ms Andrews:

That the Committee review the 2008-09 Annual Report of the Commission for Children and Young People. The Committee's report shall consist of:

- questions answered before the hearing by the Acting Commissioner;
- transcript of evidence given by the Acting Commissioner during the public hearing;
- questions answered after the hearing by the Acting Commissioner;
- any other relevant information that is not confidential.

8. Review of the 2008 Annual Report of the Child Death Review Team

The Chair noted that the Report was tabled on 29 October 2009 and that, as it covers the calendar year 2008, it is within the remit of the Committee under the provisions of the *Commission for Children and Young People Act 1998*.

Resolved on the motion of Mr Cansdell, seconded by Ms Andrews:

That the Committee review the 2008 Annual Report of the Child Death Review Team. The Committee's report shall consist of:

- questions answered before the hearing by the Acting Commissioner, relevant staff of the Commission or members of the Child Death Review Team;
- transcript of evidence given by the Acting Commissioner, relevant staff of the Commission or members of the Child Death Review Team during the public hearing;
- questions answered after the hearing by the Acting Commissioner, relevant staff of the Commission or members of the Child Death Review Team;
- any other relevant information that is not confidential.

Minutes of Proceedings of the Committee on Children and Young People (No. 27)

Tuesday, 9 February 2010 at 10.30 a.m.
Waratah Room, Parliament House

Members Present

Mr Robert Coombs MP (Chair) Hon Kayee Griffin MLC (Deputy Chair)
Hon John Ajaka MLC Rev Hon Fred Nile MLC
Mr Steve Cansdell MP Mr Robert Furolo MP

4. Review of the 2008-2009 Annual Report of the Commission for Children and Young People

5. Review of the 2008 Annual Report of the Child Death Review Team

Agenda items 4 and 5 were considered concurrently.

Resolved, on the motion of Mr Furolo, seconded by Mr Ajaka:

That the Committee postpone the review the 2008-2009 Annual Report of the Commission for Children and Young People and the review of the 2008 Annual Report of the Child Death Review Team until September or October 2010, following the appointment of a permanent Commissioner for Children and Young People.

Resolved, on the motion of Ms Griffin, seconded by Mr Ajaka:

With reference to the previous resolution, if a Commissioner is appointed before the end of June, the Committee will at that time reconsider the date for the hearing.

The Committee also agreed that the Secretariat would monitor any progress on the relocation of responsibility for the Child Death Review Team to the Ombudsman.

Minutes of Proceedings of the Committee on Children and Young People (No. 28)

Wednesday 31 March June at 9.30 a.m.
Waratah Room, Parliament House

Members Present

Mr Robert Coombs MP (Chair) Hon Kayee Griffin MLC (Deputy Chair)
Hon John Ajaka MLC Ms Marie Andrews MP
Mr Robert Furolo MP Rev Hon Fred Nile MLC

7. Working With Children Check

ii) Audit Office Report

The Chair referred to the Briefing Note distributed in respect of the Auditor-General's Performance Audit of the Commission's Working With Children Check.

Resolved on the motion of Mr Ajaka, seconded by Mr Furolo:

That the Committee note the contents of the Audit Report, and use the contents thereof as the basis for questions to put to the Commissioner for Children and Young People at the public hearing on the review of the Commission's Annual Report.

Minutes of Proceedings of the Committee on Children and Young People (No. 30)

Wednesday 30 June at 9.15 a.m.
Jubilee Room, Parliament House

Members Present

Mr Robert Coombs MP (Chair) Hon Kayee Griffin MLC (Deputy Chair)

Hon John Ajaka MLC
Rev Hon Fred Nile MLC

Ms Marie Andrews MP

5. Review of the 2008 Annual Report of the Child Death Review Team and the 2008-09 Annual Report of the Commission for Children and Young People

The Chair reminded Members that on 9 February 2010, the Committee resolved to postpone the review of the above two reports until the appointment of a permanent Commissioner. He said that, as the new Commissioner, Ms Megan Mitchell, assumed her post on 21 June 2010, the Committee could now resume these Inquiries, at its earliest convenience. He noted that the Secretariat would circulate draft Questions on Notice in respect of both Reports, prior to the Committee's next meeting.

Minutes of Proceedings of the Committee on Children and Young People (No. 31)

Friday 3 September 2010 at 9.00 a.m.
Waratah Room, Parliament House

Members Present

Mr Robert Coombs MP (Chair)	Hon Kayee Griffin MLC (Deputy Chair)
Hon John Ajaka MLC	Ms Marie Andrews MP
Mr Steve Cansdell MP	Rev Hon Fred Nile MLC

3. Review the 2008-09 Annual Report of the Commission for Children and Young People and the 2008 Annual Report of the Child Death Review Team

a) Answers to Questions on Notice

The Chair noted that the Commissioner's responses to the questions on notice were received and had been distributed to members.

b) Questions without notice

The Chair noted that suggested questions without notice for the hearing had been circulated to members.

c) Hearing schedule

The Chair referred to the hearing schedule which had been circulated to Members.

Resolved on motion of Ms Griffin, seconded by Rev Nile:

That the proceedings be conducted as outlined by the Chair.

9. Public Hearing to Review the 2008-09 Annual Report of the Commission for Children and Young People and the 2008 Annual Report of the Child Death Review Team

The Chair declared the hearing open at 9.30 a.m. and made an opening statement.

The following witness was affirmed and examined:

Ms Megan Mitchell, Commissioner, Commission for Children and Young People.

The Chair noted that the Committee might wish to send the Commissioner some additional questions in writing, the replies to which would form part of her evidence and be made public. He asked the Commissioner if she agreed to provide a written reply to any further questions. The Commissioner agreed.

Resolved on the motion of Ms Andrews, seconded by Rev Nile:

That the transcript of the witness' evidence be published on the Committee's website, after making corrections for recording inaccuracy, together with the answers to any questions taken on notice in the course of today's hearing.

Evidence concluded and the witness withdrew.

The Chair closed the public hearing at 10.20 a.m.

Minutes of Proceedings of the Committee on Children and Young People (No. 32)

Thursday 21 October 2010 at 9.15 a.m.

Room 1254, Parliament House

Members Present

Mr Robert Coombs MP (Chair) Hon Kayee Griffin MLC (Deputy Chair)

Hon John Ajaka MLC Ms Marie Andrews MP

Mr Robert Furolo MP

The Chair opened the meeting at 9.16 a.m.

...

2. Consideration of the Chair's Draft Report: *Review of the 2008-09 Annual Report of the Commission for Children and Young People and the 2008 Annual Report of the Child Death Review Team:*

The Committee agreed to consider the report *in globo*.

Resolved on the motion of Ms Griffin, seconded by Mr Ajaka:

That the draft Report be adopted *in globo* to be the Report of the Committee and that it be signed by the Chair and presented to the House;

the Chair and the Secretariat be permitted to correct stylistic, typographical and grammatical errors; and

once tabled, the Report be placed on the Committee's website.

...

The Chair declared the meeting closed at 9.26 a.m.