

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON COMMUNITY SERVICES AND
SOCIAL EQUITY**

(Reference: rights, interests and wellbeing of children and young people)

Members:

**MR J HARGREAVES (The Chair)
MRS H CROSS
MS R DUNDAS**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 9 OCTOBER 2002

**Secretary to the committee:
Ms J Henderson (Ph: 620 50129)**

By authority of the Legislative Assembly for the Australian Capital Territory

The committee met at 2.04 pm.

This part of the evidence of Mr Rugendyke and Mrs Orr was given in camera, but was later authorised for publication.

DAVE RUGENDYKE and

BEVERLEY ANNE ORR

were called.

THE CHAIR: You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections and also certain responsibilities. It means you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing. It also means you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

The committee is inquiring into and will report on the rights, interests and wellbeing of children and young people in the ACT, with particular reference to children and young people's understanding of the law and their rights; the promotion and protection of the rights, interests and wellbeing of children and young people in the ACT; the participation of and consultation with children and young people in the development of laws, policy and practices that have the potential to impact on them; the role of and the impact of the care and protection system on children and young people; the role and impact of the administration of justice for children and young people; and any other related matter.

We might ask Dave for an opening statement, and then we will see where it leads us.

Mr Rugendyke: I thank the committee for the opportunity to speak on this issue. It is a privilege to be invited back to the Assembly.

I have an opening statement, which I would like to table and authorise for publication, but I would like the remainder of my evidence to remain in camera because it identifies children in our care. It is important for the committee to hear the cases we present as practical examples of how the system is working for kids in care.

We see the new act, the Children and Young People Act 1999, as an improvement on the Children's Services Act. We are very pleased that the new act has the best interests of the child as its overarching principle. We are very pleased with the objects and the general principles of the act, particularly section 12, which outlines the decision-making process.

We note that section 12 (1) (a) contains the best interests of the child principle and that section 12 (1) (b) says that the prime responsibility should lie with parents or family members. I am concerned that current practice appears to put 12 (1) (b) ahead of 12 (1) (a). As we know, legislation is drafted (a), (b), (c), (d), et cetera, in order of preference.

We see the looking after children process as an important aspect of child care. There is, I believe, still some resistance within Family Services Branch and the non-government agencies to its implementation and usage. There is often duplication among non-government agencies and Family Services Branch in case management.

Children in care have to put their lives on hold while the system decides what their future will be. The overriding focus of Family Services Branch workers is on returning children to drug-affected parents and other parents who are unable to cope, which is contrary to the best interests of the child principle.

There is often conflict between the practices of short-term care and long-term permanent care. It is my view that permanency planning must be considered much earlier in the process where there is a strong likelihood that children are unable to be cared for by their parents.

I propose that permanency planning should start to be considered after a 12-month period of care. If the parents are unable to get their act together by two years of care, then permanency planning should be finalised. I put that as a proposal to be considered. I believe that the length of time kids are in care without serious consideration of their future is detrimental to their development, growth, behaviour and future.

THE CHAIR: When does the permanency planning start now, Dave?

Mr Rugendyke: It varies greatly. I will give case studies of our own children in care, which indicate long periods of time in which there is a persistence by case workers to send children home time and time again, even when there is a failure within the family and it is obviously contrary to the best interests of the children.

We are concerned that, each time an attempt at restoration is made, previous attempts at restoration are not considered. It is not considered as a whole. Each attempt at restoration is taken as a new issue, so the full picture is not obtained.

I suggest that adoption should also be considered as a long-term strategy for permanent placement. I know that there are carers in the system who have offered to take on adoption as a way of ensuring a good future in the best interests of the child in their care. These endeavours have been in the first place encouraged by Family Services caseworkers and then suddenly dropped, changed or withdrawn.

Carers and agency case workers are left out of the loop in the decision-making process by Family Services Branch workers. This makes a mockery of the so-called corporate parent model, which is stated to be best practice.

Court unit staffing has been a major concern. I understand that a new person is being taken on, hopefully, with the appropriate legal background. Resourcing and other issues to do with the court unit have had a major impact on the lives of children. Legal professionals need training in the principles of the act and its interpretation, particularly in relation to the best interests principle.

Appropriate training provided by Family Services Branch is essential to ensure appropriate standards of care within the care system. I believe that Family Services Branch needs to resume the training and the final approval of carers. At the moment, the whole lot is outsourced, but I think that taking carers on is a crucial responsibility of the department and should rest there.

I present that as an opening statement and authorise the publication of that opening statement, if the committee so desires.

I would like now to move on to some case studies of children in our care. Over the last nine years we have had about 80 children through our house in short-term care. At the moment, we have five permanent children in our care.

KASY CHAMBERS and

JAMES CROSBY

were called.

THE CHAIR: As you know, we are inquiring into the rights, interests and wellbeing of children and young people. You have seen the terms of reference. I am obliged to read this to all witnesses appearing before the committee.

You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections and also certain responsibilities. It means you are protected from certain legal action such as being sued for defamation for what you say at this public hearing. It also means you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Kasy, welcome. We invite you to make an opening statement and we will follow that with questions.

Ms Chambers: First of all, we would like to thank the committee for its time. We wanted to touch on a couple of issues. Obviously this committee is going to be hearing a wide raft of issues.

Some of the issues we wanted to touch on—because we have direct experience in them—are young people and housing, young children who may or may not be in formal services, some universal services around young children and their parents, the care and protection system for children, mechanisms to gain greater input from young people, a territory commissioner for children and young people, and some issues which affect the sector that works with young people and children. That is a sort of opening statement.

THE CHAIR: Before you continue, for the purposes of Hansard, who are recording up there in the booth, could I ask you to state your name and your organisation please?

Ms Chambers: Yes, certainly. Kasy Chambers—YWCA of Canberra.

Mr Crosby: Jamie Crosby—YWCA of Canberra.

THE CHAIR: Thank you. Did you want to kick off with any item on that list, or were you happy to field questions from us?

Ms Chambers: Maybe we will kick off with the children's commissioner.

Mr Crosby: On the issue of a children's and young people's commissioner at a territory level, we think there is a need for a position of that type. There are issues across the sector which need to be monitored on a continual basis. We think the contribution a position such as that of children's commissioner could make—in monitoring adherence

to standards of accepted practice, providing an education and leadership role in raising issues and standards of practice in the provision of services and opportunities for children and young people—is quite important in an education role.

There are ways in which we believe that would also benefit other areas of the territory's processes, around the consideration of activities of various departments and how those activities may impact upon children and young people. That would ensure there is an advocate within government to make certain that those issues are considered in a variety of forums. It can flavour the development of initiatives from the ground level up.

THE CHAIR: When you talk about a commissioner for children and young people, there seems to be a fair amount of comment on the way in which agencies or departments respond to the needs of young people, and the way the court responds to young people. There also seems to be some concern that the young people are not necessarily best served by the people advocating on their behalf. Is there some systemic position needed, which the young people can access and say, “Yes, I have confidence in that spot”? Is that the position you are thinking of here?

Ms Chambers: It would certainly take on that role. A difficulty arises where, although departments do not necessarily feel they are acting for young people, their actions might have a greater or lesser effect on young people and children. Those are the departments which traditionally forget about young people, or do not have them highlighted. I think these positions should have some recourse to those departments. It needs to be in the Attorney-General's or Chief Minister's Department. There should be a whole-of-government approach from that position.

THE CHAIR: Are you suggesting that such a commissioner would have the right to go into a department and require action to be taken on behalf of a young person—for example, a young person of 16 years old, who is homeless?

Ms Chambers: Certainly that department, and the decision-making places within departments, should have to answer to that commissioner, or whatever we want to call them. At the moment, the young people's framework is developing report cards from the different departments. That framework has been useful. However, it is not mandatory and there is no consistent framework. It has had varying levels of effectiveness through different departments.

THE CHAIR: Do you see that sort of position being a bit like that of the Community Advocate, where that person would be responsible to the Assembly through the annual report system—letting us know exactly what is happening around town?

Ms Chambers: That would be great, in that there would be a good, open and transparent complaints system in place as well.

MS DUNDAS: Do you see the commissioner as having a role in involving young people? You know, part of the inquiry is into the involvement of young people and their rights. Do you see the commissioner as having only that separate role of advocating when it comes to looking after children who are in need, or playing the secondary role of bringing children in, whether they are disadvantaged or not, so they can participate?

Mr Crosby: In a position such as that, the education focus we spoke about is an important role. That might also provide, or demonstrate, opportunities where the meaningful involvement of young people can be facilitated.

Having the scope to develop mechanisms where young people can have a direct involvement in the contribution to the decision-making processes of the commissioner can be a legitimate form of involving young people in decision-making processes. It can also be a clear demonstration of the way in which it can be done and the value which can be obtained by providing that opportunity. A broad role there would also be of benefit.

THE CHAIR: Just to pick a few age groups, when we talk about young people from the age of 12 through to 18, I do not have any difficulty talking to people of that age—and they get their message through to me. I wonder how difficult it would be for kids aged between say five and 12. How do you see the role for those young people—relating to this commissioner level? It is usually through an adult, is not it?

Mr Crosby: There are difficulties, depending on what age group you look at in relation to direct involvement. A broader representation of a commissioner looking at systemic issues which impact upon young people might be a focus on ways in which they can seek contributions, either directly from young people—capacity issues aside—or working with other people who are in direct contact with children. It might be through their experiences as parents, or as service providers, that they can bring their skills to a commissioner when investigating systematic issues—the development of legislation, or an assessment of the impact of a territory program around the achievement of its goals.

THE CHAIR: Regarding the department and non-government agencies charged with looking after the interests of young people, do you want to comment on how you see them knitting together as a coordinated unit—or how disjointed they might be?

Ms Chambers: I think all services can be as disjointed or coherent as the people leading them and the people working within them. I think legislation and the way funding bodies operate can hinder or help that. The tendering process is inclined to go against organisations working together, but I believe there are some things that government and the sector can do to strengthen themselves and come together. I believe that, within the territory, there is no geographical reason for it—there is no geographical excuse. Certainly there are issues around the way organisations are funded and the way organisations are run which either prevent or help that.

THE CHAIR: Do you find that there is, or is not, a will for those folks to act as a coordinated force?

Ms Chambers: I think there is a huge will to do so but, in personal terms, because of busyness, lots of other things get in the way. The sector must, to a greater extent, overcome some of the stuff around the tendering and competitiveness. I think the move away from that is helping. However, people are just so busy—and meetings after meetings do not help.

There is an issue about making sure that the meetings—or whatever system we use to bring people together and coordinate—are effective. We could make better use, I believe, of interactive IT—the technology of bulletin boards for workers to chat on and exchange

ideas about training—and those sorts of things. Larger organisations could bring a lot more training and a lot more sector development into town—because we are not that far from other big population centres.

MRS CROSS: Do you think that, by having a designated youth commissioner, those problems could be assessed—or would we would be doubling up on effort? You have heard the cynicism about that, when people say, “Yes, but we are just creating another department—we are creating another set of problems.” As far as you are aware, has the Community Advocate specifically let children down, or do you think it is so broad that we need to have a designated person? If so, how do we get out of creating extra public service positions and more problems?

Ms Chambers: I believe it is an issue which requires a specific person. I think the whole community is so broad that for one person to have their eye on all of that—or one area—is far too much. I think the person needs to be aware of the issues. Even the area of children and young people is quite broad. As John suggested earlier, you probably work systemically with the children with whom you work, but you may end up working with young people individually as well.

There are other systems in different states and territories. There is quite a bit of talk now around the federal area. I would not like to be the one to specify the exact design. There are several overseas areas we can look to as well.

We would like to be on record as saying that we believe there is a need for that—that we believe that would better serve children and young people, and their interests, basically by keeping them in the forefront of our minds.

Picking up on young people and housing, from anecdotal evidence, our Family Housing Outreach Service reports working with young people who do not know their housing rights, so they are more likely to fall foul of the system. They do not know how to complain or take action if they are discriminated against. They are frequently discriminated against because they need housing in groups—due to perhaps not being able to get the bond money together, or not having a rental record that they can fall back on.

With young people, it is not just about getting housing. It is not just the shell of the house, it is about supporting that tenancy, especially if they have left home prior to turning 18. Eighteen is a very arbitrary age. They may not own some of the life skills possessed by other 18-year-olds. So there is some need for supported accommodation there, specifically for young people.

It is also a little different—as to how we do that. Although there are SAAP programs around, they are never going to be adequate. One of the problem areas we come across is a lack of exit points for the young people in SAAP programs. They still have not built up a rental record, they still do not have referees, and they are still coming from a welfare-based form of accommodation. I think there will be some good stuff to look at between private landlords, some organisations and young people.

MS DUNDAS: There has been a lot of talk over the past six months about young people living in unsafe housing, or unsafe relationships, being able to access housing. What is your experience? Is this being beaten up, or is it the truth?

Mr Crosby: It is certainly present. A lot of the models of housing for young people are shared accommodation, whether it is required or not. The ability to access single-person accommodation is extremely restricted. So the model, in whichever way it is supported, is generally about shared housing.

There are certainly situations where two individuals may enter into a housing arrangement on the best of terms and then, for a variety of reasons, that relationship breaks down or their life circumstances change. But because the options around alternate housing are very restrictive, there are not many other places to go. You will often find that young people are enduring situations, or they see that their room within the house is their sanctuary, although they are not participating in a home environment. They do not feel as though they can walk in the front door and be completely safe, secure and relaxed within their own home—not until they get into their bedroom and shut the door.

There are a range of issues impacting upon young people at various stages of their lives. They may be working from a base of not having well-developed social skills, or there may be differences in circumstances. Supported housing may be provided for anyone aged from 15 through to 25. However, the life experiences and expectations of a 16-year-old are sometimes drastically different from those of a 19 or 20-year-old. So they are issues which need to be continually managed via support workers and other agencies.

MS DUNDAS: Is there a lack of information? Are young people continually being discriminated against with regard to housing, because they do not know their rights? How do we get the information out there?

Ms Chambers: There are channels it could go through, but I have not given that a great deal of thought. We have noticed the tendency. We would support people in chasing, obtaining and using that information. That is often the problem—particularly with young people. It is not just about getting the information there, it is about enabling people to utilise it and find their way around it. It is quite a hard system—it is not easy for them to find their way around most systems.

To go back to your original question, I guess there are few situations as unsafe as being homeless. So we find young people—and not so young people—putting up with incredible kinds of unsafe situations, either with partners, friends or families, because it is rarely as unsafe as being homeless through the winter months, which we are coming out of now.

Mr Crosby: One of the other issues identified in the documentation that was sent out prior to this was the notion of criminal history checks for professionals and volunteers. Our position is that they would be a base minimum and should be mandatory in relation to people joining organisations or providing work.

In saying that, those organisations which have a large volunteer base or a high staff turnover will face a cost—those checks do not come free. We feel that is an issue which should be taken up by the funding body—to provide adequate resources to attract people, provide and maintain working conditions, environments and standards which support workers. Also, from a young person’s perspective, as an example—or a client in any type of organisation—they need to know that there have been appropriate standards of training and safety checks undertaken, to ensure that they are accessing high quality services and support people, through the experiences of those people.

THE CHAIR: How do you feel about the use of spent convictions? A spent conviction is where a person has had 10 years on the wagon. Technically speaking, spent convictions cannot be used in any other proceeding against them. Do you think there is an exception in the case of young people?

Ms Chambers: I believe very strongly that there is. I think it is up to an organisation’s discretion to work out what represents a danger. To my mind, that comes down to the type of criminal offence, how long ago it was committed, and whether or not it was part of a pattern. However, if you have somebody with a conviction for abuse, child abuse or violence against young people, even as far back as 20 years ago, I would need to see some really good reasons why we would want to employ that person.

THE CHAIR: I do not think serious convictions become spent—they sit there. However, you might, for example, have a series of issues like shoplifting. In themselves, they may be fairly minor but, in their aggregate, they might form an attitude which might have some effect on the services provided by way of the mentoring of young persons. I am interested in that.

On the law and order model theme, do you have any views about the extent to which the Official Visitor ought to be having greater or lesser access to such places as Marlow Cottage and Quamby?

Ms Chambers: Not any huge indications. We have been a little concerned about young women in Quamby and their access to female staff. I understand there are grave logistical difficulties with the number of female staff there. We need to be mindful that we have 15 and 16-year-old girls in there who are at a very impressionable and formative stage of their development. Some care issues are being taken care of by male staff.

Some risk management procedures can be put in place—there could be two staff members. I realise it is a logistics issue, but that has been of concern to us.

MRS CROSS: Could you give us some examples of what these young women are going through because of the fact that there are fewer female staff?

Ms Chambers: It might be that there are no female staff on, so there are male staff observing their behaviour—for safety reasons. Or it might be that they cannot contact a female member of staff, should a female member of staff be required, for whatever reason.

I know there are procedures in Quamby to ensure that no male would be searching a female or anything like that. But I am also aware that there have been issues when there have been only male staff on, or when female staff have not been available. I understand those issues are being worked on by trying to attract more female staff. That has been a bit of an issue for us. Although we do not have sufficient experience to give any comment on the role of the Official Visitor, that is one issue we would like them to be able to follow up on.

THE CHAIR: With young people who find themselves in Quamby on remand, as opposed to having been convicted, for some time I have held concerns about the awareness and appreciation they may have about their rights before the law. For people who have adults who can kick in, who are quite happy to do so, it is less of a problem. I wonder about the welfare of young kids who are, in effect, homeless who get into trouble with drugs et cetera, and find themselves in Quamby. I wonder whether we are systemically making sure that these folk are aware of what their rights are before the law. I am not sure that we do this all that well. Do you have any feelings about that?

Ms Chambers: I would not. I do not know if we have picked up anything from our youth workers on the floor. That is certainly an issue.

We run awareness groups on legal issues in our youth centre. Some people have surprising levels of knowledge. They might have a great level in one area but a very low level in another. There is a great culture of myths as well. They can simply be outdated knowledge—or it might be something that has been passed down. To a certain extent, some of that education is debunking incorrect education, to begin with.

THE CHAIR: I know that your troops down at the Murra Centre at Lanyon are doing a great job with that kind of thing. Do you think we should be raising that program in some of the other centres across town? It seems to me that the kids in a bit of crisis down that way—there are not too many of them, I have to say—all say “Yeah, I know my rights” yet they do not know their rights. They seem to be parroting the rights, as told to them by their seniors. It seems that, as part of the process of providing solutions before the problems emerge, information transfer is critical. I do not know how well we do it across other parts of the town.

Ms Chambers: I cannot comment on what other youth centres are doing. I would simply be advocating that youth centres pick up the needs of the young people. It is a need we have spotted, to which we are responding.

THE CHAIR: Are those all the questions?

Thank you very much for sparing us your time.

MS DUNDAS: Can I ask a question. There are a number of young people whom you see through the youth centres and with whom you have contact. Would any of them be willing to share with the committee their experiences of how they are going, as young people in day-to-day life in the ACT?

Mr Crosby: Yes. We would need to approach people to explain the process and develop a mechanism so that their participation here would be meaningful. Using Murra as an example, a group of young people made a formal presentation to the Tuggeranong Community Council on the issue of an escape facility near the centre. Certainly there is interest in and capacity for many of the young people we are working with to participate in this.

MRS CROSS: We could keep it in camera, anyway, to protect their interests.

THE CHAIR: You might have to organise a travelling roadshow.

Ms Chambers : We could put that on at Murra.

THE CHAIR: I would be quite happy to show you two lady members where the Lanyon youth centre called Murra is, and show it off.

MS DUNDAS: We have been there, John.

MRS CROSS: Yes—thank you, John.

THE CHAIR: I am happy to boast about it, at any time.

Ms Chambers : You would be very welcome again.

KIM SATTLER was called.

THE CHAIR: As you know, Kim, we are looking into and going to report on the rights, interests and wellbeing of children and young people. You have seen the terms of reference, I hope. I have to read this to you.

You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal actions, such as being sued for defamation for what you say at this public hearing. It also means you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

If it is okay with you, we will throw to you for an opening statement. You know the ropes. We will open up by asking you, for the purposes of Hansard, to state your name and the organisation you represent.

Ms Sattler: My name is Kim Sattler. I am the Executive Director of Community Education and Training. We are a registered training organisation which trains youth workers, community workers, disability workers and drug and alcohol workers, in the ACT.

We are a non-profit organisation. We were formed by youth workers in the late 1980s. My personal background is as a youth worker for over 20 years—12 of those years here in the ACT. I speak on behalf of what I have gleaned from my organisation. However, I am still very involved in the youth sector. I still receive a good deal of information from organisations which are funded.

Because I am not funded, I am freer to speak about a lot of things than some other people. Therefore, people feel compelled to give me some of that information. I am here to share some of it with you.

THE CHAIR: Please feel free to give it to us.

Ms Sattler: I have given you a lengthy submission, in which I put quite an emphasis on some of the issues for disadvantaged young people.

I will make a couple of comments in relation to the terms of reference. With regard to the ACT school system, there are some significant problems occurring in the high school part of the system. I believe we are doing a great job of trying to address at-risk students in the college part of the system, but in the high school system there is a deep crisis happening. I know this because we are constantly given requests to go in and do programs in schools with disadvantaged and at-risk young people. I have direct contact with young people who are categorised within a school as being isolated, disadvantaged or at risk. I sit down and talk to those young people about the sorts of issues which affect them.

I know that the department is looking at curriculum change. In terms of what has happened to youth income support and the economic situation affecting young people, this is coming about five years too late. We have a lot of early school leaving going on within the indigenous community. We have young people leaving school at year 6, who are not even getting into high school. I can introduce you to young people in the ACT who have virtually never been to school. Many people do not believe that is possible, but they are here. We need to address the issues that are happening in the high school system.

The whole way in which behaviour management is undertaken in schools is based on a very old, outdated and fairly unhelpful model. There are many good teachers who are trying to provide a great deal of extra support to teachers, but there is no infrastructure within schools to support them to do that. They do not get lines off.

The only people who get lines off are those who are the punishers, basically—not the assisters or the facilitators. That shift needs to happen. If we are to seriously address the learning and social needs of young people, then we need to change what we are delivering to them in the six hours that we have them captured in the school.

I guess I am reflecting what several teachers have told me. In the past 14 months, I have trained over 120 teachers through our case management training for teachers working with at-risk students. I have received evaluation forms with very candid comments from numerous teachers about what is not helping them to help students in schools at the moment. That is where those comments come from.

To give you an example of some innovative things which are going on, there is a joint program hosted by the Gungahlin Youth Centre, between Kaleen and Gold Creek high schools.

The coordinators had the contract for renewal of the program in their hands for the past two months. The day they had the contract in their hands and were ready to sign it and give it back, they were told that those funds were no longer available, because in the shift within the department, where youth and family services stayed here and community went over here, a whole lot of money left the youth sector.

We estimate that over \$100,000 travelled left, and left the youth sector. That was a useful program which enabled a group of students from both schools, in school time, with the permission of the school and their parents, to come out of school to the youth centre and do some social skilling with youth workers. It was very successful. They had waiting lists for the next group of young people who wanted to do it, but it was knocked on the head.

MS DUNDAS: Can you tell us about the \$100,000? This is one program that was lost during the transfer. What else was there?

Ms Sattler: Regarding money that is relevant to my area, for the past two years, we have been given a very small subsidy of around \$10,000, to provide subsidised training places for youth workers, so they can access certificate 4 qualifications in alcohol and drugs, mental health, disability and youth work. Those funds are no longer available, so those places will not be on offer next year. I over-subscribed both those programs in the past

two years because we have a significant number of people in the sector who still do not have accredited qualifications and who wish to access updated professional development, particularly in the area of alcohol and drugs.

MS DUNDAS: Are most of the workers you are talking about themselves young people?

Ms Sattler: No, they are workers of all ages who are working in youth centres, SAAP services, places like Marlow Cottage, Centrecare and JPET—all different parts of the sector. A lot of youth workers do not work full-time hours. That is another significant issue which is very apparent to me. I used to run Woden Youth Centre, as some of you would know. Since I left Woden, which was in 1999, most of the workers working in youth centres now work part time, not full time. I left a full-time team at Woden. What is there now is predominantly a part-time team.

MRS CROSS: Because of funding?

Ms Sattler: Because of funding and because there is no appreciation of keeping up with the costs. There is no growth. There has been no growth in funds for a very long time.

MS DUNDAS: What impact is this having, on the ground? Does it mean that demand is not being met? Are we just keeping our heads above water, or are we going backwards?

Ms Sattler: Clearly, from my observations, demand is not being met. I go in and out of all the youth centres and train workers from all of those centres. I have done that this year. I have had over 400 students enrolled in the past 12 months.

Young people who need help and who are accessing some services are having to wait. They must go on waiting lists to get the help they need. They are the ones who were brave enough to put their hands up. I personally know that there are numerous homeless young people who are not able to access emergency accommodation.

Theoretically, we have only around 48 to 50 beds in refuges. In medium term, we are lucky to have about 12 to 15 beds. It is nowhere near meeting the demand.

THE CHAIR: What sort of turnaway rate would apply in those instances?

Ms Sattler: They all keep quite detailed statistics on the turnaway rate, but it varies from service to service. For every eight young people they have in the place, there would be at least another eight to 16 that they turn away, in a fortnightly period.

There are two homeless young people who live with me. Although I am no longer a youth worker, I feel I am in a position to offer that. The reality for those two young men is that they are on youth allowance. One of them is on no income support at all at the moment. The only other safe options for them are refuges. However, most of the refuges are full at the moment.

THE CHAIR: How old are they?

Ms Sattler: One is 15 and the other is 19. The 15-year-old arrived only recently. For 15-year-olds, it is tough. If you ask family services how many young people have been removed, or deemed to be in crisis and needed to be removed, from their families, and how many of them spent a night in Quamby in the past 12 months, you would be quite shocked. It would be a very good question to ask.

THE CHAIR: We just might ask that question.

Ms Sattler: I have been told that it is over 200. Normally, what Family Services or anybody who is on the crisis line, would do is try to find them a safe place for the night. Their first option would be to go to a refuge, so they ring the refuges first. Their last option is to put them in Quamby for the night.

The reality is that there is almost nothing in-between the refuges—Marlow Cottage and Quamby. I find it extremely disturbing that young people are put in Quamby when they have not committed any crime.

THE CHAIR: Or even been suspected of committing a crime.

Ms Sattler: No—because they are deemed to be at risk.

MRS CROSS: Can I ask what that means—“at risk”?

Ms Sattler: It usually means that Family Services have had notification, or the police have been called to a house, that children are not in the care of anybody and need to be put in the care of somebody—sometimes it might be for only a night. It could be anything—a major health problem, a parent being put into hospital. It could be a drug raid and children are found in the house. It could be a notification of child abuse, and children are removed. It could be a whole manner of things.

MRS CROSS: They are taken to Quamby?

Ms Sattler: When there is nowhere else and there is no other bed available. That is one of the big gaps we have in our system. I guess my issue around the children’s commissioner is that is all very well to have a children’s commissioner, but I would much rather see a real examination of where the services are. The children’s commissioner can make all kinds of recommendations, but if you do not have anywhere to put some of these young people, it is pretty arbitrary. The reality is that we have that volume of young people going into that situation. It is definitely not ideal. It definitely would not be the choice of the workers who are trying to make those referrals, but they do not have anywhere else safe to put them.

Fifteen or 20 years ago, in the child protection system, we had the capacity to put a child like that into another type of accommodation—whether it was a hostel, boarding house, foster placement or a motel. The funds to do that are no longer available. That is why they are sent to Quamby—it is the cheap option.

MS DUNDAS: When they are at Quamby, are they treated separately?

Ms Sattler: Yes, they generally try. I do not know whether you have been out there, but it is fairly difficult to try to separate people. It is like separating chooks from ducks. It is a little arbitrary.

THE CHAIR: That is right—it is almost impossible.

MRS CROSS: When you say they are separated, do you mean that they are put in a different room, or they eventually end up eating dinner together?

Ms Sattler: They will all be in separate rooms. In terms of their sleep time, they will be safe, but they will invariably end up eating and showering together. Perhaps you can imagine what it must be like for the young person. If something tragic happens in your life, you are removed from your family home and taken to the juvenile detention facility—all the things you have ever heard about that are bad—it is very scary. It does not matter how many times people say, “You have not done anything wrong”, imagine the pain you would experience just being given that option. If I have a choice, I would rather take a child in than see them given that choice.

MS DUNDAS: Can I jump in and change tack, because we have a timetable.

Ms Sattler: Yes.

MS DUNDAS: In your submission, you talk about the need for young people to be involved—or how they are completely not involved—in legislation and be made aware of issues which affect them in a legal sense. You also talk about the lack of information out there as to their current rights.

Do you have any ideas about how we can get young people involved in a discussion of their rights, and how we can get more information out there—especially if there are problems within the high schools, where we have the majority of children for six hours every day, as you said?

Ms Sattler: Teachers would love the opportunity for people with legal expertise to go into the schools and do workshops with young people. They would jump at the chance—and young people would jump at it. Currently, the only resource available is a book called *When Can I?*, which, as far as I know, has been in production for the past three months. It is funded totally by ACT Legal Aid and CIRSACT from their own funds.

The reason why it is slow is that there is not much money and they will be able to produce only a few thousand copies with the funds they have. A lot of work has gone into finding out what information young people need and putting it into a format they can understand which looks attractive. All of that work has been done, and young people’s graphics have been used in the production. If some money could be put to making sure every school gets copies and that thousands of copies are available to young people, that would go a long way. You can use that as a teaching resource, a library resource or a workshop resource with young people. I use it all the time with young people. Many of them had never seen it. They did not know it existed—because it is not promoted.

MRS CROSS: I wanted to touch on that.

THE CHAIR: The promotion of that is an issue too, is not it, Kim?

Ms Sattler: Yes—because promotion costs money. That is the very thing that small agencies just do not have the resources to be able to do.

The other thing I would say about legal rights and understanding legal issues is that, at a recent youth forum of Youth Services and youth workers, there was quite a lot of discussion—I think Ms Dundas attended that—about the children’s commissioner and how people felt about that.

In fact, the majority of youth workers felt that there was a much more critical need for a youth legal service. They felt that the role of children’s commissioner could be, and is being, performed by a couple of different agencies and that it is possible that the ACT Human Rights Office could be enhanced to take on something like that.

MS DUNDAS: I guess that is one aspect, but young people should be empowered to be involved in the development of laws—not necessarily the understanding of current laws and how they apply to them. They should be taking a proactive role as citizens in the determining of the future, while they are still young people. You mentioned graffiti laws, move-on laws and skateboards.

Ms Sattler: Yes.

MS DUNDAS: I guess the opposite of that is how they are taking direction and being proactive in putting up the landscape that they want to be part of.

Ms Sattler: There are a number of steps which need to be developed—for example, things like the new Youth Advisory Council, Youth InterACT and the making contact site. There are a number of things being laid down now which will increase the profile of young people having a voice. That all helps.

There are many youth workers who are in contact with young people. Many of these people will probably give evidence. They have a very good capacity to run consultations—and we used to do it often. I have run many of those over the years for all kinds of agencies—around youth issues. I think they could be assisted to provide these services. They already have venues—they already have contact with groups of young people. They could advertise to have other young people come in to speak about issues. There is already plenty of infrastructure there. It is just a matter of providing resources for some of the workers to do those consultations.

MRS CROSS: Following on from your submission on the availability of free legal support, what part do you think responsible parents and guardians should play in the consultative process?

Ms Sattler: That is a hard one to answer simply, because it depends on what the legal issue is. If it is possession of drugs, parents are fairly involved, if the person is under 18 and they have already had contact with the police when the incident occurs. There may be an option to voluntarily attend court. In those sorts of minor end offences, it is probably okay.

Young people can be involved in quite serious charges, but many parents do not understand the legal system. Many parents are of no assistance to the young people in the court process. I have spent many hours in the courts advocating, taking young people and sitting down and explaining to families what is happening. That is why I tend to say that a youth legal service is something for which there is a critical need. You need people who are advocates and go-betweens.

MRS CROSS: More than a youth commissioner?

Ms Sattler: I hate to say one or the other.

MRS CROSS: Or do you look at it as a complementary thing?

Ms Sattler: They are very different roles. From my point of view, there is a great deal of activity happening in our courts. You only have to go down and look at the Children's Court and the Magistrates Court to see how many young people are going into custody.

I run a program which is targeted at indigenous young offenders, some of whom are on home detention, community service orders or have been recently released. I interact with those young people and their families. We have quite a lot of contact with them—and knowledge about the experiences of those families. Many of those young people probably would not have ended up with sentences if they had had proper legal advice and legal support in the early stages of the process.

I think juvenile justice is doing a good job of looking at some other options at the moment. Things like home detention are a great idea, but there still need to be some advocates and go-betweens who assist people to get proper legal representation—people who can assist them in the court process—when they go to court.

Many people have no idea what is happening to them while they are in court. That was 90 per cent of my experience—that is why I used to go. I would sit and translate exactly what was happening and explain who everybody was. I would explain what the choices were at that point. The language is very inaccessible.

I would also go to police stations—many youth workers in the ACT do this—to act as an adult friend at juvenile interviews at police stations. In my experience, in all the years I did that, I could never get a solicitor to attend within a two-hour time limit when a juvenile was being held. Never. It is mission impossible. Legal Aid is the only source, unless the family has money to pay. The reality is that we do not have enough legal advocates. Very few solicitors here are skilled in youth and children's law, and they are very overworked.

MRS CROSS: If you were to prioritise on the legal services versus the commissioner—I know they are different roles but let us look at resources—which would you put first?

Ms Sattler: Personally, I would put energy into a youth legal service.

THE CHAIR: Kim, is this the second half of the issue that we were looking at in the last Assembly—the possibility of having a children's magistrate? Are we hearing from you that, in fact, both sides of that continuum are lacking?

Ms Sattler: They are.

THE CHAIR: And we have missed the point about this second half?

Ms Sattler: Yes, we have. We have good children's magistrates. However, there is a great deal of work that could be done before a person ends up in court. In fact, we need better information out there about what the law says. Young people need to be much more well informed about their legal rights—not just their legal rights, also their legal limits—and what is likely to happen to them.

For example, I have spent years explaining the cannabis laws to young people. I explain to them that cannabis has not been legalised. I explain the difference, because there is a fine distinction. The other issue is this: I ask, "Who, in this room, is under 18?" Most of those in colleges and high schools put their hands up. I say, "Well, forget the law, because you are under 18. The reality is that a police officer has a discretion. If you get caught with cannabis, he has discretion whether to haul you in and charge you."

I have gone to police stations where many young people have had that experience because they were under 18. They did not understand that the law was speaking to adults, not to them. So there is a clear gulf in understanding. Whether or not I agree with that, the reality is that most young people do not understand that very basic piece of information.

In our colleges, you can do legal studies when you get to year 12, but that is generally an option in the high school years. If they are going to get involved in the criminal justice system, most young people generally do so before they are 18. It could be through shoplifting, vandalism, or something else.

THE CHAIR: You also mention car offences, which are rather prevalent at the moment.

Ms Sattler: Car offences are a big one. Nearly all of the young male offenders I have worked with over the years have a car offence under their belts. We run a program for disadvantaged young people called "road ready". We have no trouble filling these places. It is a huge benefit for young people who have been driving vehicles without licences for some years to go through the legitimate process. They are very excited to do so. I am here to tell you that. I have heard some young men say that they are probably the only male amongst their relatives, under the age of 25, who has a legitimate licence.

MS DUNDAS: Going back a step, you were talking about the legal system, the demands placed on it and the increasing demands as more young people are entering the court system. Why are more young people entering the court system? Is it because we have more young people, or is it that they are getting caught?

Ms Sattler: It would probably be a number of things—there are certainly more young people, and economic disadvantage has been suffered by a lot of young people and families. I made the comment about the shift in the burden of responsibility from the federal arena to the state and territory arenas. It is likely every state and territory is already experiencing the same kind of explosion as we are.

They are offences related to lack of money and lack of ability to acquire property—property theft, car theft and illegal car use. There is a great deal of that kind of activity which is bringing many young people through the court system—obviously drug activity.

Drug activity is growing wherever there is economic disadvantage and poverty. I think it is part of the general social picture. The reality in the ACT is that it has come to a critical point because you end up with too many people to lock up. We have reached that point.

MS DUNDAS: Do we need to be looking at how we can address the economic disadvantage that families of these young people are living in, in an attempt to address the court structure?

Ms Sattler: Yes. I know that is quite difficult, but I guess one of the frustrations for many youth workers is that we have been saying for some time that this is going to happen. We have been giving all the indicators that the housing problem, the income support problem and the drug problem is not being solved. In that climate, we have people working less hours, so there are less resources going into the youth sector. The reality is that, when it gets to that hard end, there are only a few people actually doing the work.

MRS CROSS: Kim, you mentioned earlier that there are many indigenous children who do not finish primary school—who do not even get to high school. Why is that? Who is monitoring that, and why is that not being addressed?

Ms Sattler: Because we have not been good at following up lack of school attendance in the early part of high school. I believe the report that came out a couple of years ago about indigenous education outcomes said it all.

We have not had good outcomes. Ours is a place where it should be possible to have good outcomes. Much of it is brought about by the fact that those families are the very ones suffering the kind of economic disadvantage I have described. Not all indigenous families are suffering that, but a significant number are. Their children appear in the court system, they appear in Quamby, in crisis accommodation, in Marlow Cottage, and all of those venues.

MRS CROSS: Is the lack of education across the board—not just indigenous but everyone else—a contributing factor, other than socio-economic factors? How much would you attribute to economic versus educative factors?

Ms Sattler: Sometimes they can kick in at exactly the same time. If you have 12 and 13-year-olds who already have very erratic and unstable home lives and are already committing offences, trying to hold them in school is quite difficult. They need intensive support and intensive mentoring—and the family needs a great deal of support. I will give you an example. Home detention is a great option for some young people, but if you happen to come from a home where chaos reigns, who is the person supervising the home detention? Where is the support for the family?

In good families, home detention works well. In families which are falling apart, you could be setting that young person and the family up quite seriously if you do not recognise it. They have been quite judicious in the way they have organised home detention, but—

THE CHAIR: The criteria for awarding home detention is pretty strict, though, in its defence. However, I agree that the potential exists.

Ms Sattler: The potential exists because people can put forward a case. However, it can be quite a strain on a couple of individuals within a family to try to hold the young person at home and curfew them all the time.

My issue is that I would not have such ease in being able to fill the programs I run if we did not have a significant problem out there. I have seen the worst literacy in indigenous young people this year. We have been running this program for five years. We have a significant number who are illiterate. It would not matter how many days a week we got them in there, their literacy is not functional at all.

THE CHAIR: The Quamby numbers speak for themselves. The fact that indigenous young people constitute 1 per cent of the population of young people and 50 per cent of the people in Quamby is pretty stark.

You mention a report on the literacy of indigenous young people. The report highlighted that this is a crisis which is about to burst.

Ms Sattler: It did, yes.

THE CHAIR: And it burst. Has there been no improvement since? In other words, did the report recommend a series of actions that never happened?

Ms Sattler: It did, yes. There has been some funding. Obviously the program that I have 20 young people in is one of those programs through training and adult education. However, the reality is that there are very few providers of literacy to young people out there. We are one of the few, and you have to do it in a very different style from sending people off to night school three nights a week.

You have to do it in a very interactive, down-to-earth way with these young people because they have had very negative educational experiences. If you put them in anything that looks like a classroom, you will never get them back again. That is why our literacy program goes to where the young people are. We send our teachers in to the Aboriginal youth program, out to the Gungahlin youth program and to Woden. So we try to cover, geographically, three key areas.

The young people are not compelled to come to our program, yet they do. They bring their friends and relatives, and their mothers come to see us. We have heard many stories about what would help and what would make life easier. The reality is that, with many of these young people, if you required them to be somewhere else, they would not have the money to get the bus to the place and back.

THE CHAIR: I am afraid we are going to have to wrap it up. We could talk all afternoon!

Ms Sattler: As always.

THE CHAIR: Thank you very much for your time.

Ms Sattler: Thank you.

THE CHAIR: This one has been a real eye-opener.

Ms Sattler: I would urge you to ask the question about how many children taken into care for the night are put into Quamby.

Short adjournment

ROSEMARY FOLLETT was called.

THE CHAIR: Thank you very much for coming. You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you're protected from certain legal actions such as being sued for defamation for what you say at this public hearing. It also means you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Thank you very much for your submission and your time, which I know is very valuable. We will ask you to make a statement. Please identify yourself for Hansard.

Ms Follett: I'm Rosemary Follett, Discrimination Commissioner. I thank the committee for making this time available for me. I've set out in my very brief submission some of the ways in which the ACT Discrimination Act aims to protect the rights, interests and wellbeing of children and young people in the ACT. I've detailed in the submission some of the ways that we do that.

Briefly, we do it by our education and community awareness programs, including delivery of those programs to children and young people in their schools and their workplaces, but also to people who provide services to children and young people. That community education role is a major part of the office's activity. The other major area of activity under the Discrimination Act, of course, is the receiving, investigating and resolving of complaints, whether they're about discrimination, sexual harassment or racial vilification.

I've only touched on some of the grounds of discrimination that are contained in our act, the ones that I considered the most significant or the most relevant for your inquiry's purposes. The personal characteristics that I've looked at here include age. That's any age. There's no minimum or maximum age for a person to make an age-related complaint. Other characteristics are impairment or disability—which includes a vast range of conditions under our act—race, sex, sexuality and association with another person who has one of those attributes.

THE CHAIR: Is that last bit restricted to association with someone who has one of the aforementioned?

Ms Follett: It is, yes. It's restricted to a person who has any one of the characteristics covered by the act, whether that's age, race, sex or impairment. The association itself can be as a relative or in any other way. It can be as a friend, a classmate, a colleague of some description.

We look at discrimination complaints as well. I've given you some examples of the kinds of complaints that we deal with, that are brought to my office by children and young people. There's quite a range of them.

THE CHAIR: Do the children and young people bring complaints to you themselves or does an adult bring them to you on their behalf?

Ms Follett: Most usually it is by an adult on their behalf, most commonly by their parent. But we certainly have had complaints by young people on their own behalf. I think the youngest person I have taken a complaint from in person was about 14. But it is quite common to get complaints from people of 17, 18 and those kinds of ages, particularly when they're beginning in the workplace. Sexual harassment complaints are not uncommon for young beginning workers and people working after-school jobs, vacation jobs as well.

Under our act a parent can make a complaint on behalf of the child or they can use an agent if they have, say, a non-parent in the relationship. I can also take group or representative complaints. I can take up a complaint on my own motion, which I have done from time to time.

MRS CROSS: What do you mean by on your own motion?

Ms Follett: Without a formal complaint having been made to me.

MRS CROSS: So if you've witnessed something, you just initiate the—

Ms Follett: Under the act I have to be aware that something discriminatory may be occurring, and then I can investigate that myself as though a complaint had been made. Sometimes when people want to protect their privacy or want to raise an issue that may affect a lot of people, that's exactly how it will be done.

Another area, apart from the act, I have touched on is the Corrections Health Board, which I have chaired for some years now and which relates to both Belconnen Remand Centre and Quamby, the juvenile justice facility. I've also touched on a function I perform only occasionally, and that's with the Mental Health Tribunal, where I am allowed to be heard and have indeed been heard.

So that's my submission. It's brief. It's a thumbnail sketch. It is an illustration of one of the agencies involved in the protection of children in the ACT—quite a minor agency when you look at some of the bigger ones.

THE CHAIR: Thank you very much. We've heard from a number of people today. Not all of them have said that a children and young persons commission is a good idea. Some people have said it is and some people have said, "Hang on a second. There might be some other model." We've had submissions saying that you ought to do it. I notice in your submission that you don't see the need for a separate commissioner. A dual role seems to be emerging. One has to do with advocacy and a point to direct complaints to. The other one has to do with the oversight of governmental or non-governmental programs for people and reporting to the Assembly on them. Where do you see that sort of responsibility lying?

Ms Follett: In regard to the children's commissioner, as a first step I would want to have a very hard look at the very complex network of service delivery that's already being undertaken, and then look at whether you want to change that, add to it or maybe bolster some existing role. As you say, there are two broad themes in regard to a children's commissioner.

For my own part, I think the kind of advocacy arrangement—the public interest, if you like—is a role that’s filled at the moment by the Community Advocate. I would want to look very carefully at making changes to that.

THE CHAIR: Do you see our jurisdiction as being significantly different to others? This concept is being looked at in a number of other jurisdictions. A couple of them have already got it.

Ms Follett: Yes, indeed.

THE CHAIR: Do you feel that we are sufficiently small or different jurisdiction to say that we’ve already got other models in place which can do the things they haven’t?

Ms Follett: I’ve looked at some of the other models. It seemed to me that the ACT is different. We’re much smaller, geographically compact, and the population size is obviously much smaller. I know that some small states either have looked at or are looking at the issue of a children’s commissioner as well. In Tasmania that role is interpreted very broadly. There may well be a role for that kind of broad spokesperson in the ACT—I don’t know. I think it is part of this committee’s work to establish that.

I haven’t looked at any of the models and thought, “How can the ACT do without such a position?” I can say that certain functions being performed within children’s commissioner roles in other states and other countries are done here by this agency, that agency or that statutory officer. So I guess I would look first of all for what you do want it to do.

One of the weaknesses perhaps in the current regime in the ACT is the involvement of children and young people in decision-making and discussion of issues that would affect them. I saw quite recently that the government had appointed a new advisory council. That may fulfil that role. But that was the biggest area of weakness that struck me in my reading about children’s commissioners in other areas.

MRS CROSS: What views do you hold on a youth specific legal service and what do you see as the disadvantages, if any, of having one?

Ms Follett: It’s a bit out of my area of expertise, but put it this way: I am in favour of making available affordable and accessible legal services to people across a whole range of groups, and young people would be one of those groups. I think in general terms we’ve got a problem with access to justice and to legal services. They’re extremely expensive. Legal aid has very necessary priorities, which means that often a range of civil matters like discrimination under the Discrimination Act can’t be assisted under legal aid. It’s an issue that would be very much worth looking at.

THE CHAIR: It’s a bit of a worry, isn’t it, when people who have the means to defend themselves against discrimination can but more often than not people who are discriminated against do not have the wherewithal? That’s because they’re in a helpless position to start with. That appears to be a gap in the legal aid process, doesn’t it? Is that a federal or a state issue?

Ms Follett: Both. In discrimination cases it concerns me greatly that many people don't have access to that kind of assistance. Free legal services like the Disability Discrimination Legal Service, the Women's Legal Service or the Aboriginal Legal Service are not funded to the level where they could take up all of the issues that I'm sure they'd want to. I think the president of the Discrimination Tribunal has commented on the unrepresented complainants in his annual report again this year. So it's clearly an issue.

MS DUNDAS: You were talking about whether we were addressing the involvement of children and young people themselves. In your submission, you say that you have been able to impact on policy and that you've been asked to comment on policies that may impact on children and young people. When you've done that, have you referred to children and young people themselves or have you had to rely on the experiences that you've had? Besides the Youth Challenge you talk about, is there a regular mechanism of involving children and young people and acknowledging their rights?

Ms Follett: On government policy, my reference is always the Discrimination Act. That is what I would compare policy objectives and outcomes to. It's a sad fact that even if I had wanted to consult widely with children and young people, the kind of consultation timetables would not permit that. As I say, I think that is a gap. There is perhaps insufficient consultation with children and young people themselves. Sorry, what was the second part of your question?

MS DUNDAS: The second part was about the Youth Challenge. You provided us with a list of schools you've been to. What kind of information do you provide them with? I note that there's not as many schools on there as I'd like. So how do you communicate?

Ms Follett: We have had the practice of going to schools on request. How many make that request has varied from year to year. I don't think we've every refused such a request. If we're asked to present on the work of the office and the Discrimination Act, that's indeed what we do. It's a seminar style of program, much the same as we have presented to Assembly members and staff, obviously tailored for a younger audience.

At other times we have been asked to present on a particular subject, such as the needs of students with disabilities. There have been particular presentations on racial discrimination, racial vilification and harmony in schools. On one or two occasions we have been asked to speak in particular on sexual harassment and issues around sexuality in particular schools.

MS DUNDAS: You mentioned that young people approach the Discrimination Office mainly in relation to work-related activities, particularly sexual harassment. Do you have any statistics you can throw at us or any explanation? You've given a number of examples. If that's the common theme, is it because they're young and there is a power relationship that they're being sexually harassed or is it because people haven't yet caught up with what is acceptable behaviour?

Ms Follett: It's not exclusively a program for young people in the workplace. Probably they tend to bring more sexual harassment complaints than older workers. That is often to do with power relationships in the workplace. A young person is not in a position to tell somebody to stop behaving in a particular way. A new worker may be coming into

an established workplace culture that may seem quite normal to those who've been there for many years but which to a new worker can be very frightening, very challenging and very offensive at times. Sometimes it's their newness in a workplace that raises issues of sexual harassment. But sexual harassment has remained, for most of the years of our act, the second most common cause of complaint.

MS DUNDAS: Which is the first?

Ms Follett: Disability, impairment. It always has been. But sexual harassment has certainly been a large area of complaint and a very troublesome one. It is often a question of communication styles. It's often a question of a lack of awareness. People often don't realise that what's on their computer screen or in their emails is a workplace matter. The prevalence of sexual harassment complaints in workplaces is a continuing worry.

MS DUNDAS: What other issues do young people bring to you?

Ms Follett: Particularly about work?

MS DUNDAS: Just generally.

Ms Follett: Disability is often an issue. Again, it often arises when people are trying to enter the work force or have just entered the work force. They face hurdles if they have a disability of some kind. If they're looking to either pass medicals or make declarations about their fitness for certain work, it often exposes a disability or a condition in a way that's quite adverse to their employment. That's a common cause of complaint. But we also get complaints about education or about access to premises, people physically getting into different public buildings, and so on. It really does cover the field.

MRS CROSS: Do you feel empowered enough in your role as the Discrimination Commissioner to do as much as you'd like to do, or do you feel constrained at times in helping people?

Ms Follett: There are always constraints. Our legislation itself imposes constraints, in that it spells out what kinds of discrimination I can deal with. Sometimes people don't fit within one of those definitions. The legislation in regard to individuals is quite reactive. We come in after the discrimination or the harassment has occurred. It is reactive in that sense.

For many people, having to make a complaint, which is an allegation that the law has been broken, is quite a difficult process. If they're in trouble of some kind, then that difficulty may be too much for them. I like to think that our office is as approachable and helpful as possible. But in a complaint that this law has been broken, you do have to treat that as a serious written matter and investigate it with some scrupulousness. I know that's frustrating for some people.

There are also cultural issues that are difficult to overcome in a legal written process like this. For many cultures that is in itself a hurdle.

MRS CROSS: As members, people come to us saying they feel they've been disadvantaged in applying for a job because they come from a certain ethnicity. How do you weigh that up with someone's perception of their worth and qualifications versus them not getting, say, a promotion in a department?

Ms Follett: It can be extremely difficult. Our legislation requires a written complaint, which must be investigated impartially in my office. For a person who is feeling very wounded, very vulnerable and very much aggrieved to be asked to try to prove that this was discrimination can be difficult. It's very rare that they'll get hard evidence anyway. It's a taxing process. I understand that some people either choose not to enter it or can feel dissatisfied by it.

THE CHAIR: It bothers me that we have processes like your office and the Community Advocate that can address people's issues, but people look at them and say, "This is too frightening a mountain for me to go to." I wonder how many people walk away and suffer in silence. I have no idea how to fix that.

MRS CROSS: No reflection on you, Rosemary.

THE CHAIR: Not at all. I know from my experience with the Community Advocate and a family that will be having another visit very shortly, next week probably, that once people are in the system they feel comfortable and they feel supported. But it's the spectre. I don't know how we address that spectre.

Ms Follett: I think there are some ways. Increasing general advocacy services is one of those ways. People who come to my office find it very helpful to have an advocate of some kind. Obviously, we need to ensure that we're doing everything we possibly can to reduce barriers, to make information and help available in a range of formats, and to do things like offering translating and interpreting services at no charge, which we do, and to help as much as possible on the phone or by email. There are things you can do. But ultimately for a person who wants to take that step, it's up to them to do that.

THE CHAIR: Thank you very much for sparing us the time.

PATRICA CLARE RUSHTON was called.

THE CHAIR: Thank you very much for coming along to chat to us. You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means you are protected from certain legal actions such as being sued for defamation for what you say at this public hearing. It also means you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

We invite you to make an opening statement and we'll see where it leads us. Before you start, identify yourself for Hansard purposes.

Ms Rushton: My name is Tricia Rushton. I am here as a private citizen. I do not represent the views of any government department or any government.

Thank you very much for this delightful opportunity. To be able to put my views as a private citizen, a passionate citizen of Canberra over many years, to people who've stuck their neck out to be our legal representatives, our law makers, is a great privilege and I don't take it lightly.

The background to my appearing here is that I came to see John—I also came to see Kerrie Tucker—about issues that have been of concern to me over 30 years of working in various ways in this jurisdiction and in others. On the back of that John suggested I might play with the terms of reference for an inquiry about children and protection, and then perhaps it might fit into this inquiry, so here I am to talk to you. I'm sure that documentation can be, or has been, made available to you, and I'm happy to answer questions as I can.

I'd like to make three points as my central message and then have a conclusion. I'll do that as accessibly as I can. First of all, I'm talking to you about the rights and protection of children from nought to three. I'm focusing on that area because it makes a manageable slice for a discussion. I'm talking to you about the small group who are at risk of abuse or neglect. That's my focus.

Is there a problem? That's my first point. I think you'd have to agree that there was a problem if a child who had come to the attention of the child protection system had died in the ACT in the last 12 months. You'd have to have a question mark in your head. You'd have to seriously wonder if there was a problem. If you know that's the case, then I suggest you've got a problem.

You'd also have to believe that there was a problem if people working in the system—the child-care workers, the GPs, the child protection workers, the police—were all saying to you quietly, "There's a problem."

You'd also have to believe there was a problem, or have a strong suspicion that there was a problem, if you read the newspapers well and talked to your colleagues in other jurisdictions. You'd have to hear that in every jurisdiction there is a sustained increase in cases of children coming into care. I'm not presenting statistics. I'm asking you to look

at the problem in this way. The analysis seems to be that, unlike in the 1950s—when your mum had 10 kids, dad went off and didn't make money, and you couldn't feed the kids and they went to the orphanage for a few months and came home—children are coming into care because of the explosion in relationship breakdown which often exposes children to multiple male adults through their formative years and because of illicit drug use. And they're coming in for longer periods.

I would suggest to you that just by walking into any pub or club you could find enough evidence that there is a problem of children not to three at risk of abuse and neglect and that it's a new problem, a different problem, not the problem we had in the past.

My second point is that as I look at the media and the management of the discussion of this issue across Australia I'm concerned that the problem needs to be talked about and understood differently to make a difference. My point is that it is not essentially an issue of the resourcing or the behaviour of child protection workers. That's the media focus. That gets into the bargaining and the sackings and finding who is to blame and all that.

I would suggest to you that understanding the problem is about understanding the interactions in the whole system. I put models to you of a vicious cycle and a virtuous circle. In a vicious cycle, each element works against the other element. Information is lost at every point, and each of the elements disempowers the other.

In a virtuous circle, each of the elements works to empower and support the next element, and information is captured and properly applied and used, so resources are not wasted. You can play that game in irrigation. I think we should apply that model to what we're doing with child protection.

I give examples. We should ask ourselves in the ACT: are the underlying values of the Children and Young People Act 1999 properly supported by the regulations around prostitution and around illicit drug use? Are we acutely aware that young women who are heroin addicts are supporting their habit through prostitution? Do we understand the money trail in the ACT? If you want to intervene in some of those things, do we understand how difficult it can be if you assess that a child is at risk of abuse and neglect because of those issues? Is that a virtuous circle of law, framework and action or is it a vicious cycle?

Another example. Is the legal system, which is about often representing the rights of various adults in a system, supportive of the urgent needs of children not to three, who latest research around the country and in Canada and other places would say have urgent needs in terms of brain development and attachment that can't be delayed? If they're not met, they're never met. Justice or rights for those young people can't be delayed or they're lost. So are those systems working together? Does what happens in the courts support swift, decisive, protective behaviour by the child protection workers?

THE CHAIR: Can I just stop you there? There's also the question you're asking: is the focus of the court in the right direction?

Ms Rushton: Absolutely.

THE CHAIR: We've heard today about the focus being on the natural parents and not necessarily being on the wellbeing of the child. That's part of the point you're making, is it?

Ms Rushton: It can be the point. It certainly could be the point in the end, but I still think we could see it as supporting everybody better. If our system was working well, why do we have a crisis in foster care in Australia? Why are foster care mothers my age, nannas? Why are they this old? Why aren't people engaging in it? Why have we got that crisis, if it's a reasonable thing to do?

There is a problem, I think you'd accept. I'm asking you to look at it in a different way. First of all, take a systemic approach. Don't look at one element of the system and think you can intervene there. Look at the whole system and how it drives the behaviours and how the values operate.

The third thing I think we need to look at very carefully, and this will lead me to a conclusion, is on what terms we offer support to parents who have children who are at risk of abuse and neglect—drug addicted parents, for instance. I would suggest that there are lots of services. There's the Blue Star Clinic. There are child-care workers. There are clinic sisters. There are visiting ones. There are all sorts of support. There's government-supported child care that people can get. But all of these services are offered on a "take it or leave it" basis.

I'd like you to imagine that you are a six-month-old baby. Who would you like to be making the decisions about the person you need to be good enough to give you the right amount of love, support and nurture—in psychological terms, the good enough parenting? Do you want the decisions on whether to get to be good enough to be made by a person in a drug-addicted state, or would you like the community—and we all know we need a community to raise a child—to be saying to your parent, "We will give you all the support there is to be good enough to maintain that important, wonderful, nurturing relationship, but we'll not allow you to walk away from it"?

So there is a problem. Look at it systemically throughout the whole system. You can't leave out an element of the system, or it won't work to fix it. Look at the basis on which we offer support as a rights issue for small children. That's my opening remark. I think it leads me to these conclusions. What would you do about that? If when I go and you say, "She wasn't that bad, so what do we do?" I suggest you might do two things. First of all, you could look at the strategies already available under the Children and Young People Act 1999, such as enduring care orders, and you can look at the services that are available and can strengthen the legal framework around those to stop them being "take it or leave it" so a message goes out in the community that if you're a kid in Canberra your parents are going to be good enough and you're going to be okay. You can't be born and grow up in Canberra and fall through the net. We've tightened the net. Our legal framework tightens it.

The second thing you could do—and I imagine you could do this at the same time—is appoint what you've been talking about as a children's commissioner. Perhaps you could talk about it as a guardian angel or a systems manager. Appoint somebody who is responsible to make sure it comes together.

You could strengthen the legal framework and then have somebody watching to make sure it's knitted together. Have somebody saying, "Hang on. It might be your right to see that child. You might be able to put a case. There might be a burden of proof about your drug addiction, et cetera. But this kid is 17 months old. They've got until they're 36 months old, and then research says it's too late to make a difference." Have somebody who's going to watch the system, the guardian angel.

There are two strategies. Stop support from being "take it or leave it". You're wasting resources. It is not going to do anything to the wonderful young women at the methadone clinic who are engaging with the services and doing their best; they'd be happy to see this in place. But the ones who are falling through the net now need to be captured, for their own sake but much more for the sake of their babies.

MS DUNDAS: How do we capture them? Somebody comes to a service and says, "I need help." They're told, "You can have help A, B or C." They say, "That's all bad," and they walk away. How do we hold them? How do we tighten the net? Do we provide them with option D or more services they would want to use or different modes of service, or are you talking about something else in tightening the net?

Ms Rushton: This is obviously the most difficult area. You're going straight to it. I predicted this question. First of all, services have to be good enough. This is just from many years of experience of being around the traps, but there's a reasonable elasticity in the quality of services that people are accessing. You have a great service or an okay service, and people still go. They have to be good enough but not fantastic.

We have to empower mandatory reporters and child protection workers to intervene if somebody gives birth to a drug-addicted baby, for instance, somebody who doesn't visit the clinic sister, or somebody who goes to the Blue Star Clinic, the local clinic or the GP once and then doesn't turn up for visits. There has to be intense follow-up. I believe that that intense follow-up does not occur. I can't speak authoritatively. I'm not working in that system. But I believe it doesn't occur. My hunch is that it doesn't occur because it's not supported by legislation.

If you get right down to the people in the system, who's working in our child protection system? How old are they? What experience have they had? What's the turnover? Find that out and you'll find out a lot about how they are mismatched with extremely streetwise people who are sometimes involved in criminal activity to support a habit. It's a mismatch. There needs to be some kind of a framework of mandatory support when you give birth to your baby. Most babies in the ACT are born in hospital. There's always a risk that people could walk away from services if there's compulsion. But people are walking away now.

If babies are born addicted or born with obvious neglect or abuse issues, a plan needs to be put in place that the parents are expected to comply with. There's a little bit of framework around that. It's not saying, "We will help you." It is saying, "Your baby needs you to be helped." That's the difference. It is saying, "It's not up to you. It's not your right to decide whether to be able to give your baby"—and I am using a term that's in the literature—"good enough parenting. It's what we as a community in the ACT say our kids will have. The best way for them to get it is for you to give it to them. But if you won't give it to them, we're not going to let them go without." That's the key.

How you do that—to get to John’s earlier point about intervention—is to say, “What would it be like to be the child?” Ask yourself that. I go back to many years of working as a teacher in high school in the 1970s.

THE CHAIR: Dangerous place to be.

Ms Rushton: Yes, it was. Kids who are abused want to protect the parents. The best thing is to try to support that relationship but not support it where only the child wants it or is willing to put the work into it. There are enough organisations around and enough research to say that what children need is not necessarily their natural parents. They need their needs met. They need nutrition, attachment, love and continuity.

I’ve heard Rosemary Follett speak about listening to children. There’s a wonderful organisation in Australia called Create. They do extensive work listening closely to children. Children can have their needs met in a variety of ways, but they do need them to be met, and in a timely way for the nought to threes. Does that answer your question?

MS DUNDAS: It does.

MRS CROSS: Great presentation. I would love to do what you have suggested. I know we’re going to discuss it at length amongst ourselves. Having only been recently elected to this Assembly and having seen the many government departments that have responsibilities for doing different things, I agree with you that there are things that fall through the cracks and that there are victims of that. I would love for us to be able to come up with the solution, the recipe, to eliminate those cracks. Do you know how we can do that?

Ms Rushton: I’ve got a suggestion. Let’s see if it works. Go out now and wander around in Civic and speak to a few people, or go to the Southern Cross Club or somewhere like that tonight, and say to people, “What do you reckon would happen if blah, blah, blah?” and give the scenario. What I’m saying is what the average person thinks happens, unless they’ve interacted with the system as a professional or personally. The average person thinks the police arrive. They think if you ring up child protection and say, “I think the woman next door is doing this or that,” the police will arrive and may or may not take the baby away that day. What’s actually happening is way out of whack with what the community thinks is happening. I think you’d have a high level of support.

From what I’ve observed in the ACT, there is a fair elasticity in acceptance. Just a little while ago, we had very different rules about abortion and looking at photos. That has been done away with. I won’t discuss views on that, but people weren’t walking the street about that. What’s actually happening here has got out of whack with what people expect or would like. I think you have an opportunity to do something which would match community values, not have to lead them.

To do what I’m saying you would have to strengthen the elements in the system. How do you do that? For instance, a child protection worker may be sent to follow somebody up. They may have a strong belief that things are going on but they know from the last four precedents that when the child is removed for a week and put with the Auntie Sue or someone and then the case goes to court, it may be seen that they didn’t meet the proper

burden of proof or whatever and the child was put back. They see how difficult it is to get an outcome. They see that their intervention was part of their negative cycle of outcome, because the child got into trouble for getting them. Then the child protection worker is going to waste a lot of resources umming and aching and become dissatisfied.

I think in the New South Wales jurisdiction they were trying—I don't know where they got to—for three strikes and you're out. You can have something like that which says, "You're on a hat trick now, lady. These are the services you need to take up and this is the progress you need to make." The children wouldn't go in and out of care. If you have something like that, it gives people direction on how to work. It stops demoralising the elements of the system.

Go to a child-care centre and talk about what child-care workers do when they report abuse and how it's investigated. They're not people with legal training. The information in the system isn't managed. But if you have a system which has a progression and a clear focus on protecting the child and what that means, then I think you can stop using the resources around it. You can do that legally. You can also do it by having the guardian angel person to watch how the system is working and empowered to swiftly and decisively intervene and to say—

THE CHAIR: Sorry to interrupt you. Do I understand that one of the things you're pointing to is uncertainty in the system? Among people working within the system—child protection workers, child-care workers, youth workers—there is so much uncertainty about judicial outcome and rights before the law. The police know their rights; they don't. So there's an unequal distribution of knowledge. All of that is creating an uncertainty. We ought to be focusing on creating more certainty in the whole process.

Ms Rushton: Absolutely. I think that's a very important point. If you have certainty, then people could act with confidence. When you're intervening to make any change in the circumstances of a child's life, it's a very sensitive intervention. If you take a child away from the natural mother, you are making an intervention which is about attachment, so you have to know what you're doing. You need to be very careful. And I think that we're so afraid that issues are falling through the cracks. We need to get much more certainty. We need to move a little bit away from the parents' rights and towards the child, perhaps from the very beginning.

One of the things I've put in my notes is probably a fairly opaque comment about new forms of foster caring, community support. I'm very interested in the works of Robert Putnam. You might have read *Bowling Alone*, about social capital. I think there are ways, especially in such a small and well-resourced community as the ACT, we can get people engaged productively with families so that there is a network of support and relationships around children, especially children at risk. I haven't got a detailed plan for you, John, but just ask. Next week I'll come and do it

THE CHAIR: Do you think—I'm interested even in instincts—that perhaps the wellbeing of the child doesn't have primacy over the concept that retention by the natural parents is the best thing for the child?

Ms Rushton: I think the latter has been seen as a pseudo-indicator of welfare, because we haven't bitten the bullet about what the current problem is really about. If it's about poverty, nobody's going to condemn you for being poor. They might have in the 1950s; they don't now. You can recover from poverty with a job.

If it's about relationship breakdown and drug addiction, especially with the kinds of drugs that are increasingly coming into the Australian market—amphetamines, which have a high relationship with violence—it's not something that you can quickly recover from.

We need to open up our research about what children need, about what the problem is like, and redefine the problem and redefine how we're going to deal with it. It should be not about the children's rights or the parents' rights. It should be about our responsibility as a community, our desire as a community, our vision as a community, that any child born in the place where I go to bed at night is safe and is going to have a reasonable start. I think if we focus our resources and our effort we can achieve that. It's not too hard. You're the law makers. Make the laws.

THE CHAIR: I think that's a good note to end on. Trish, thank you very much for giving us your time.

Ms Rushton: A delight. Thanks for having me. Good luck to all of you.

THE CHAIR: We are very grateful for your time.

The committee adjourned at 4.46 pm.