



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON EDUCATION
AND COMMUNITY INCLUSION**

(Reference: [Inquiry into ACT Budget 2021-22](#))

Members:

MR M PETTERSSON (Chair)

MR J DAVIS (Deputy Chair)

MR P CAIN

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 20 OCTOBER 2021

Acting secretary to the committee:

Dr C Regan (Ph: 620 50142)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 20 May 2013

The committee met at 4.35 pm.

Appearances:

Barr, Mr Andrew, Chief Minister, Treasurer, Minister for Climate Action, Minister for Economic Development and Minister for Tourism

Chief Minister, Treasury and Economic Development Directorate
Mehrton, Mr Andrew, Executive Branch Manager, Social Policy Branch

THE CHAIR: Good afternoon, everyone. Welcome to the third of five public hearings of the Standing Committee on Education and Community Inclusion inquiry into the ACT budget 2021-22.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people, and to acknowledge and respect their continuing culture, and their contribution to the life of the city and the region.

In the proceedings today we will examine the expenditure proposal and revenue estimates for the Chief Minister, Treasury and Economic Development Directorate in relation to government strategy, Office of LGBTIQ+ Affairs, and the Community Services Directorate, in relation to strategic policy, and Aboriginal and Torres Strait Islander Affairs.

Please be aware that the proceedings today are being recorded, and transcribed and published by Hansard. They are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses could use the words, "I will take that as a question on notice." Witnesses are also asked to familiarise themselves with the privilege statement that is provided at the table. Could each of you confirm that you have read and understood the privilege statement?

Mr Barr: Yes.

Mr Mehrton: Yes.

THE CHAIR: Chief Minister, could you give the committee an update on the Capital of Equality first action plan, and any work going into the second action plan?

Mr Barr: There has been a lot of work to progress the implementation of the actions under the first action plan. I will provide a fulsome update to the Assembly by the end of the year. We have had a few items that have been COVID impacted in terms of timing. We have proceeded with amending the Births, Deaths and Marriages Registration Act. We have delivery of the conversion practices ban, and priorities and actions through the Capital of Equality grants rounds have been met.

In relation to the second action plan, the intention was to launch that with the SpringOUT festival this year. Clearly, that is impacted by COVID. We have undertaken some significant consultation, in advance of what was anticipated to be the public launch. Given the COVID situation, we will do the second action plan launch early in 2022.

MR DAVIS: My question is on the LGBTIQ+ health scoping strategy. I understand that lies within Minister Stephen-Smith's directorate, and it is being managed by ACT Health. I would like to know what involvement, if any, the office has had in the development or implementation of that health scoping strategy.

Mr Barr: Mr Mehrton will respond to that, Mr Davis.

Mr Mehrton: As you say, responsibility for the project sits with the Health Directorate, but the Office of LGBTIQ+ works very closely with the Health Directorate on that strategy and other projects. That has included having a role in the reference group that Health Directorate ran in the development of the scoping study, as well as regular bilateral conversations between the office and that team on the direction of the scoping study. It has been inputting our views on the policy, as well as relaying views from groups such as the ministerial advisory council and other stakeholders, as they put them to us.

MR DAVIS: I asked the question, Chief Minister, in the context of a number of representations made to me by LGBTIQI organisations who have, to be kind, some reservations about the health scoping study. Has the office been made aware of those reservations and concerns, and has the office made representations through the department of health to relay those concerns?

Mr Barr: We have certainly seen some correspondence from at least one organisation. We are very happy to ensure that Health are aware of that, if they have not already been directly corresponded with.

MR DAVIS: Have you read the health scoping strategy, Chief Minister?

Mr Barr: I have not had time to read the detail of it, no.

MR CAIN: Chief Minister, regarding the budget for this agency, what is the total budget for 2021-22? Could you give the breakdown of full-time equivalents by classification? I understand that you may need to take that on notice.

Mr Barr: We might have anticipated a question like this. It is a common theme, Mr Cain. Mr Mehrton will be able to assist.

MR CAIN: Dollars are important, Chief Minister.

Mr Barr: Indeed.

Mr Mehrton: The total budget for the office this year is \$810,000. About half of that is for staffing and other costs associated with running the office. We have one permanent SOGB, Senior Officer Grade B, which is ongoing, and one permanent Senior Officer Grade C, which is permanent ongoing. We also have a part-time non-ongoing Senior Officer Grade C that has been engaged specifically to help us with the work that is occurring on protections for intersex young people in legal settings.

MR CAIN: Chief Minister, of the \$27 million allocated to output class 1, government strategy, how much of that has gone to the Office of LGBTIQ+ Affairs?

Mr Barr: In terms of the whole output class?

MR CAIN: Yes.

Mr Barr: Just the amount that Mr Mehrton has outlined.

MR CAIN: \$810,000.

Mr Mehrton: Yes, that is correct.

MS LEE: I refer to the budget submission made by Meridian ACT, as well as their submission on the Capital of Equality second action plan consultation, which talks about funding being one of the biggest barriers to effective service delivery for LGBTIQ Canberrans. Has funding for Meridian increased in this budget?

Mr Mehrton: Not through the Office of LGBTIQ+. They were provided with a small amount of supplementary funding as part of the COVID-19 mental health package recently, with \$40,000 provided through the Health Directorate. We have a multiyear service agreement with Meridian for the Canberra Inclusive Partnership, which provides peer-led support services, but that has not changed in this budget.

MR DAVIS: On the subject of Meridian and their funding, Chief Minister, I note that Meridian made a budget submission to fund the Pride Hub, specifically. Instinctively it seemed like a relatively small amount of money, although I appreciate the need to prudently manage finances. Could you talk me through why that budget bid was unsuccessful?

Mr Barr: We have provided funding for the establishment of the Pride Hub, and we will work with Meridian and the broader community on the best way to take it forward. We have a funding commitment. We are not through the fiscal year yet. We did not have a business case and a sufficiently developed model for the hub. When we do, we will fund it.

MR DAVIS: That is good to know; thank you. Going back to the funding for the office, in particular, I note that the ongoing theme of estimates is that a lot of stuff that is not the public health response tends to be put on the backburner during COVID. Specifically, COVID notwithstanding, do you think that the office has enough full-time equivalent positions to meet the goals of both the first and second Capital of Equality action plans within the designated times?

Mr Barr: I believe so, but it does require the support of other areas of government as well. I do not expect the office to deliver everything itself. That is not its operating model. I would not want to see other areas of government take the view that they did not have a responsibility in their specific area of service delivery to not take account of LGBTIQ issues. It does need to be a partnership; but, yes, I believe the office does have sufficient resources. Everyone would always like more; there is no doubt about that. Within the constraints of the size of our public service and the range of issues,

I believe it is appropriately resourced for the tasks ahead.

MR DAVIS: Given that it is in part—I am paraphrasing you a bit here—the office’s job to help to manage that LGBTIQ-specific work across the government, across directorates, has the office identified any pressure points in other directorates that might have a responsibility for delivering some of the Capital of Equality projects? Have they made any representations, for example, in Education or Health, to say, “Hey, more staff, more funding, will be necessary here to meet the goals”?

Mr Barr: Clearly, there has been a significant re-prioritisation of government resources over the last 18 months, in two major tranches around pandemic response. In discussions with the Head of Service, our expectation is that there will continue to be a requirement for a lot of staff in many other areas of government to be seconded to the public health response, at least through the rest of this calendar year, and possibly early into the new year. We have begun a discussion about how we will need to start withdrawing those resources and returning them to their home directorates.

At this point I have not had major concerns brought to my attention. Everyone’s expectations around time frames have been generously flexible, noting that so much of society and work in the public sector have been impacted by the pandemic, not least the time of cabinet and senior ministers. I have done more press conferences over the last 70 days than probably in the previous year. That is a massive amount of time. With national cabinet meetings, we have had 10 years worth of COAG equivalents in the space of a year. There has been this huge whole-of-government focus in those areas, which is appropriate in light of the once-in-a-century experience, but it does have its impacts; there is no doubting that.

I would say that, across the rest of government and more broadly, people are understanding that some things are months behind. But nothing is years behind at this point.

MR DAVIS: Chief Minister, I want to ask about our shared election commitments between Greens and Labor to continue to work with survivors of conversion practices, and to further refine this reform. Where do you see that reform going next, and where would we find in the budget, if necessary, any funding allocated, particularly to support those people?

Mr Barr: There is not a new appropriation associated with that at this point. It would not come through the office. I suspect it would be in the budget of another directorate. Quite possibly, it would involve a re-prioritisation of existing resources, rather than a new appropriation. I would not want to speculate on that at this point, without having fully scoped the nature of the need, and having an understanding of what role an ACT government directorate might play in a service response or whether there would need to be a co-designed response with community sector partners; or, in fact, whether the commonwealth may or may not have any programs or joint funding opportunities. This is not just an issue in the ACT; there are many other states and territories that have also gone down this path. It is a national issue.

I need to factor in all of those matters before it would come back in a budget round. I suspect that we would be able to utilise an existing appropriation in order to provide

support. We do not yet fully have a handle on how many people would come forward seeking support at this time.

MR DAVIS: That was going to be my follow-up question, Chief Minister—to see whether the office had any numbers, and what rate they had seen of Canberrans specifically seeking services in response to their experience with conversion practices since we criminalised it.

Mr Mehrton: Mr Davis, we hear anecdotally that inquiries have been made to the Human Rights Commission about the legislation. Thus far we have not seen any cases go through to ACAT on that matter. It is still early days, though, for some of that legislation. At this stage, we do not have any hard numbers suggesting that there are formal complaints.

Mr Barr: The commission's budget has been increased. Obviously, that is not just conversion practice related. It extends to the work of the commission more broadly.

MS LEE: What is the priority of the office for this year, and what are the biggest challenges regarding achieving your goals?

Mr Barr: The priority will be the second action plan and the completion of items in the first action plan. The second action plan will outline a range of both legislative and policy reforms, as well as some service delivery partnerships and opportunities that would be there. We have touched on some of them as they relate to community sector partners, pride hubs and the like.

We have the Capital of Equality Grants Program. Clearly, some further engagement will be required on the health scoping study. We have provided four years of funding to A Gender Agenda through this budget. Clearly, some important work will be undertaken there.

There are a couple of other policy matters that have significant implications for the territory that are being driven at a national level. Most particularly, the commonwealth's proposed religious freedom bill has potential intersection with discrimination law at a state and territory level, and some implications potentially in relation to service delivery, particularly for organisations who are in receipt of ACT government funding in order to deliver services to the community.

Depending on what the federal bill contains, there may be considerable conflict between the provisions of that bill and ACT government policy—our own discrimination laws, our own Human Rights Act and our own procurement requirements in relation to non-discrimination in both the delivery of services and, indeed, access to services.

MS LEE: Chief Minister, I know that you have already talked about the budget for the office. I am looking for a breakdown of the budget for grants for ongoing community organisations, events and that type of thing. Do you have a bit of a breakdown of the funding that is allocated?

Mr Barr: Yes. You will see in the appropriations \$624,000 over four years for

A Gender Agenda. The Capital of Equality Grants Program is at around \$100,000 per year. We provide funding through festivals and events, to events like YES! Fest, which is \$90,000 over four years. The SpringOUT program is funded at \$230,000 over four years. They would be the major ones.

Mr Mehrton: The Meridian.

Mr Barr: Yes, the Meridian as well, although there is a combination of funding sources for them, as we touched on earlier.

MR DAVIS: Chief Minister, it is obviously a goal of the Capital of Equality Grants Program to make sure that those grants are allocated in an intersectional way. Do you have a breakdown of how many of those grants were delivered to people of colour, Aboriginal and Torres Strait Islander peoples or people with a disability?

Mr Mehrton: I would have to take that on notice, yes.

Mr Barr: Yes, we will take that one on notice. Obviously it is an application-based grants program. So obviously you have to apply in order to receive a grant.

MR DAVIS: On that, can I get a bit of advice on what work the office has done to do some specific outreach to ensure that diverse communities within the Rainbow Families know that the grants are available and if the office has been in a position to provide any specialist support to organisations or individuals who might need help in submitting a grant application?

Mr Mehrton: I do not think we have given any specific support in terms of preparing applications for applicants. We would not typically go to that length with a small office. We certainly have focused over the last few years on prioritising intersectionality in some of the grant applications, the grant rounds, particularly the last two that we have had; and we have included measures such as including Aboriginal and Torres Strait Islander members on our assessment panels to ensure that that kind of intersectional view is included in the assessment process as well.

I will have to take on notice again specifically what we have done around promotion of the grants because I do not have that information fresh in my mind for all the rounds; but we can provide that for you later.

Mr Barr: I can certainly recall utilising the various social media community groups that cover many different sections of the Rainbow Families, as you describe it, and some information that I know I have posted into some of those groups as well. Efforts are made to ensure that people are aware of the grants programs, and often when people hear about them, it is often a delivery of a project under the previous round. That then spurs interest in applying for a future round.

MR DAVIS: Chief Minister, a few weeks ago I had the pleasure of going to Calwell High School. I was invited to speak as part of a sexuality and gender diverse group. I just want to know how much the office, if at all, interacts with the department of education to provide supports to those groups in public schools, in particular supports for them to establish—my understanding is that they establish on a case-by-case basis,

school by school—but I wonder if there is a broader policy in the office to promote these sorts of inclusion programs in all our schools?

Mr Mehrton: Yes, we do have engagement with the Education Directorate. They obviously have a fair bit of work that they already do around the range of diversity inclusion in schools. We are particularly working with them on a number of actions where we think we can support them in the second action plan that is forthcoming. So it is not a day-to-day kind of advisory support-type role but we are working with them on additional measures that they can take to build on what is already in place.

MR DAVIS: That makes me even more excited to see the second plan.

Mr Barr: Are we not all? Yes.

THE CHAIR: With that, we are out of time. Thank you, Chief Minister, and officials, for being here. The committee will suspend briefly while we change over officials.

Short suspension.

Appearances:

Stephen-Smith, Ms Rachel, Minister for Aboriginal and Torres Strait Islander Affairs,
Minister for Families and Community Services and Minister for Health

Community Services Directorate

Rule, Ms Catherine, Director-General

Sabellico, Ms Anne Maree, Deputy Director-General

Charles, Ms Lisa, Executive Branch Manager, Office for Aboriginal and Torres
Strait Islander Affairs

THE CHAIR: Welcome back everyone. I just remind officials and the minister, as we have just changed over, that the first time you speak please acknowledge the privilege statement. Minister, I was wondering if you could tell the committee how this budget delivers on the commitments that the government has made in responding to the *Our Booris, Our Way* report.

Ms Stephen-Smith: Yes. I acknowledge the privilege statement. Just as we are getting started, I do want to introduce a new official. Catherine Rule is the new Director-General of Community Services Directorate. I do not believe she has appeared before this committee before. So I just wanted to acknowledge and welcome Catherine as well. Given the subject matter, I also just want to acknowledge, as I know you did earlier, that we are meeting on the land of the Ngunnawal people today.

The *Our Booris, Our Way* response is primarily a responsibility in my portfolio of Families and Community Services. However, a lot of the work is supported through the Office for Aboriginal and Torres Strait Islander Affairs. So we are very, very, happy to talk about it today. I might hand over to Ms Sabellico, to provide some further information on that.

Ms Sabellico: I acknowledge the privilege statement. In relation to the *Our Booris, Our Way* Implementation Oversight Committee, we have funding to provide them support for a secretariat to assist them in managing the work that sits behind their recommendations and how they then look to assist, support and monitor CSD, Justice and Community Safety, as well as Health, because all of us have recommendations that sit within the *Our Booris, Our Way* report.

That secretariat will assist them in terms of work that they do around communicating their findings and any issues with the community and also discussions with Aboriginal community-controlled organisations. That is in place. They are in the middle of recruiting for that; and we are supporting the recruitment of the secretariat.

Until such time as they have their secretariat established, we are funding for a person to support and assist both the secretariat as well as ourselves to manage further reporting requirements around *Our Booris*. We have quarterly reporting requirements to the implementation oversight committee of each and every recommendation.

Over the last six months we have been also working with them extensively in terms of the development of data in terms of the performance indicators. We have provided a

service system-level dashboard to demonstrate how things are moving and achieving success as we go forward, and we are able to track targets and expectations around the intent of a recommendation. We also have changed our reporting format, in consultation with the community, in terms of looking at data, specific to recommendation by recommendation. So our investments are going towards looking at how we need to better support and report the work that we do.

As well as that, we have got ongoing funding that has been achieved over a number of budgets to assist in supporting the implementation of recommendations that mainly sit within the child, youth and family area of CSD. They will be able to talk through some of that when they are also here in front of the committee. Effectively, they have received money to assist with learning and development; with the development of policy and procedures; the implementation of family conferencing; family functional therapy—a range of services that are specifically targeted to address the recommendations.

The other part, as well, is that we are doing a whole lot of work in consultation with the committee around looking at establishing an Aboriginal community-controlled organisation as part of the implementation and the recommendations; and that is lining up with what we need to do in terms of the next iteration of A Step Up. So we are just working with them around what that looks like and how we move forward.

MRS KIKKERT: Did you mention that a secretariat will be hired and will be driving the recommendations from the *Our Booris, Our Way* report?

Ms Sabellico: There was funding for a secretariat to support the committee in their work. They meet monthly; so there is a whole lot of work in terms of bringing together their agendas, their papers—all of that—as well as then supporting the chair in that preparing; as well as developing communications and other artifacts that they might use to consult with communities. They are recruiting at the moment, and we are supporting that recruitment.

MRS KIKKERT: I am just curious why a secretariat was recently hired to do that considering that some recommendations in that report came out in 2018. What was the reason or the drive behind hiring a secretariat to support the panel?

Ms Stephen-Smith: Can I just start by saying that some of the recommendations came out in 2018, but the *Our Booris, Our Way* Steering Committee was supported with a whole team that was undertaking the *Our Booris, Our Way* review. After the final report was provided at the end of 2019, there was a transition to and implementation of an oversight group. That has been in place since then, supported by, I think as Ms Sabellico said, a secretariat. So there was a bit of a gap between when we got the final report and then when the implementation oversight group was established.

That has been supported by a secretariat function within the directorate since then through interim funding. This funding provides the more permanent funding for that and then that means we can recruit to those positions specifically.

MR DAVIS: Thank you, Minister, and directorate officials. I am interested in

learning more about the reconciliation fund. I note that \$150,000 was allocated last budget for treaty discussions. Can you advise how they are going and who the government is talking to?

Ms Stephen-Smith: I might hand over to Ms Charles to talk a bit more about that. There has been some delay in this process for multiple reasons. Prior to COVID, I guess, we had started conversations with the United Ngunnawal Elders Council about the process for treaty. Some of the members of the United Ngunnawal Elders Council actually did a trip to Victoria to talk to the treaty commissioner down there, to some of the traditional owners down there, and there was other expertise that was brought to the ACT to engage in those conversations as well. ANTA was going to run a national treaty conference that they were going to participate in. I think they did. That has eventually happened online to a more limited extent.

Part of the work that we have been doing is to support the United Ngunnawal Elders Council to think about what a treaty would mean for the ACT and what the treaty process might look like. To support that conversation and a conversation with a broader group of traditional custodian families for the ACT, that money was allocated in the last budget to bring on a facilitator to facilitate those conversations with a wider range of traditional owners. We also needed someone to manage that process within the Office for Aboriginal and Torres Strait Islander Affairs.

There have been some delays, partly as a result of recruitment, partly as a result of COVID, in those conversations with United Ngunnawal Elders Council about criteria for that facilitator. I might just hand over to Ms Charles to provide an update on where that process is now up to.

Ms Charles: I acknowledge the privilege statement. As the minister said, we have been supporting the United Ngunnawal Elders Council over the last couple of years around treaty conversations. Where we are up to now is that we have filled the position to manage the Healing and Reconciliation Fund. I recently met with 30 United Ngunnawal Elders Council co-chairs about the timing of those discussions and criteria.

As you would appreciate, this is quite an important piece for the traditional custodians. Therefore it is best done face to face. Because of COVID over the last 12 months and 18 months, it has not been necessarily possible to move forward. At the forefront of OATSIA's mind is the safety of our elders in this time of the COVID pandemic.

MR DAVIS: That is all very good and that probably will answer my supplementaries, thank you. But the one that did not get answered is: I would like to know how many First Nations people are involved in the financial administration of the fund.

Ms Stephen-Smith: At this point we have not got a structure to administer the fund. With the recruitment that Ms Charles talked about, the person who is now in place will be able to really get stuck into that work to establish the governance. Part of something else that was funded in the last budget was the governance for the fund. We also just have not been able to really get stuck into that; but now we are. That will really determine how many people are involved and what the process is for governing the distribution of that fund.

In the meantime, the decisions that we made about expenditure from the fund generally reflect the feedback that we have had from the Aboriginal and Torres Strait Islander communities over a long period of time. Issues like treaty and the language centre, I think, are non-controversial in terms of being priorities for healing and reconciliation in the ACT within the Aboriginal and Torres Strait Islander communities.

MR CAIN: Minister, I have just got a few questions about the \$311,000 provided to fund a temporary Aboriginal and Torres Strait Islander children and families advocate, along with a support member. A portfolio brief for the new government stated last year that the new commissioner could be in place in two years. Will an actual commissioner be in place; that is, an ATSI children commissioner, by next year?

Ms Stephen-Smith: This is the policy responsibility of Ms Cheyne as the Minister for Human Rights, and I know she was asked some questions about this. I think her hearing was yesterday with the Human Rights Commission, and it was at the end of the day. She did talk through, though, the process of the funding that is in this budget to hire an advocacy position prior to the legislation that will be required to establish a formal commissioner position. She also talked about the process of consultation that is underway with the community, led by—and I am not going to remember the name of the organisation that Larissa Behrendt runs—Jumbunna—

Ms Charles: Yes.

Ms Stephen-Smith: Jumbunna. Anyway, Larissa Behrendt's organisation is leading a consultation with communities to talk about what they envisage the Aboriginal and Torres Strait Islander children commissioner exactly will do and look like. That will form the basis for the legislation that will need to be drafted around that.

In the meantime, the feedback from the communities, and recognising the frustration that the communities have felt about the delay in moving forward on this recommendation from *Our Booris, Our Way*, was to very quickly move to appoint an advocacy position within the public service that could both support the establishment of a commissioner but also undertake some of that work that we would expect the commissioner to undertake in terms of advocating on behalf of Aboriginal and Torres Strait Islander children.

I cannot give you a clear time line on that. I think questions would go best to Ms Cheyne on the actual time line when she expects legislation to be introduced and the commissioner position to be established.

MR CAIN: Minister, what is all, and what will be, your actual responsibility for the ATSI children commissioner?

Ms Stephen-Smith: At the moment, the responsibility for that policy and the development of that position sits with the Minister for Human Rights in the same way that the Children and Young People Commissioner and Public Advocate has a role in the child protection system. It also reports, through the Human Rights Commission, to the Minister for Human Rights and sits within her portfolio. That is part of the

conversation and consultation with the communities.

They have been clear previously that they did not necessarily think that the Aboriginal and Torres Strait Islander Children and Young People Commissioner sat best within the Human Rights Commission. So part of the conversation with them is: does it sit within the Human Rights Commission, but with a level of independency, but with support for an administration; there or somewhere else? What is the best place for it to sit? Where is the best place for it to sit? And what exactly do we want it to do? I think in the longer term the roles are not necessarily clearly defined, and that is why the consultation is occurring now.

MRS KIKKERT: Minister, in *Our Booris, Our Way* recommendation 7, it actually says that the review is for a commissioner who has the capacity to specifically intervene and engage in child protection processes. That is on page 79. Will the temporary advocate have this capacity in the meantime? Have you spoken to Minister Cheyne about this particular recommendation to make sure that the commissioner the Human Rights Minister is responsible for has power for intervention in child review processes?

Ms Stephen-Smith: Yes. That has been part of the conversation. Both Ms Cheyne and I have also met directly with the Our Booris, Our Way Implementation Oversight Committee around that. Again, it is a matter for Ms Cheyne to talk specifically about the detail of the advocacy position, unless Ms Sabellico has any further information. No. Those questions are best directed to Ms Cheyne, on notice.

MRS KIKKERT: But the advocate funding has been approved. Are you aware if the Aboriginal and Torres Strait Islander children and families advocate has the power to intervene in child protection reviews?

Ms Stephen-Smith: They would not have the power currently, but that position is only just being established. That is part of the work that we are doing. In order for them to be able to intervene in a formal legal sense, my expectation is that there may be a need to amend the Children and Young People Act. So that is something that we would need to consider.

There is capacity, as you would be aware, for people to join a care team for a young person in care. The Public Advocate currently sometimes joins and chairs teams for particularly complex matters where the Public Advocate has taken on a role, a strong interest in those matters.

It may be that this new position may be in a position of joining a care team for a young person or there may be an agreement reached between that position and Child and Youth Protection Services in relation to their roles in some matters. Those are issues that are still being worked through.

MRS KIKKERT: Why have no funds been committed to this position across the forward estimates?

Ms Stephen-Smith: Because that is a temporary position while the consultation is undertaken and the legislation is developed to establish the commissioner position.

Then the result of that consultation and that work will determine what resourcing will be required for that commissioner position for the longer term.

MRS KIKKERT: One of the budget priorities for 2021-22 is driving policy reform to enable self-determination of Aboriginal and Torres Strait Islander peoples, on page 1. Another is working with local community to address local priorities. According to the recently tabled government response to the Assembly resolution of 9 February, in April local leaders unanimously asked for a commission of inquiry into the over-representation of Aboriginal and Torres Strait Islander peoples in the ACT justice system. I have been assured just this week that they have not changed their minds. How does the government's rejection of this specific request square with the commitment to self-determination and local priorities?

Ms Stephen-Smith: I do not know if you have seen the correspondence from me and the Attorney-General, Minister Rattenbury, to the communities, or the background paper that we provided to the communities for the most recent roundtable on this topic. We have been very clear in our communications with the communities that we have not rejected that call. We continue to have a conversation with the communities about what that process looks like. We have expressed some reservations about a long, drawn-out and legalistic process that may not result in recommendations that really take the ball forward in terms of what we already know about the reasons for over-representation in the justice system and what we should do about it.

Our most recent conversation with the communities was an online roundtable. We were due to have a roundtable, I think, the Monday after we went into lockdown. So that had to be delayed. But we held a roundtable online, with very strong representation from across the Aboriginal and Torres Strait Islander communities and leadership, and we really talked about three things.

The first thing was: what can we do immediately, responding to what we had heard at the first roundtable and what we have heard from Aboriginal and Torres Strait Islander peoples over a period of time, about some of the changes we could make and some of the investments we could make immediately to address the challenges that we know exist in the justice system for Aboriginal and Torres Strait Islander peoples?

One of the other things that the letter from that leadership group that Julie Tongs pulled together called for, alongside that commission of inquiry with royal commission powers, was an audit of and commitment to implement the existing recommendations from reviews. I think, if memory serves correctly, I got a list of existing reviews and reports that had been written related to this matter since 2013. There are already 24 of these reports and reviews.

The other thing we talked about was: how do we audit the recommendations of those—

MRS KIKKERT: Minister, can I pause you for a second? You said that there are 24 reviews and reports over the last couple of years, many years actually, and that the communities and you agreed to have those reviews and recommendations audit. I am really surprised that it needs auditing. I thought that the government would actually be aware of what these reviews are and what recommendations have been implemented

over the last couple of years so that you do not need an actual audit. That is what the communities are actually requesting for this commissioner. You are just inadequate in making sure that these reviews over the last couple of years have been implemented.

Ms Stephen-Smith: If you had let me finish the sentence that I was halfway through, I would have answered that question in that sentence. One of the things that we know, and from our experience with *Our Booris, Our Way*, is that sometimes we will believe that we have implemented a recommendation but, in fact, we have not really got to the heart of the intent of the recommendation or the implementation of it has not achieved the outcome that was intended from the recommendation. So part of this is to pull together an understanding of what we have done and what we have achieved.

There has been some really, really good work and there have been some really excellent programs implemented, like the Yarrabi Bamirr Justice Reinvestment Program with Winnunga, the Aboriginal and Legal Service and the Women's Legal Service. That has really supported families with a member in the justice system and kept other family members out of the justice system and, indeed, out of the child protection system, as well. There has been some really good work across the board. But there are also a lot of gaps, and we recognise that. There is a lot of work still to do and a lot of systemic issues that we really need to get to the heart of.

The idea of the audit and of the recommendations was to do that with Aboriginal leadership so that we can have that Aboriginal voice at the table saying, "Okay, the words on the paper say this, and this is what you say you have done. But, in fact, the intent was this. The underlying issue is this, and what you have done is only scratch the surface of what you actually need to do," or "You have done something, but it is not enough to actually implement that recommendation in full."

I am sure that you would appreciate, when you are getting reviews and reports on a very regular basis with multiple recommendations, that it does drag your attention to the most recent one. Sometimes there was a gem that did not quite get fully implemented because the attention got dragged to a more recent report, a more recent inquiry, a more recent recommendation. It is really good to go back to some of those gems in earlier reports and say, "What more could we have done to address that recommendation at the time?" That is the conversation that we are having.

MRS KIKKERT: It is just a conversation to highlight the many failures that the ACT Labor government has, the lack of achievement in the Aboriginal and Torres Strait Islander communities. On the basis of what you mentioned before, Minister—you spoke briefly about the length of an inquiry—if we were to have a commissioner, I am just curious why can we not have a commission of inquiry that can be limited in time and scope to address these issues and therefore you can reduce the cost and also reduce the time, as I mentioned before.

We know that inquiries have been held in the past that lasted for maybe only two months, three months. So I cannot see why a commissioner, being involved in an inquiry, but also have a limited time, rather than having years to do an inquiry that could be quite costly.

Ms Stephen-Smith: And that—

THE CHAIR: We are nearly out of time. So it is the last question.

Ms Stephen-Smith: Sorry. That is exactly the conversation that we are having with the communities, and looking at things like the Glanfield inquiry that was done under the Inquiries Act in the time frame—

MRS KIKKERT: So it is doable?

Ms Stephen-Smith: with those powers. That is exactly the conversation we are having with the communities right now.

THE CHAIR: We are out of time. Thank you everyone. On behalf of the committee, I would like to thank the Chief Minister for being here, as well as Minister Stephen-Smith. I also thank all the officials who have appeared today. The secretary will provide each of you with a copy of the proof transcript from today's hearing when it is available. If witnesses have taken any questions on notice today, could you please get those answers to the committee secretary within five working days of the receipt of the uncorrected proof transcript of today's hearing?

Thank you. Today's hearing now stands adjourned.

The committee adjourned at 5.30 pm.