

STANDING COMMITTEE ON EDUCATION, TRAINING
AND YOUTH AFFAIRS

**Human Rights Commission Report into the
ACT Youth Justice System - Implementation of
Report recommendations
4.3, 4.15, 4.16 & 15.1**

NOVEMBER 2011

REPORT 7

STANDING COMMITTEE ON EDUCATION, TRAINING AND YOUTH
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Resolution of appointment

On the 9 December 2008, the Legislative Assembly for the ACT resolved to establish a Standing Committee on Education, Training and Youth Affairs to examine matters related to early childhood education and care, primary, secondary, post secondary and tertiary education, non-government education, youth services, technology, arts and culture.

Terms of reference

The Assembly

- (1) Refers recommendations 4.3, 4.15, 4.16 and 15.1 of the Human Rights

Commission Report, entitled *The ACT Youth Justice System 2011*, to the Standing Committee on Education, Training and Youth Affairs for inquiry and report on how best the Standing Committee may have an ongoing role in the implementation of the Human Rights Commission Report recommendations and oversight of youth justice in the ACT; and

- (2) Report back to the Assembly by the last sitting day in November 2011.

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STANDING COMMITTEE ON EDUCATION, TRAINING AND YOUTH
AFFAIRS

RECOMMENDATIONS

RECOMMENDATION 1

In relation to Report recommendation 4.5, the Committee accepts the overall perception of the development of a reporting and scrutiny mechanism for the Report framework, and considers that the Report sees this role for the Committee as a description of a wider scrutiny and accountability role.

The Committee also recommends that this Report recommendation for the Committee be accepted and that the reporting and consultation mechanism which is spelled out in recommendations 4.15 and 4.16.

RECOMMENDATION 2

In relation to Report recommendation 4.15, the Committee sees the specific proposal contained in this recommendation as capable of incorporation and regular scheduling (much as it does with other scrutiny roles) into the Committee's ongoing program, and agrees that, initially, this hearing be programmed to be held biennially.

The Committee considers that the hearing would be include the Directorate; the Commissioner for Children and Young People; the Public Advocate; and the Official Visitor and accepts the recommendation.

RECOMMENDATION 3

In relation to Report recommendation 4.16, having considered the feedback on this recommendation from the ACT Children and Young People Commissioner and the ACT Human Rights and Discrimination Commissioner, the Committee is satisfied that joint formal reporting by the Public Advocate, the Official Visitor and the Human Rights Commissioner identified in the recommendation is desirable, and, the Committee is satisfied that a formal report from the nominated agencies, particularly as it is envisaged it would be in the form of a combined report is at this point a practical and desirable manner of proceeding. The Committee acknowledges that this joint reporting will be dependent on the resources of the agencies, and that the Annual Reports for these agencies may be the appropriate reporting mechanism.

RECOMMENDATION 4

In relation to Report recommendation 15.1, the Committee proposes that this recommendation be implemented by the Committee writing each year to relevant stakeholders, including those listed recommendation 15.1, to raise relevant and current issues. This, the Committee believes, can and should be done in connection with the biennial review process recommended in the Report and accepted by the Committee as a desirable way of proceeding.

1 INTRODUCTION

Conduct of the inquiry

- 1.1 On 8 December 2010 the ACT Legislative Assembly asked the Attorney-General to direct the ACT Human Rights Commission (the Commission) to conduct an inquiry into the youth justice system and to undertake a human rights audit of the Bimberi Youth Justice Centre (Bimberi). The Attorney-General provided this direction on 7 January 2011.
- 1.2 The report, 'The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the Human Rights Commission' (the Report), was circulated to members of the Legislative Assembly out of session on 29 July 2011. The report was tabled in the Assembly on 16 August 2011.
- 1.3 The Report made a number of recommendations in relation to the implementation of the Report by this Committee.
- 1.4 The Committee held a public hearing on the reference on 14 November 2011 at which the ACT Children and Young People Commissioner, Mr Alasdair Roy and the ACT Human Rights and Discrimination Commissioner, Dr Helen Watchirs appeared to assist the Committee.
- 1.5 The Committee has appreciated the support of those who participated in the Inquiry.

Purpose and scope of the Inquiry

- 1.6 The Committee's inquiry has as its focus the recommendations made in the Report as they propose a watching and monitoring role for the Committee as a representative of the Legislative Assembly in the implementation of the Report's proposals for change and for improvement in the handling and proper response to the issues raised by the Report.
- 1.7 The Committee is conscious of the difficult, challenging and critical nature of the responsibility it has for the scrutiny, accountability and explanation to the

community on the issues raised by the Report. These include the vision and plans for a proper and desirable level of public accountability for such an area of social support and responsibility.

- 1.8 To ensure that the Committee developed a clear and proper understanding of the proposed role for the Committee undertook this inquiry by reference to the full Report, and by discussions with Mr Alasdair Roy, the ACT Children and Young People Commissioner and with Dr Helen Watchirs, the ACT Human Rights and Discrimination Commissioner.

2 SPECIFIC ISSUES FOR THE COMMITTEE'S CONSIDERATION

Committee's role in implementation of recommendations

- 2.1 The Report recommends that the Committee accept a role in the implementation of its findings and recommendations. Specifically the Report recommends that the Committee have a continuing role in the implementation of the following four recommendations – Recommendations 4.3, 4.15, 4.16 and 15.1.
- 2.2 These recommendations are in Attachment A.
- 2.3 The Committee discusses each of the recommendations and its conclusions.

Report recommendation 4.3

The ACT Strategic Board sub-committee adopt a whole-of-government and whole-of-community approach to develop a clear and shared vision for vulnerable children, young people and their families; and that children and young people and the Legislative Assembly Standing Committee on Education, Training and Youth Affairs be meaningfully engaged in the vision-setting process.

- 2.4 In its discussion with Mr Roy and Dr Watchirs, the Committee sought advice on whether this recommendation could be implemented by reference to recommendations 4.15; 4.16; and 15.1 (which the Committee discusses in detail in following paragraphs)..

CHAIR -4.3, talks about more meaningful engagement of the education committee in the youth justice system. Do you see that as being met by the other recommendations you made that refer to the education committee.....How do you see that involvement happening?

Mr Roy:By “broader community”, we are talking about all stakeholders involved in the system, not just the community services. Included in “key stakeholders”, we would obviously include the government and this standing committee.

.....

The thinking behind involving the standing committee in the development of the vision links to one of the recommendations which we made, which was that the strategic board establish a subcommittee on vulnerable children and young people and their families, that that strategic board, as an across-government mechanism, would develop a vision for children and young people in the youth justice system and that, to ensure that all relevant stakeholders would be a party to the development of that vision, the standing committee would be actively consulted.

THE CHAIR: Do you see the committee having engagement through those other recommendations about having regular updates from the organisations or bodies involved in youth justice reporting processes or would it be some formal involvement with the strategic board?

Mr Roy:The standing committee, representing all areas of the government, would be a key player in the development of that vision. Similarly, the standing committee would have a key role in monitoring the implementation of the vision. So we make a number of recommendations in terms of having, every two years, an open public hearing for oversight agencies to return to talk about how the government is going in implementing the vision and also, annually,

inviting key independent agencies to come back and raise issues of concern. It is an accountability mechanism that does not currently exist.¹

- 2.5 The Committee accepts this overall perception of the development of a reporting and scrutiny mechanism for the Report framework, and considers – as it discusses further in the following sections – that the Report sees this role for the Committee as a description of a wider aim for the Strategic Board.
- 2.6 The Committee also considers it has as its aim a reporting and consultation mechanism which is spelled out in recommendations 4.15 and 4.16.

RECOMMENDATION 1

In relation to Report recommendation 4.5, the Committee accepts the overall perception of the development of a reporting and scrutiny mechanism for the Report framework, and considers that the Report sees this role for the Committee as a description of a wider scrutiny and accountability role.

The Committee also recommends that this Report recommendation for the Committee be accepted and that the reporting and consultation mechanism which is spelled out in recommendations 4.15 and 4.16.

Report Recommendation 4.15

The Legislative Assembly Standing Committee on Education, Training and Youth Affairs consider holding public hearings every two years on achievements towards the vision and outcomes for vulnerable young people in the youth justice system.

- 2.7 The Committee sought advice on the form that this hearing program might take with Mr Roy and Dr Watchirs.

DR BOURKE: The implementation of your recommendation 4.15, that we hold a public hearing every two years to assess the vision and

¹ Evidence, p4, 14 November 2011

outcomes of vulnerable young people in the youth justice system, would fulfil that role, would it not?

Mr Roy: If the government accepts that recommendation and the standing committee takes on that role, we would certainly play a significant part in ensuring that we are on track with whatever vision, performance measures, statement of purpose et cetera we have. I guess it would be up to the standing committee to determine whether its scope would cover whether the government has implemented all the recommendations.

DR BOURKE: Presumably in a public hearing people would be able to tell us whether they think the government has implemented recommendations or not, and the minister would come and tell us whether the recommendations had been implemented or not and then we would come to a conclusion.

Mr Roy: I agree. It is certainly feasible for the standing committee to take that role. As I said, it is not up to me to determine the role the standing committee takes in that. But, certainly, if the standing committee is to hold public hearings every two years, it would play a significant role in ensuring the government was on track in implementing its recommendations.²

- 2.8 The Committee sees the specific proposal contained in this recommendation as capable of incorporation and regular scheduling (much as it does with other scrutiny roles) into the Committee's ongoing program, and agrees that, initially, this hearing be programmed to be held biennially.
- 2.9 The Committee considers that the hearing would be based on - as is advised in detail in the quote above - inclusion of the Department; the Commissioner; the Public Advocate; and the Official Visitor.

² Evidence, p.9, 14 November 2011

- 2.10 In reply to a clarifying question from Ms Bresnan, regarding the matter, and how oversight bodies such as the Public Advocate, the commission and the Official Visitor reporting annually to the committee and whether the recommendation proposes that those oversight bodies would jointly report on youth affairs.

Mr Roy: Yes. We envisage that we would all be able to report jointly. There may, of course, be times when we have a different view on a particular issue or one of us has an interest in a particular issue that the others do not. We—that is, the Public Advocate, the Official Visitor and the Human Rights Commission—have already established a process to meet regularly to talk about issues of concern. One of the issues we have identified through the report was that there are a number of oversight agencies—those three agencies in particular—that visit Bimberi. We acknowledge in the report that we can do better by coordinating discussion of issues of concern.³

RECOMMENDATION 2

In relation to Report recommendation 4.15, the Committee sees the specific proposal contained in this recommendation as capable of incorporation and regular scheduling (much as it does with other scrutiny roles) into the Committee’s ongoing program, and agrees that, initially, this hearing be programmed to be held biennially.

The Committee considers that the hearing would include the Directorate; the Commissioner for Children and Young People; the Public Advocate; and the Official Visitor and accepts the recommendation.

Report recommendation 4.16

The external oversight bodies (the Public Advocate, the Official Visitor, and the Commission) report jointly and annually to the ACT Strategic Board sub-committee and the Legislative Assembly

³ Evidence, p. 9, 14 November 2011.

**Standing Committee on Education, Training and Youth Affairs on
achievements towards the vision and outcomes for vulnerable young
people in the youth justice system.**

2.11 The Committee was concerned to ascertain the reporting mechanism this recommendation envisaged.

2.12 In discussions with Mr Roy and Dr Watchirs, the issue was raised by Mr Hanson:

MR HANSON: Have you spoken on that recommendation 4.16 to the Public Advocate and the Official Visitor to seek their views?

Mr Roy: Yes.

MR HANSON: It seems that at the moment we have got a few ideas about how that information might be provided. Are you expecting the committee to write to you to say that this is how we want it to occur—that we would like to see it in the annual report or we would like you to appear once a year? I want to make sure that we do not have the Public Advocate doing one thing and the Human Rights Commission doing another. How are we going to consolidate this now? Are you now waiting on us to respond to you?

Dr Watchirs: I think we anticipated that the mechanism was that the government wrote to this committee and we were expecting the committee's response to that to guide us. The actual mechanics we can sort out in the oversight agencies meeting that we have two-monthly—the three of them.

2.13 The Committee noted that it will be up to the Committee to determine the progress of the Report recommendations, and that the information provided by the Commissioner's gave direction on this.

Mr Roy: Some of the thinking behind that particular recommendation, and I may have already said this and I apologise if I have, is that the

Public Advocate, the Official Visitor and the Human Rights Commission each have different but similar statutory functions and they all have similar but different roles in overseeing services to children and young people, including children and young people in Bimberi. Throughout the review each of those oversight agencies expressed concern that we had raised issues of concern through our respective mechanisms; sometimes that was effective and sometimes it was not as effective as we had hoped. By having those agencies report back to a multipartisan group of people it draws a different focus on what may happen.

- 2.14 Having received this feedback, the Committee is satisfied that a joint formal reporting by the agencies identified in the recommendation is desirable, and – given the discussion with Mr Roy and Dr Watchirs, - is also satisfied that a formal report from the agencies, particularly as it is envisaged it would be in the form of a combined report - appears at this point to be a practical and desirable manner of proceeding.
- 2.15 The Committee acknowledges that resourcing issues for each of the relevant bodies will impact on a joint reporting capability. Therefore, it may be appropriate for the bodies to use Annual Reports to provide a report on the achievement towards the vision and outcomes of the youth justice system.

RECOMMENDATION 3

In relation to Report recommendation 4.16, having considered the feedback on this recommendation from the ACT Children and Young People Commissioner and the ACT Human Rights and Discrimination Commissioner, the Committee is satisfied that joint formal reporting by the Public Advocate, the Official Visitor and the Human Rights Commissioner identified in the recommendation is desirable, and, the Committee is satisfied that a formal report from the nominated agencies, particularly as it is envisaged it would be in the form of a combined report is at this point a practical and desirable manner of proceeding. The Committee acknowledges that this joint reporting will be dependent on the resources of the agencies, and that the Annual Reports for these agencies may be the appropriate reporting mechanism.

Report recommendation 15.1

The Legislative Assembly Standing Committee responsible for youth justice annually invite ACT Policing, the DPP, the Childrens Court, Legal Aid ACT and peak bodies in the community sector to raise issues of interest or concern about the youth justice system.

- 2.16 The Committee proposes that this recommendation can be implemented by the Committee writing each year to relevant stakeholders, including those listed in the recommendation, to raise issues. This, the Committee believes, can and should be done in connection with the biennial review process recommended in the Report.

RECOMMENDATION 4

In relation to Report recommendation 15.1, the Committee proposes that this recommendation be implemented by the Committee writing each year to relevant stakeholders, including those listed recommendation 15.1, to raise relevant and current issues. This, the Committee believes, can and should be done in connection with the biennial review process recommended in the Report and accepted by the Committee as a desirable way of proceeding.

3 CONCLUSION

3.1 In relation to the matters referred to it by the Assembly in this inquiry, the Committee concludes:

- The Report on the ACT Youth Justice System 2011 is a major and critical report on matters relating to the proper care, supervision and rehabilitation mechanisms and requirements of young people in the youth justice system.
- In making recommendations for a continuing role for the Legislative Assembly – and for this Committee specifically – the Report recognises the strong and continuing concern the Assembly has in an effective and proper level of change and reform of the current system of youth justice oversight in the ACT.
- The role proposed by the Report findings and recommendations are, the Committee considers, important and can be managed through the Committee's ongoing program of scheduled scrutiny of agencies and programs within its area of responsibility.

Amanda Bresnan MLA

Chair

17 November 2011

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AFFAIRS

APPENDIX A: Implementation of ACT Youth Justice System Report on the recommendations: 4.3, 4.15, 4.16 & 15.1

Report recommendation 4.3

The ACT Strategic Board sub-committee adopt a whole-of-government and whole-of-community approach to develop a clear and shared vision for vulnerable children, young people and their families; and that children and young people and the Legislative Assembly Standing Committee on Education, Training and Youth Affairs be meaningfully engaged in the vision-setting process.

Report Recommendation 4.15

The Legislative Assembly Standing Committee on Education, Training and Youth Affairs consider holding public hearings every two years on achievements towards the vision and outcomes for vulnerable young people in the youth justice system.

Report recommendation 4.16

The external oversight bodies (the Public Advocate, the Official Visitor, and the Commission) report jointly and annually to the ACT Strategic Board sub-committee and the Legislative Assembly Standing Committee on Education, Training and Youth Affairs on achievements towards the vision and outcomes for vulnerable young people in the youth justice system.

Report recommendation 15.1

The Legislative Assembly Standing Committee responsible for youth justice annually invite ACT Policing, the DPP, the Childrens Court, Legal Aid ACT and peak bodies in the community sector to raise issues of interest or concern about the youth justice system.

- Promoting more reasoned decision-making, and avoiding or mitigating any negative impacts that law/policy may have;
- Making more effective law/policy, and delivering more effective programs;
- Saving money and time, by helping to identify problems or improvements at an early stage;
- Statutory human rights obligations; and
- Acting in the best interests of children and young people.

4.4.13 The Commission anticipates that Child Impact Statements would apply to:

- Proposed legislation and regulations, government plans, policies, strategies;
- Program and service design and implementation;
- Budget setting, planning decisions, tendering processes;
- Organisational procedures and practices; and
- Other decisions that apply generally to the ACT community.

4.4.14 The Commission is aware that many policy decisions are referred to the ACT Youth Advisory Council (YAC)¹² for their input, and the YAC's role in providing a voice for children and young people and advice to Government is vital. However, this is not a responsibility that the YAC can fulfil alone, nor should sending a discussion paper to the YAC for response be seen as adequate consideration of the issues for children and young people. Additionally, while the Children & Young People Commissioner has the opportunity to see relevant draft Cabinet Submissions, resource constraints and limited timeframes often make meaningful contribution by children and young people to the policy debate difficult, and the process does not provide an opportunity for children and young people to be directly consulted.

Recommendation 4.2: The ACT Government commit to introducing Child Impact Statements and work with the Commission and other relevant stakeholders to develop a suitable model.

4.4.15 In making this recommendation the Commission notes Child Impact Statements are aligned to the ACT Government's intention to consider '*individuals and groups in the community who may be affected by new policy, legislation and decision making of Government*' in the Triple Bottom Line assessment framework that is being developed under the *Canberra Social Plan 2011*.¹³

Engaging the Legislative assembly:

4.4.16 The Commission believes the Legislative Assembly has a critical role to play in developing a vision for vulnerable children, young people and families in the ACT. The Commission notes the Hawke Report recommended that mechanisms be developed:

*... to bring non-government Members of the Legislative Assembly into the earlier stages of policy and program design.*¹⁴

4.4.17 In citing existing examples of good practice, the Hawke Report noted that the Legislative Assembly Standing Committee with responsibility for the children and young people portfolio has consistently inquired into and reported on issues facing young people, including youth justice issues. The Commission sees merit in the ACT Strategic Board sub-committee involving this Legislative Assembly Standing Committee in the setting of a vision for vulnerable children, young people and their families in the ACT.

Setting a clear and shared vision

4.4.18 With the sub-committee of the ACT Strategic Board in place (whole-of-government) and processes developed to meaningfully engage the broad community (whole-of-community), the ACT Government will be able to develop a vision for vulnerable children, young people and their families that has high public value and authorisation.

12 The Youth Advisory Council comprises 15 young people aged between 12 and 25 years (inclusive) at the time of their appointment. The objectives of the Youth Advisory Council are:

- To give young people opportunities to take a leading role in participation and consultation activities on issues that affect their lives;
- To act as a conduit to the Minister on the views of young people;
- To raise awareness of the aspirations, needs and concerns of young people within government and the community; and
- To facilitate interaction between young people, the ACT Government and the wider community.

13 http://www.cmd.act.gov.au/_data/assets/pdf_file/0010/216559/2011CanberraSocialPlan_Print_Version.pdf accessed 9 July 2011, 46.

14 Hawke, A., *Governing the City State: One ACT Government – One ACT Public Service*, ACT Government (2011) 57.

- 4.4.19 In this Report, the Commission does not seek to propose a vision for vulnerable children, young people and their families. However, we do suggest in relation to the content the ACT Strategic Board sub-committee and its stakeholders might consider in the process of setting this vision, that the vision for vulnerable children, young people and their families should:
- Be centred on vulnerable children and young people, and not the systems that support them;
 - Reflect that every child and young person wants to succeed – and can succeed;
 - Seek to meet the needs and see improvements in the lives of vulnerable children, young people, their families and their communities;
 - Seek to assure and improve the safety, health, development, learning and well being of all of the ACT's vulnerable children and young people; and
 - Mobilise collective capability to inspire and promote a shared sense of optimism, purpose and empowerment across the system.

Recommendation 4.3: The ACT Strategic Board sub-committee adopt a whole-of-government and whole-of-community approach to develop a clear and shared vision for vulnerable children, young people and their families, and that children and young people and the Legislative Assembly Standing Committee on Education, Training and Young Affairs be meaningfully engaged in the vision-setting process.

A statement of purpose for the youth justice system

- 4.4.20 A vision for the youth justice system for the ACT has already been developed by CSD. However, as shown previously in this Chapter, this vision was not developed within a strong authorising environment and, consequently, has little buy-in across government agencies or within the broader community. The Commission suggests this vision be redeveloped by CSD and called a 'statement of purpose'.

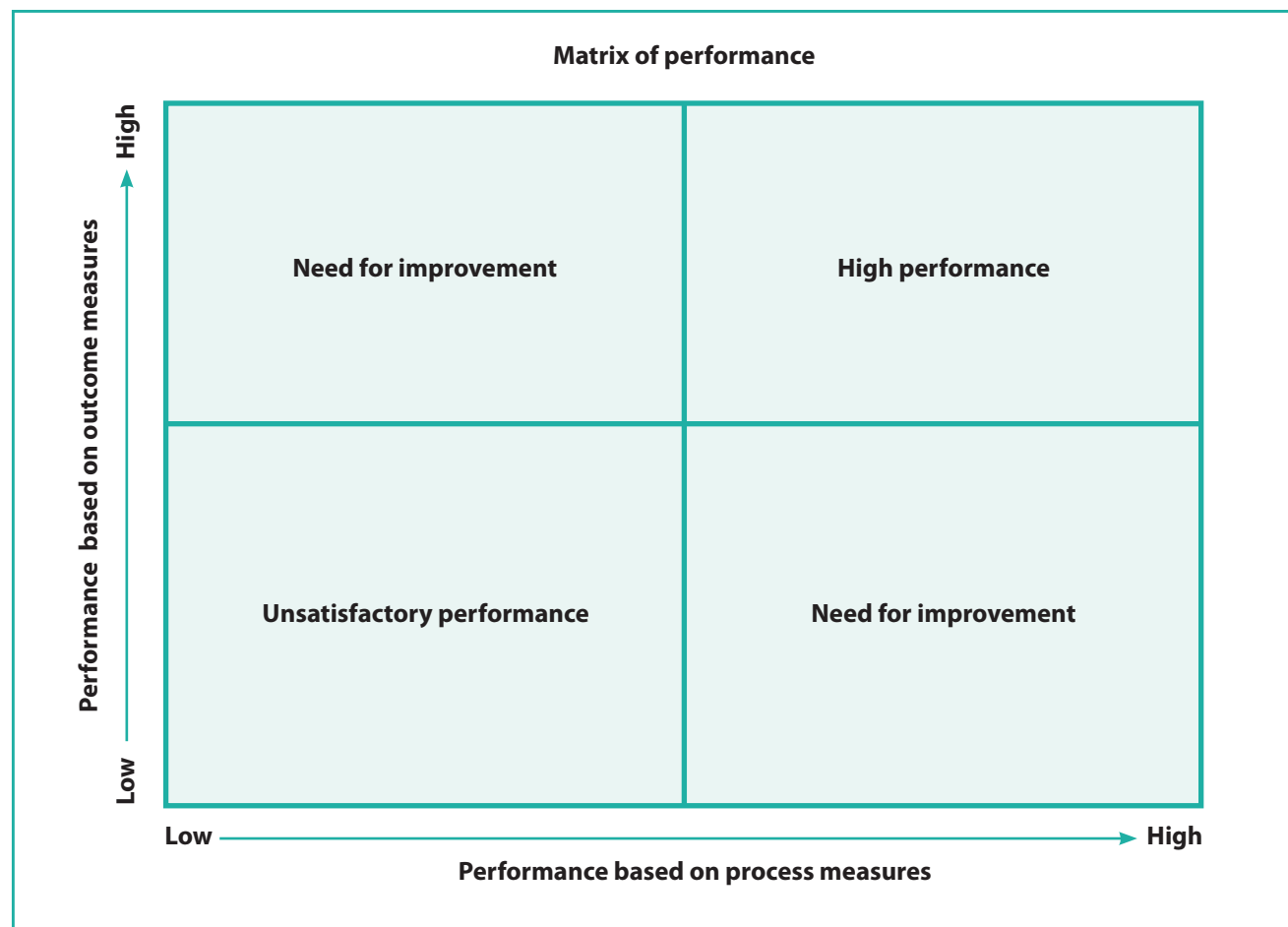
Creating a strong authorising environment

- 4.4.21 In order to increase buy-in across government agencies and the community, the Commission suggests the statement of purpose be redeveloped within the context of the ACT Strategic Board's vision for vulnerable children, young people and families.
- 4.4.22 To support the development of the statement of purpose for the youth justice system and its translation into practice, the Commission is of the view that CSD should establish a Youth Justice Advisory Group, with the secretariat function housed in the Youth Directorate, OCYFS. This Group should comprise practitioners and experts in the field of youth justice, detention, rehabilitation and reintegration, as well as youth and family advocacy groups.

Recommendation 4.4: The Community Services Directorate establish a Youth Justice Advisory Panel to guide the development of a statement of purpose for the youth justice system and to monitor the ongoing translation of this purpose into practice.

- 4.4.23 To develop a statement of purpose for the youth justice system, the Commission suggests CSD implement processes that meaningfully engage:
- All government directorates involved in the youth justice system (whole-of-government); and
 - Young people, families, advocacy groups, service providers, practitioners and experts involved in the youth justice system (whole-of-community); and
 - The Youth Justice Advisory Panel [recommendation 4.4] (whole-of-community).
- 4.4.24 Lastly, the Commission suggests the statement of purpose be approved by the ACT Strategic Board sub-committee for vulnerable children, young people and their families. It is envisaged that approval of this kind will enhance the statement's whole-of-government authorisation.

Figure 4.4: Matrix model for people performance management



Recommendation 4.14: The Community Services Directorate introduce a matrix model of people performance management to assess measures of leadership behaviour as well as outcome measures.

4.6 An accountability framework

- 4.6.1 The recommendations contained in this Report and the significant structural change to Government represented by the introduction of the ACT Strategic Board, will separately and jointly change the way the ACT government engages with and provides services and support to vulnerable children and young people, particularly those involved in the youth justice system and Bimberi. In these circumstances, it is the Commission's view that the ACT community, Legislative Assembly and bureaucracy would benefit from the accountability framework being strengthened in relation to the way government improves the system for these young people.
- 4.6.2 In seeking to strengthen the accountability framework, the Commission notes the unanimous recommendations of the 2008 *Commonwealth Joint Parliamentary Committee on National Capital and External Territories Report into the National Capital Authority*, which said:
- 'Transparency and accountability to the Parliament will be enhanced through the Chairperson of the board appearing twice a year at public hearings before this committee.'*

- 4.6.3 The Commission sees applicability of this recommendation in relation to the introduction of the range of other vision and accountability drivers discussed in this chapter. Transparency and accountability of the ACT Government would be enhanced if the Government were to appear every two years at public hearings before the Legislative Assembly Standing Committee on Education, Training and Youth Affairs.
- 4.6.4 In holding hearings every two years, the Legislative Assembly Standing Committee on Education, Training and Youth Affairs could inquire into achievements of the vision and outcomes for vulnerable young people in the youth justice system. Of particular importance, the Standing Committee could hear submissions from a whole-systems perspective through:
- Inviting appearances from the **whole-of-government**, such as relevant Ministers, the ACT Strategic Board sub-committee, Director-General of the CSD, and representatives from the police, Department of Public Prosecutions (DPP) and Legal Aid; and
 - Inviting appearances from the **whole-of-community**, such as representatives from the Courts, Aboriginal Legal Services, external oversight bodies, advocacy groups, practitioners, experts, families and young people.
- 4.6.5 Such an accountability mechanism would allow for review of progress, and the making of associated recommendations for continual improvement every two years.

Recommendation 4.15: The Legislative Assembly Standing Committee on Education, Training and Youth Affairs consider holding public hearings every two years on achievements towards the vision and outcomes for vulnerable young people in the youth justice system.

- 4.6.6 Regardless of whether the above recommendation for an accountability framework is adopted, the Commission sees value in the external oversight bodies (the Public Advocate, the Official Visitor, and the Commission) preparing a joint annual report on achievement towards the vision and outcomes for vulnerable young people in the youth justice system, including Bimberi. The Commission recommends this report be tabled with both the ACT Strategic Board sub-committee and the Legislative Assembly Standing Committee on Education, Training and Youth Affairs.

Recommendation 4.16: The external oversight bodies (the Public Advocate, the Official Visitor, and the Human Rights Commission) report jointly and annually to the ACT Strategic Board sub-committee and the Legislative Assembly Standing Committee on Education, Training and Youth Affairs on achievements towards the vision and outcomes for vulnerable young people in the youth justice system.

4.7 Change management

- 4.7.1 This Chapter has made a broad range of suggestions and recommendations to better align the systems for vulnerable children and young people to a clear and shared vision. It has followed a linear progression of recommending improvements to:
- The vision at each operating level;
 - Translation of this vision into practice through:
 - Adopting outcomes measures and performance indicators (the organisational performance management system);
 - Better aligning the planning system; and
 - Strengthening the people performance system; and
 - The strength of the accountability framework.
- 4.7.2 These recommendations, and others in this Report, represent a significant amount of change to plan, manage and achieve. Of particular note, the recommendations require CSD to improve its performance culture by better aligning three large systems (the organisational performance measurement system, the planning system, and the people performance measurement system).

Chapter 15: Management And Oversight

A Quality Youth Justice System Is Well Managed And Operated

Relevant Human Rights Standards

- Regular Oversight by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the facility (OPCAT, SMR rr.14, 72, 77, POJ rr.36, 55, BOP r.29, CROC art 14, RCIADC r.176)
- Freedom from Torture, and Humane Treatment whilst in Detention (HR Act ss.10, 19)
- Freedom of Expression (HR Act s.16)

15.1 Introduction

- 15.1.1 This chapter concludes the Report by discussing issues of management and oversight.
- 15.1.2 The first part discusses the youth justice system as a whole. There are a range of stakeholders across the youth justice system, many of whom are independent from Government. It is essential that these stakeholders are involved in discussions about systemic issues, and the Commission makes several recommendations to encourage ongoing collaboration and coordination.
- 15.1.3 The second part of this chapter focuses on management of Bimberi, oversight of Bimberi by the Community Services Directorate (CSD), and oversight by external agencies including the Official Visitor (OV), Public Advocate (PA) and Human Rights Commission (the Commission). The Commission makes several recommendations to improve management and oversight of Bimberi.
- 15.1.4 The third part of this chapter examines complaints handling processes at Bimberi. The Commission recommends the complaints mechanisms be strengthened, to contribute to ongoing review and improvement at the Centre.

15.2 Management and operation of the youth justice system in the ACT

- 15.2.1 The 'youth justice system' is less a coherent entity than a series of complex interactions between young people and organisations, and between organisations themselves. The youth justice system in the ACT comprises a wide range of stakeholders, including:
- Children and young people;
 - Families;
 - ACT Policing;
 - Childrens Court;
 - Supreme Court;
 - Restorative Justice Unit (RJU);
 - Director of Public Prosecutions (DPP);
 - Legal Aid ACT;
 - Solicitors;
 - Community Youth Justice (CYJ);
 - Bimberi Youth Justice Centre;
 - Other government service providers, including the Education and Training Directorate and the Health Directorate; and
 - Community service providers.

- 15.2.2 Each of the above-listed agencies has different authority, functions and accountability structures. Some organisations operate under a legislative framework that guides their decision-making, and most possess statutory or institutional independence from Government. It is important to measure and describe the impact of agencies' actions on young people in the youth justice system.
- 15.2.3 Due to time and resource constraints this Review was not able to examine some fundamental aspects of the youth justice system in the ACT, which may have a significant impact on rehabilitation outcomes, including:
- Young people's access to legal advice and representation;
 - ACT Policing practice in relation to caution, bail, arrest, and charging;
 - Operation of the *Bail Act 1992* in relation to young people;
 - DPP practice in relation to prosecution decisions, and recommendations for bail and sentencing;
 - Childrens Court procedures and facilities;
 - The impact of the transition of sentencing provisions in the Childrens Court from the *Children and Young People Act 1999* to the *Crimes (Sentencing Administration) Act 2005*;
 - The impact of Magistrates' approaches to bail and sentencing decisions;
 - The operation of formal diversionary programs, such as RJU;
 - The operation of Ngambra Circle Sentencing Court;
 - The operation of informal diversionary practices, by ACT Policing, DPP, CYJ and the Childrens Court; and
 - Media representations of children, young people, and young people involved in the youth justice system.
- 15.2.4 The Commission suggests that these issues be examined in future legislative reform, review, research and/or policy work by the ACT Government. In the meantime, the Commission proposes action in three areas to contribute towards a more integrated youth justice system, and improved outcomes for young people:
- The Legislative Assembly Standing Committee should invite independent agencies in the youth justice system to provide advice on systemic issues
 - Relationship building between agencies in the youth justice system; and
 - An annual youth justice forum.

Legislative Assembly Standing Committee should invite independent agencies in the youth justice system to provide advice on systemic issues

- 15.2.5 The ACT Government is only one of several institutional stakeholders in the youth justice system. Independent agencies, including ACT Policing, the DPP, the Childrens Court, Legal Aid ACT and community organisations, have detailed and specialist knowledge about the operation of the youth justice system. The Commission encourages these agencies to participate in public discussion where appropriate.

Recommendation 15.1: The Legislative Assembly Standing Committee responsible for youth justice annually invite ACT Policing, the Director of Public Prosecutions, the Childrens Court, Legal Aid ACT and peak bodies in the community sector to raise issues of interest or concern about the youth justice system.

Relationship building between organisations

- 15.2.6 Organisations in the youth justice system interact daily in relation to individual casework. However, the Commission recommends that they also develop opportunities to meet and discuss systemic issues.
- 15.2.7 It is vital that that legislators and policy makers learn from the experience of young people, police, solicitors, prosecutors, court officials, magistrates, detention centre staff, and other support workers. Stakeholders in the youth justice system need to be provided with the time and resources to meet and articulate their case-work knowledge, and translate it into systemic knowledge.