

**LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**Supplementary Response to the
ACT Legislative Assembly
Standing Committee on Community Services and Social
Equity
Report No 3**

**INQUIRY INTO THE RIGHTS, INTERESTS AND WELL
BEING OF CHILDREN AND YOUNG PEOPLE**

TABLING STATEMENT

**Presented by authority of
Katy Gallagher MLA
Minister for Children, Youth and Family Support
August 2004**

I am pleased to table the supplementary Government response to the Standing Committee on Community Services and Social Equity Inquiry into the Rights, Interests and Well Being of Children and Young People report tabled before you on 28 August 2003.

The Government has made a commitment to progress recommendations made in the Standing Committee report and The Territory as Parent report. Work is progressing on the implementation of these recommendations.

The Government is committed to establishing a Commissioner for Children and Young People and is working on developing a model which will meet the needs of children and young people in the Australian Capital Territory. Government is also committed to developing a streamlined advocacy and complaint mechanism for children and young people.

The Standing Committee highlighted the need for children and young people to have access to information and participate in the development of policy and decision making concerning their well being. Government supports these principles and they are reflected in the *Children and Young People Act 1999*.

Government also supports agencies whose role is to advocate for the voice of children and young people and agencies or groups who represent or are determined by the children and young people themselves.

The Government has also committed in its response to The Territory as Parent report to develop a participation model that will enable all children and young people to be involved in a meaningful way in decision making about their lives.

Government also supports developing specific services, which promote the participation and inclusion of Indigenous children, young people and their families. Government is developing a specific Indigenous Unit within the Office for Children, Youth and Family Support, reporting directly to the head of the agency.

Communication between government and non-government agencies to improve the outcomes for children and young people is a strong focus of the Standing Committee report. Government is addressing this issue within many areas of practice, giving due consideration to the issues of privacy and confidentiality which are the right of all people, including children and young people.

Government in implementing the recommendations of The Territory as Parent report and is consulting with a broad cross

section of statutory and non-government stakeholders through the Reference Groups.

Government works with non-government service agencies to provide care to children and young people unable to continue to live at home. Whilst providing options for children, young people and their families, they also share in the responsibility to improve and promote the rights, interests and well being of children and young people. This partnership model is the focus of ongoing development.

I wish to acknowledge the dedication and commitment of staff working in these areas of Government and community services. Their work is important to achieve positive outcomes for children and young people.

There have been significant changes in service provision for children and young people since the initial Government response. The Territory as Parent report has also promoted changes and Government is responding to them. Reviews by the Standing Committee, the Commissioner, the Review of Statutory Oversight and Community Advocacy Agencies will further work towards improving and strengthening the provision of services for children and young people.

I thank the Standing Committee for their work in raising the issues through their recommendations. As the supplementary response outlines, many issues have been addressed or are priorities for the future.

I table the supplementary ACT Government response to the Standing Committee on Community Services and Social Equity Inquiry into the Rights, Interests and Well Being of Children and Young People.

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Katy Gallagher MLA
Minister for Children, Youth and Family Support
3 August 2004**

INTRODUCTION

The Standing Committee on Community Services and Social Equity resolved in 2002 to conduct an inquiry into the rights, interests and well being of children and young people in the ACT. The inquiry was conducted under the Standing Committee's responsibility to inquire into and report on matters that are considered by the Committee to be of concern to the community, including the examination of family and youth services and services for children at risk.

The Standing Committee adopted terms of reference for the Inquiry which were to inquire into and report on the rights, interests and well-being of children and young people in the ACT with particular reference to:

- children's and young people's understanding of the law and their rights;
- the promotion and protection of the rights, interests and well-being 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 and 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.

The Standing Committee's report was tabled in the ACT Legislative Assembly on 28 August 2003.

Government provided a response to this Report on 11 December 2003. On 10 February 2004, the Minister for Education, Youth and Family Services advised the Legislative Assembly that Government would be reviewing its response in the light of admissions by the Department of Education, Youth and Family Services that they had not met a statutory obligation under the *Children and Young People Act 1999* and the subsequent independent review undertaken by Commissioner Vardon. The Minister stated that a supplementary response to the report of the committee would be tabled.

Commissioner Vardon provided her report, "The Territory as Parent" (the Vardon Report) to the Chief Minister on 17 May 2004. The Vardon Report and the Government response to the Vardon Report were released on 25 May 2004 and tabled before the Legislative Assembly on 22 June 2004.

Following consideration of the recommendations made in this report, a supplementary response to the Standing Committee report follows. The supplementary response revises the response of 11 December 2003, includes current information arising from actions taken during 2004 and actions arising from the Vardon Report.

OVERVIEW

Government welcomes the recommendations of the Standing Committee "Inquiry into the Rights, Interests and Well Being of Children and Young People" and "The

Territory as Parent” reports. Government has responded in a manner which demonstrates the commitment to the children and young people of the ACT and the processes of inquiry.

These two reports show there is a need to focus on the interests of children and young people in the ACT. This should be undertaken through their participation in community processes and decisions need to reflect their important and essential role within our community.

The provision of care, services and support to children and young people in the ACT is a responsibility of parents and family, shared with Government and community services. The provision of Government services to children, young people and their families, is set out in the legislation and guided by policies. Services provided may be universal in nature and widely available in areas such as education, health and recreation. Some services are specific to their legislative obligations and responsibilities, such as child protection and youth justice services.

The Government is committed to continual improvement in the provision of services to the community including the provision of specific services to children, young people and families. This includes a child or young person centred approach that encourages agencies to work collaboratively to ensure the best possible outcomes for children and young people. The Government has led major initiatives of change to improve service delivery to children, young people and their families and will continue to do so.

The Human Rights Act 2004 is legislation that specifically highlights the right of every child or young person to the protection needed by the child because of being a child without distinction or discrimination.

The ACT Children’s Plan, launched on 15 June 2004, outlines the Government’s commitment to children and families, provides a basis for the provision of services and sets a direction for the practical implementation of services across government, non-government agencies and the community.

The Government is to launch the ACT Young People’s plan shortly and this plan will focus on participation by young people, access to services, transitional arrangements and support.

The ACT Mental Health Strategy and Action Plan 2003-2008 launched on 19 May 2004 includes improved planning and delivery of mental health services to youth through directly targeted actions or indirectly, through improved planning and coordination with other agencies.

A Child Death Review Team was established on 1 April 2004 through the office of the Chief Health Officer, ACT Health, to review all child (0-18) deaths, and to consider and make recommendations to address systemic social and environmental issues associated with such deaths.

The service delivery system benefits from independent and constructive analysis of service provision, enabling consideration of varied community views, innovative alternatives and issues within a broader context.

The supplementary responses provided to the recommendations made by the Standing Committee demonstrate the Government's commitment to improving and developing services for children and young people, especially those children and young people requiring statutory involvement.

Responses will show the initiatives put in place to address community concerns. Some initiatives require longer timeframes to enable consultative development and implementation.

The Government has agreed to 39 of the 41 recommendations made. A further recommendation has been noted and one recommendation is not agreed. The Government will be further informed by the current consultation process regarding the review of the *Children and Young People Act 1999*. The review has continued to progress consultations with key stakeholders and a public forum is to be convened in August 2004. Introduction of any amending legislation for the *Children and Young People Act 1999* would occur during the 6th Assembly.

The Committee made some recommendations with specific time frames. Those recommendations also referred to in the Vardon Report are being addressed as part of the implementation of that report.

RECOMMENDATIONS

RECOMMENDATION 1

The Committee recommends that the Government provide funding to First Stop in 2003 to enable an independent evaluation to be conducted of the service.

Not agreed.

At 1 January 2004, the Vice Chancellor of the Australian National University has given a special allocation of funds to enable a new clinical law program to be established using First Stop. First Stop will continue to be a partnership between the ANU Law Faculty, Legal Aid Office (ACT), Clayton Utz and ACT Youth Coalition. The services to be provided will be the same as previously. Clayton Utz will continue to provide solicitors on a pro bono basis and Legal Aid will supply a solicitor for five half days per week. The program enables students to develop legal practice skills in a supervised environment while the centre still supplies services to the youth community.

RECOMMENDATION 2

The Committee recommends that in the context of the evaluation of First Stop, the Government:

- i. **seek the views of the Aboriginal Justice Advisory Council and the Aboriginal Legal Service about whether or not there is a need for a specific Indigenous youth legal officer; and**
- ii. **assess whether the needs for information about the law and their rights of children and young people at risk of abuse are being met adequately.**

Agreed.

The views of the Aboriginal Justice Advisory Council have been sought, among others.

The ACT Government has committed \$1.4 million over four years to establish Australia's first Aboriginal Justice Centre. The Aboriginal Justice Centre will be a community-managed facility that will provide a coordinated approach to Aboriginal and Torres Strait Islander justice programs and services in the ACT and be a best practice model for the delivery of services for Aboriginal and Torres Strait Islander people in the law and justice systems throughout Australia.

The Government has raised with the Commonwealth the need to fund an Aboriginal Legal Service in the ACT, which is currently served by the South Eastern Region legal service.

The review of the *Children and Young People Act 1999* is considering the issues of inclusion and participation by children and young people in decision making and in particular, the involvement by Aboriginal and Torres Strait Islander communities in all decision making processes concerning Aboriginal and Torres Strait Islander children and young people.

The Government has agreed to a recommendation of the "Territory as Parent" report for the establishment of a specific Aboriginal and Torres Strait Islander Unit as part of the Office for Children, Youth and Family Support. The Unit will be of prime importance to the development of service provision to Aboriginal and Torres Strait Islander children and young people. The composition of this unit is presently being discussed with the Aboriginal and Torres Strait Islander communities.

RECOMMENDATION 3

The Committee recommends that the Government develop model legal rights and responsibilities units and include them as part of the core curriculum for ACT high schools and colleges.

Agree in principle.

The Department of Education and Training supports the development of units of study about legal rights and responsibilities. However, school boards are responsible for curriculum development, maintenance and review including what is determined to be core content. The Chief Executive has the legislative responsibility to set the curriculum requirements for government schools (Preschool to Year 10) including the framework and principles on which the school curriculum is based. The ACT Board of Senior Secondary Studies is responsible for curriculum in Years 11 and 12. The

legislation requires non-government schools to meet the curriculum requirements for government schools, including the framework and principles, as part of non-government school registration processes.

The Curriculum Renewal Project, announced in the 2003-2004 budget, will provide the basis for setting the curriculum requirements for government schools (Preschool to Year 10), including the framework and principles for school curriculum. The Curriculum Renewal evaluation report *Every Chance to Learn* was released for public consultation on 27 April 2004. The consultation period closes on 30 July 2004. It is planned to develop the framework and principles this year and to develop materials to support schools in their implementation in 2005.

As part of the development of the framework, principles and materials to support schools during 2005, the need for 'model legal rights and responsibilities units' will be considered. Liaison between the Human Rights Office and the Department of Education and Training will inform further decision making.

The Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) has undertaken to develop nationally consistent curriculum outcomes in English, mathematics, science, civics and citizenship. Any materials on legal rights and responsibilities developed through this project will provide a further resource for schools to use.

The current ACT Curriculum Framework for Studies of Society and the Environment (SOSE) provides a basis for schools to develop curriculum incorporating civics and citizenship education for Years 1 to 10. Most colleges offer legal rights and responsibilities units as part of their Legal Studies courses.

The ACT Department of Education and Training also employs a Civics and Citizenship Curriculum Officer to support ACT Government schools in the teaching of civics and citizenship. The Commonwealth funded Discovering Democracy Program (a program designed to embed civics and citizenship education in the school curriculum) is actively promoted in ACT Government schools.

RECOMMENDATION 4

The Committee recommends that the Government provide funding for a psychiatric inpatient facility for young people from the 2004-2005 budget onwards. The Committee further recommends that it be co-located with the day program and be specifically resourced to manage patients with dual diagnosis of mental health and substance abuse problems.

Agreed in principle.

The Government acknowledges the current gap in services in the provision of an inpatient facility for young people with mental illness.

The Government allocated \$60,000 in the 2004-05 budget for a feasibility study to investigate the inpatient needs of child and adolescent mental health consumers and will determine the preferred model and site for clients of mental health services.

Further discussion with all stakeholders, including Southern Area Health Services, will occur as part of this process.

The needs of young people who have a dual diagnosis are currently addressed through joint services by Mental Health ACT (Child and Adolescent Mental Health Service) and the ACT Alcohol and Drug Program, and will be further examined to ensure that the need of young clients requiring in-patient services are met.

The Government also allocated \$140,000 in the 2004/05 budget to fund two outreach workers at the Gudan Gulwan Youth Aboriginal Corporation and Winnunga Nimmitjiah Aboriginal Health Service to work with Aboriginal and Torres Strait Islander people with both a mental illness and substance abuse problem. The worker based at Gudan Gulwan will work specifically to address the needs of young people.

RECOMMENDATION 5

The Committee recommends that the Government publish and implement the findings of the Intensive Youth Support review as a matter of priority and adopt a “wrap around” approach to service delivery for youth with intensive support needs.

Agreed.

The final report titled "Turning Lives Around - Effective Service Responses for Young People with Intensive Support Needs" was released in August 2003 by the Minister for Education, Youth and Family Services.

The Government has taken on board the key recommendations outlined in the final report and established *Turnaround* - an integrated flexible service delivery model for young people with intensive support needs. *Turnaround*, a whole of government initiative, is coordinated by the Office for Children, Youth and Family Support. *Turnaround* became operational on 18 May 2004 and consistent with the phased implementation of the program, the program has accepted nine young people and will continue to receive referrals and work towards a capacity of 30-35 young people. *Turnaround* aims to strengthen and individualise case management, provide support to each young person, their family and people with whom they already have relationships (natural supports), as well as professionals. *Turnaround* also aims to provide an integrated and collaborative approach across the service system to meet the needs of the young person and provide effective and appropriate transition planning to meet the longer term needs of each young person. An ongoing evaluation of the program has also commenced.

RECOMMENDATION 6

The Committee recommends that the Government investigate and report on the feasibility of a secure residential treatment facility for young people engaging in sexually offending behaviour, with specialist staffing, by March 2004.

Agreed in principle.

The placement of young people who may be engaging in sexually offending behaviours, whether accused or convicted of an offence or neither may not be consistent with the Human Rights Act 2004 which provides for the special protection for children in the criminal process.

A range of long-term solutions is required for young people who sexually offend, with a view to preventing recurrence of such behaviours and enabling these young people to fully participate in our community. The Department of Disability, Housing and Community Services will be undertaking a feasibility study in 2004-2005 into the development of a new program aimed at supporting young people with dual disabilities, who are at risk of entering the criminal justice system, including young people with sexually offending behaviours. The feasibility study is to be completed by April 2005. Ongoing operational funding has also been allocated, which will initially support up to five young people being placed in such a program.

The 'Territory as Parent' report recommended that Government develop and pilot therapeutic services and placements for children and young people with high needs in the ACT. This could include young people who have exhibited sexual offending behaviour. Government has agreed to develop therapeutic services and placements for children and young people with high needs in the ACT. The Office for Children, Youth and Family Support will work with government and non-government stakeholders to identify, discuss and develop models of appropriate therapeutic and residential care for children, young people and their families.

RECOMMENDATION 7

The Committee recommends that the Government:

- i. review its contractual arrangements with non-government providers of youth services to ensure data sharing across government and non-government agencies;**
- ii. develop, for all providers, a protocol for informing young people about the type of information being kept about them as well as information sharing arrangements;**
- iii. advise the Assembly of the protocols that currently exist regarding the protection of confidential or sensitive information, which prevent either the accidental or deliberate misuse of records;**
- iv. investigate and implement solutions to any information technology infrastructure and other data management issues that would prevent the effective sharing of information (e.g., incompatible software, lack of shared protocols for record keeping); and**
- v. broaden the focus of the drug and alcohol program within Community Care to include children and young people under the age of 18 years.**

Agreed.

Improvements to the information exchanged between government and non-government agencies in the Out of Home sector will be included in the process of reviewing the contractual arrangements with non-government providers. The review will be cognisant of the provisions of relevant legislation.

The principle of information sharing in the best interests of a child or young person guided by:

- the identification of the need for specific confidential information,
- consent of the children, young person and /or persons with parental responsibility to an exchange of confidential information, and
- compliance with relevant legislations.

The government includes in its contracts with non-government youth services and family support providers a requirement to provide non-identifying data between government and non-government agencies. Confidential information/data sharing between government and non-government agencies is a more complex issue requiring a balance between the best interests principle guiding such a practice and the rights of children and young people to privacy and confidentiality. In addition, the accountability by government agencies under legislation must be matched by the requirements imposed on non-government agencies.

The *Children and Young People Act 1999* provides the legislative requirement to inform children and young people wherever possible. Children and young people are entitled to access records containing personal information as outlined the *Privacy Act 1988* and the *Freedom of Information Act 1989*. The Government launch of the ACT Young People's Plan will focus on participation by young people and their access to information. The Vardon Report has also identified the need for keeping children and young people informed and involved in the decisions about their care and protection. The Government is committed to developing a participation model for children and young people and this will be developed as part of the response to the Vardon Report recommendations.

Government data collection systems require each department to develop policies regarding access to confidential information obtained by the department. The *Public Sector Management Act 1994* provides the process whereby individuals who have shown to misuse such records can be dealt with in an administrative manner. Matters considered to be of a criminal nature are referred to police for investigation.

The Ted Noffs Foundation currently provides a comprehensive range of drug and alcohol services for children and young people under the age of 18 years in the ACT. These services include a youth rehabilitation and detoxification program.

The Government's Alcohol and Drug Program currently has no exclusion criteria, enabling children and young people to access their services. The National Illicit Drug Strategy has recently funded Ted Noffs Foundation (ACT) to provide outreach alcohol and other drug counselling. It is a capacity building and direct client service to the youth sector and other community based agencies.

In addition, funding has been provided to Winnunga Nimmityjah Aboriginal Health Service to establish an Aboriginal and Torres Strait Islander Youth Detoxification Support Service as of July 2004 to improve Aboriginal and Torres Strait Islander young peoples' access to detoxification (withdrawal) services. There will be two support workers, located at Winnunga Nimmityjah Aboriginal Health Service and Gugan Gulwan Youth Aboriginal Corporation.

RECOMMENDATION 8

The Committee recommends that the Government provide funding from the 2004-2005 budget onwards for a dedicated position within the Domestic Violence Crisis Service that would deliver programs and outreach to children and young people who have witnessed/been subjected to domestic violence and/or who are using violence in their family relationships.

Agreed in principle.

The Domestic Violence Crisis Service receives \$1.2 million per annum (GST inclusive) under the Community Services Program to support people affected by domestic violence in the ACT. Government will continue to review the adequacy of this funding on an ongoing basis. This includes people who have been subjected to domestic violence; people who use violence and/or abuse in their relationships, children and young people who have been subjected to or witnessed violence and/or abuse and support for family and friends. The priority of the service is for the safety of people who have been subjected to domestic violence.

The Government provides services to children and young people who have witnessed or been subjected to domestic violence or who are using violence in their family relationships. Family Services provides care and protection to those children and young people who cannot remain in the home due to domestic violence and the impact on their safety. Access to ongoing support is provided as required, on an individual or program basis.

Government is also providing additional supported accommodation services to families who are homeless or at risk of homelessness. This includes women and children escaping domestic violence. To assist with the provision of individual needs of service users including children, Government has allocated funding to Supported Accommodation Assistance Program (SAAP) providers. In addition, the Government is working to support the Domestic Violence Crisis Services' emergency accommodation response to families escaping domestic violence.

ACT Health currently provides services for children and families who experience domestic violence through the Child at Risk Assessment Unit (CARAU). Additional funding of \$69 000 for CARAU was provided in the 2004-05 budget for the provision of after hours paediatric services to assist children and young people including those who have been subjected to violence within their homes. The new ACT Health Child Protection Policy will ensure more effective links between CARAU, Family Services and other ACT Health agencies and the timely identification and response to children and young people who have witnessed or been subjected to domestic violence or who are using violence in their family relationships. Additionally, Child and Adolescent Mental Health Services and Maternal Child Health nurses have a role in service provision to children and young people who have been affected by violence.

The Government announced on 14 July 2004 the policy framework *Justice, Options and Prevention: Working to Make the Lives of ACT Women Safe* second action plan which identifies more than 200 actions providing practical steps aimed at reducing and preventing violence against women. Among the more than 200 actions to be

carried out in 2004-05 are investigation through the *ACT Children's Plan*, of effective approaches to support families with high social needs such as those experiencing domestic violence, providing additional supported accommodation services for families at risk, and negotiating for additional accommodation for families escaping domestic violence.

ACT Health also funds Men's Link Inc, a program providing counselling and mentoring services for young men aged 12-25 who may have experienced domestic violence, involvement with the justice system, poor school performance and early engagement in risk taking behaviour. This program was funded an additional \$100 000 in the 2004-05 budget to reflect the high level of demand for its services in the ACT.

RECOMMENDATION 9

The Committee recommends that the Government consult with relevant stakeholders on appropriate legislative amendments to enable the well-being of children covered by protection orders to be considered when they are to be revoked, and that the Government implement these amendments at the earliest opportunity recognising that the current situation is not acceptable.

Agreed.

The Government recognises the need to make provision for the safety of children and young people following the revocation of a Protection Order. Government is responding to the recommendation regarding Protection Orders and is also reviewing the *Children and Young People Act 1999*.

RECOMMENDATION 10

The Committee recommends that the Government address the recommendations put forward by CYCLOPS to this inquiry.

Agreed.

In the 2002-2003 Budget, the Government funded \$1 million for improved respite care services for clients, families and carers, with a focus on aged care, disability and mental health. A number of respite care pilot programs funded in 2002-2003 and the allocation of ongoing funding in 2003-2004 has been considered by Government in consultation with stakeholders including the ACT Respite Care Steering Committee.

Access and awareness of services by young people, including young carers, were identified as priorities at the Youth InterACT Conference. These priorities have been addressed through the Youth InterACT website and the production of a Z-Card by the YWCA of Canberra supported by the Minister's Youth Council.

The Government's *Caring for Carers* policy, released in December 2003, highlights the important role that carers play in society and the impacts of caring on individuals and families. The particular issues faced by young carers are recognised throughout

the policy. In the 2004-05 Budget, the Government committed \$830,000 over four years to implement the policy. The Department of Disability, Housing and Community Services recently conducted community consultations on priorities for action and an implementation strategy will be completed by September 2004. The Department is also investigating how best to ensure that carers are appropriately protected and supported by legislation, including the implications of introducing a specific Carers Act.

The draft ACT Government Policy for Young People also recognises the need to promote awareness of the unique experiences of young carers to ensure that they have equal access to community resources.

RECOMMENDATION 11

The Committee recommends that the Government take the proposal of changing social security legislation to enable court ordered deductions to maintain tenancies of families with children who are at risk of eviction to the Housing Ministerial Council, with a view to making a combined State/Territory approach to the Commonwealth on this matter.

Agreed.

The Commonwealth and the Senate have in the past raised objections to the issue of automatic deductions of social security payments. The ACT Minister for Housing will raise this issue with his State and Territory colleagues through the Housing Ministers Conference.

RECOMMENDATION 12

In relation to the youth supported accommodation sector, the Committee recommends that the Homelessness Strategy provide for:

- i. additional services in the Belconnen region;**
- ii. separate funding for outreach in services;**
- iii. the development of, and funding for participation in, a structured training program for workers in the sector; and**
- iv. a new proposal on a youth night shelter for consultation with stakeholders.**

Agreed.

Recommendations (i) and (iv) have been considered in a report undertaken by Mr David MacKenzie, Senior Research Fellow, Institute for Social Research, Swinburne University of Technology. Mr Mackenzie was engaged to undertake additional consideration of the needs of homeless young people and to identify the mix of service models and the appropriateness of size and location of the services required to respond to these needs. This review examined a range of issues including:

- the geographical appropriateness of supported accommodation services,
- the need for a youth oriented service in the Belconnen region, and

- proposals and suggested models for a youth night shelter.

Mr Mackenzie undertook extensive consultation, including meetings with all youth SAAP services and interviews with young people. A draft response has been provided to the Department and a range of further consultation will take place with community stakeholders and young people to test the recommendations. The Youth Coalition of the ACT has been engaged to undertake this process, in particular the need for crisis response to homeless young people.

Recommendations (ii) and (iii) have been included in the 82 actions contained in *Breaking the Cycle – the ACT Homelessness Strategy*. The Strategy was launched on 7 April 2004 and a Homelessness Advisory Committee, to be chaired in the first instance by Ms Sandra Lambert, will be established to oversee the implementation of the Strategy's recommendations.

The open tender process has been completed and Anglicare will be providing Outreach Services to young people who are at risk of homelessness.

The ACT Council of Social Services (ACTCOSS) successfully tendered for the provision of the SAAP Resource and Development Service. This service will provide a range of training and development opportunities for the SAAP sector to enhance service responses to clients with diverse and complex needs. One of the service's functions will be to establish effective links with registered training providers to develop, in consultation with community services, an accredited training program for SAAP workers. The service will have access to a pool of discretionary funding to assist with the costs of training and development opportunities.

The ACT Government allocated \$150 000 in the 2004-2005 budget process to expand the Child and Adolescent Mental Health Service (CAMHS) to provide an outreach service to the Gungahlin area through agency growth funds. This initiative will provide assessment and treatment to children and young people experiencing moderate to severe mental illness in the Gungahlin area, provide families with more equitable access to CAMHS intervention and will also link in with schools in the Gungahlin region.

RECOMMENDATION 13

The Committee recommends that the Government consult with key stakeholders regarding the adequacy of existing performance measures for care and protection services with a view to amended measures for the 2003-2004 Annual Report.

Agreed.

The Vardon Report also commented on amending performance measures. The Office for Children, Youth and Family Support will develop revised performance measures in collaboration with key stakeholders in preparation for the 2005-2006 budget papers.

RECOMMENDATION 14

The Committee recommends that in relation to foster and kinship carers the Government:

- i. increase the level of the basic subsidy by December 2003;**
- ii. adopt a system of payments as outlined in Chapter 6 of this report by December 2003;**
- iii. guarantee foster carers access to respite care;**
- iv. develop, with stakeholders, a training program for carers consistent with the principles outlined in Chapter 6 of this report by March 2004; and**
- v. develop an accreditation process for carers as soon as possible.**

(i) Agreed

Subsidy rates paid to kinship and foster carers towards the care of children or young person in the care of the Chief Executive were increased in January 2004 by 2.5% and further increased by 15% in July 2004. In January 2005, a further 2% CPI increase will be made to these subsidy rates.

(ii) Agreed in principle

The current system of payment to carers includes the annual changes to the cost of living, differential costs considering the age and complexity of need of the child or young person concerned and insurance costs. In addition, the provision and payment for professional services to children and young people in care is a matter determined on the basis of need and considering the views and wishes of the child or young person. The current revision of the Child Protection Manual will review the processes of contingency payments made to carers. The model presented by the Committee will be considered during this process.

(iii) Noted.

The Government supports access to respite care by foster and kinship carers and continues to work with funded foster care agencies towards this service. The Vardon Report also made recommendations about support for foster carers and options are to be developed as part of the Vardon Implementation Strategy.

(iv) Agreed.

The Government agrees that the Office for Children, Youth and Family Support will consult with all relevant stakeholders to ensure that core training of foster carers and kinship carers is part of the accreditation process for carers. This issue is being considered both in the review of the *Children and Young People Act 1999* and in the implementation of the recommendations of "The Territory as Parent" report. Indigenous carers' needs will be addressed as a specific strategy in the development of core competencies for training of carers.

(v) Agreed.

The accreditation of carers is a matter currently being considered in the implementation of the recommendations of “The Territory as Parent” report and the review of the *Children and Young People Act 1999*. Community comment has strongly supported an amendment to the legislation.

RECOMMENDATION 15

The Committee recommends that the Government consider, as part of the review into outsourcing arrangements for substitute care:

- i. the need for Family Services staff to undertake training on working with volunteers;**
- ii. the need for Family Services staff, care agencies and carers to regularly receive training and have discussions on the provisions in the Act and how this translates into respective roles and responsibilities; and**
- iii. the need for all parties (i.e. care agencies and the children if appropriate) to participate in case management conferences.**

Agreed.

The Government agrees, in consultation with key stakeholders, to address the ongoing need for joint training for those working and providing Out of Home care to children and young people in care. The Office for Children, Youth and Family Support is very aware of the importance and need to work closely with those providing care in order to achieve the best outcomes for the children and young people concerned.

Participation by persons other than parties at Case Management Conferences is an issue raised in the review of the *Children and Young People Act 1999*. While the legislation provides no impediment to children and young people taking part in a proceeding under this Act, practice development to support a child or young person to exercise this right will be considered during the review of the Child Protection Manual. Current policies and practices, consistent with the legislation, enable this to take place in a forum removed from Court.

Case Management Conferences are convened by the ACT Children’s Court when an application has been made for a care order or a variation to a care order. The parties at that conference are those outlined in the Act or those parties that the Court has granted leave to join the proceedings. The decision regarding participation at these conferences is made by the Court and in keeping with the provisions of the *Children and Young People Act 1999*.

RECOMMENDATION 16

The Committee recommends that the Government:

- i. develop, with key stakeholders, a template for Annual Review Reports by March 2004; and**
- ii. amend the Act to require Family Services to convene a meeting of the parents, carers, carer agency and child (if age appropriate) to discuss a draft of the Annual Review Report prior to its finalisation.**

Further, the Committee does not support amending the Act to allow Annual Review Reports to be prepared on the anniversary of the last variation of the order.

Agreed.

The record held by the Office for Children, Youth and Family Support of each child or young person in care provides a history of their experiences whilst in care. It is a record the child or young person can refer to during their period of care, such as at the time of an annual review, or at a later stage. The Vardon Report has recommended improvements in the records of children and young people and these will be made.

A template is used in the preparation of Annual Review Reports. The review of the Child Protection Manual has commenced and in consultation with key stakeholders, will include a review of the template and information presented in Annual Review Reports.

Prior to the preparation of these reports, a Review of Arrangements meeting is required to be convened, in compliance with policies and practices. This meeting is an opportunity for the child or young person, parents, carers, agency staff and Family Services to review and consider the arrangements during the review period and plan for the future.

The Committee's recommendations concerning amendments to the Act regarding the preparation and date of provision of the Annual Review Reports will be further captured through the review of the *Children and Young People Act 1999*.

RECOMMENDATION 17

The Committee recommends that the Government develop a new internal complaints policy for Family Services as outlined in Chapter 6 of this report by March 2004.

Agreed.

The Office for Children, Youth and Family Support is committed to establishing a Complaints Policy to address the needs of children, young people, parents and carers. The Implementation Team, established by Government following the release of the Vardon Report will oversee the development of this recommendation.

RECOMMENDATION 18

The Committee recommends that the Government investigate the feasibility (including the cost) of consolidating the current resources allocated to court assessments to provide for an independent unit near to the Children's Court.

Agreed in Principle.

The feasibility of consolidating court assessments for children and young people will be investigated within current priorities and resources. As part of this process,

consideration will be given to the proposal that an independent unit be located near the Children's Court.

RECOMMENDATION 19

The Committee recommends that the Government investigate alternative remand options for young people and report back to the Assembly by September 2004.

Agreed.

Government, in its review of the *Children and Young People Act 1999*, is considering and investigating various alternative remand and sentencing options for young offenders for inclusion in the legislation. Options to be introduced in amendments to the legislation will require compliance with the Human Rights Act 2004.

Home detention was first introduced in 2001 for young people on committal orders and extended in September 2003 for young people on remand. In addition, circle sentencing for Aboriginal and Torres Strait Islander people has commenced for adults and will inform the development of this alternative for young offenders.

A restorative justice pilot program targeting young people who appear before the Children's Court is to commence in the near future.

RECOMMENDATION 20

The Committee recommends that the Government consult with staff at the Department of Education, Youth and Family Services regarding the appropriateness of increasing pay and condition parity across units in juvenile justice.

Agreed.

Appropriateness of pay across units will be considered, as part of negotiations for the new Certified Agreement for the Office for Children, Youth and Family Support. Throughout this process, consultations with staff will be undertaken.

RECOMMENDATION 21

The Committee recommends that the Government fund an onsite, daily drug and alcohol counselling service at Quamby from the 2004-2005 budget onwards.

Agreed in principle.

The Government currently funds a service to provide weekly support for drug and alcohol counselling to children and young people at Quamby. The Salvation Army also provides on-going services to this client group.

Extending existing services, and additional funding for drug and alcohol counselling at Quamby will be further examined by ACT Health in the context of the ACT Alcohol, Tobacco and Other Drug Strategy.

RECOMMENDATION 22

The Committee recommends that, to improve outcomes for children and young people in both the care and protection and juvenile justice systems, the Government:

- i. fund the establishment of an electronic database which would contain information about children and young people who are known to Family Services and/or Youth Services; and**
- ii. establish a clear protocol that children and young people in these circumstances have one caseworker or manager from Family Services.**

(i) Agreed in principle.

The development of the Office for Children, Youth and Family Support provides the opportunity for addressing these issues. The Government has committed to the investigation of the upgrading or replacing of the current data management and reporting system and a review of all information management systems for the Office for Children, Youth and Family Support.

(ii) Not agreed.

Sole case management by any one section of the Office of Children, Youth and Family Support is not supported within the new organisational structures as such processes do not take into consideration the most appropriate outcomes for children and young people. Current practice, consistent with the legislation, is determined by:

- the best interest of the child or young person,
- the views and wishes of the child or young person,
- the provision of services by staff with direct and constant contact with the child or young person, or
- staff with an established relationship with the child or young person.

RECOMMENDATION 23

The Committee recommends that the Government amend the Children and Young People Act 1999 so that:

- i. the evidentiary requirements for care and protection cases are not in doubt; and**
- ii. the state can act to protect children without having to prove cases beyond a reasonable doubt, but rather on the balance of probabilities.**

Agreed.

The evidentiary requirements for care and protection cases and the burden of proof of such matters has been considered during consultations with key stakeholders as part

of the review of the *Children and Young People Act 1999*. The consultation process is to be finalised following a public forum, in August 2004.

The current burden of proof for applications for care and protection orders before the Children's Court is on the balance of probabilities, section 197 of *the Children and Young People Act 1999*.

RECOMMENDATION 24

The Committee recommends that the Government simplify and shorten the Children and Young People Act 1999 taking on board the views expressed by key stakeholders including, in particular, the Children's Magistrate and ACT Legal Aid.

Agreed.

The structure, definitions and terminology used in the *Children and Young People Act 1999* has been raised as a major issue in consultation with key stakeholders including the Magistrate and ACT Legal Aid. Amendments to the Act will include a simplified and clearer legislation.

RECOMMENDATION 25

The Committee recommends that the Government:

- i. investigate ways to streamline the procedural mechanisms for mandatory reporting;**
- ii. develop and implement a protocol for responding to instances where mandated persons have failed to report abuse; and**
- iii. review the penalty within the Act for the offence of failing to report a suspected case of abuse.**

Agreed.

The Centralised Intake Service commenced on 1 May 2004. This service provides a one stop service to mandated and community reporters. The Service enables mandated reporters to provide verbal reports or written reports by fax. In addition, all mandated reporters are provided with written feedback concerning their report.

Training and protocols between agencies where there are mandated reporters will highlight the need of reporters to meet their statutory obligations when they have formed a reasonable suspicion a child or young person has or is being sexually or physically abused.

ACT Health has developed a Child Protection Policy to ensure ACT Health staff are aware of their mandatory reporting responsibilities and develop appropriate protocols

for staff. An Advisory Committee comprising senior administrative and clinical staff and representatives from Family Services has been established to oversee this policy.

The issue of penalties for mandated reporters who are found guilty of failing to report sexual abuse and non-accidental injury of children and young people has been considered in the review of the *Children and Young People Act 1999*. It is noted that the ACT is the only jurisdiction with both financial and custodial penalties and the strengthening of penalties would provide greater discrepancy among jurisdictions.

RECOMMENDATION 26

The Committee recommends the Government amend the Children and Young People Act 1999 to require mandatory reporting of suspected cases of serious neglect.

Noted.

This recommendation has been considered in consultations with key stakeholders during the review of the *Children and Young People Act 1999*. Amendments to the legislation will be considered by Government taking into account the comments made during the ongoing consultations with the community.

RECOMMENDATION 27

The Committee recommends that the Government establish a working group to develop a comprehensive and risk based screening system, based on the NSW model, for persons wishing to work or volunteer with children and young people in the ACT.

Agreed

The Government supports the development of screening systems for those working and volunteering with children and young people at both a local and national level. Through the Ministerial Council on Education, Employment, Training and Youth Affairs, the Corrective Services Minister's Conference and the Australian Council for Children and Parenting, governments are working to develop comprehensive and nationally consistent approaches to screening systems when working with children and young people.

The Community Services Ministers' Advisory Council (CSMAC) has established a working group on persons working/volunteering in child related areas to develop a national framework for Creating Safe Environments for Children – Organisations, Employees and Volunteers. A national approach to creating safe environments for children requires a range of strategies encompassing organisational capacity building to sustain systems that support child safety; safety-screening for people working or volunteering in child-related areas; mechanisms for information sharing across jurisdictions, and continuous monitoring and review.

In addition, the Vardon Implementation Team is considering this issue within the context of the roles and responsibilities of the Commissioner for Children and Young People.

RECOMMENDATION 28

The Committee recommends that the Government expand the “official visitor role” to all children and young people in residential facilities and consult with stakeholders, in particular children and young people in these facilities, about a more appropriate name for this role.

Agreed.

Access by young people to the Official Visitors and other complaint mechanisms is supported. The organisational structure required to support this proposal and any change of name is being considered in the context of the outcome of the Review of Statutory Oversight and Community Advocacy Agencies, the review of the *Children and Young People Act 1999* and the roles and functions of the Commissioner for Children and Young People as proposed by the Vardon Report.

Since 19 May 2004, a Memorandum of Understanding between Family Services, Youth Services and the Official Visitors has included visits by the Official Visitors to children and young people at an additional residential setting.

RECOMMENDATION 29

The Committee recommends that the Government consider quarantining a proportion of child protection staff to focus on responding to “lower level” or less serious reports in order to provide early and intensive support to families before they reach crisis point.

Agreed.

The provision of targeted early intervention work to ensure the safety of children and young people and prevent them from entering the formal care and protection system will be strengthened through the provision of services by the Office for Children, Youth and Family Support as recommended in this report and the Vardon Report.

The recent allocation of significant funding will provide increased staffing numbers which will allow for increased numbers of child protection workers and the development and implementation of targeted early intervention and family support programs.

RECOMMENDATION 30

The Committee recommends that the Government require the Department of Education, Youth and Family Services to provide in its Annual Report:

- i. general information on programs and pilot programs which focus on early intervention; and**

ii. specific information regarding their funding status and evaluations of their efficacy.

Agreed.

General information on early intervention programs, new initiatives and any related evaluations and reviews will be included in the Office for Children, Youth and Family Support Annual Report.

RECOMMENDATION 31

The Committee recommends that the Government fund a universal home visiting scheme by community health nurses for families with new babies, to provide support to families.

Agreed.

The Government currently provides a universal home visiting scheme by community health nurses for all families with new babies. Families may be approached in hospital, but are visited on their return home. Families who are vulnerable are identified and offered additional support. This is a service provided to families at the hospital and who are willing to participate with the service.

Mental Health ACT supports mothers experiencing antenatal or postnatal depression through the active involvement in the national BeyondBlue initiative, including temporary employment of a perinatal psychologist and through the provision of funding to the Post and Ante Natal Depression Support and Information (PANDSI) organisation. In the 2004-2005 budget, Government allocated additional funding to ensure the valuable work of PANDSI would continue.

RECOMMENDATION 32

The Committee recommends that the Government fund an additional position dedicated to conferencing care cases, at an appropriately senior level, from the 2004-2005 budget onwards.

Agreed in principle.

Family group conferencing is an option available to children, young people and families to work towards a voluntary and agreed resolution to the care and safety of children and young people. Currently the legislation envisages conferences occurring prior to or instead of a care application.

The review of the *Children and Young People Act 1999* is considering the role of family group conferencing prior to and throughout the process of statutory intervention with children, young people and their families in both care and criminal matters. Such an option may reduce the number of matters requiring formal Court conferencing in future.

RECOMMENDATION 33

The Committee recommends that the Government actively support improving the quality of child representatives by providing ongoing funding to the ACT Law Society and ACT Legal Aid to develop and implement a training package on being a child representative in the ACT.

Agreed in principle.

The Law Society is a non-government body which represents legal practitioners in the ACT. The ACT Law Society has completed a draft set of guidelines for legal practitioners who represent children and young people. The Government is prepared to consider providing in kind assistance to the Law Society and ACT Legal Aid in developing programs should that assistance be requested.

RECOMMENDATION 34

The Committee recommends that the Government provide additional funding to ACT Legal Aid from the 2004-2005 budget onwards for the express purpose of increasing remuneration for solicitors representing children and young people.

Agreed in principle.

Effective, high quality legal representation for children and young people may have a significant impact on the future involvement of the individual in the criminal justice system. The Government periodically reviews funding in accordance with Legal Aid Funding Guidelines.

RECOMMENDATION 35

The Committee recommends that the Government engage in a consultation process on the issue of a “guardian ad litem” or “court friend” for children and young people in conjunction with the release of the discussion draft of the ACT Law Society’s draft standards for child representatives in the ACT.

Agreed.

The issue concerning ‘guardian ad litem’ or ‘court friend’ has been considered by key stakeholders in the review of the *Children and Young People Act 1999*. Consultations with key stakeholders, including the ACT Law Society, has identified provisions in the Act, such as section 23, which enable alternate forms of representation of children and young people. These options have not been regularly used in practice.

The ACT Law Society’s draft guidelines for child representatives in the ACT and the consultation processes undertaken has sought input from Government agencies.

RECOMMENDATION 36

The Committee recommends that the Government amend the Community Advocate Act 1991 to refer simply to children and young people and remove references to a legal disability due to age.

Agreed in principle.

The Community Advocate Act 1991 refers to persons with a disability as those persons with a legal disability due to age. Children and young people are therefore considered to have a legal disability due to their age and reduced entitlements when compared with adults.

The need to maintain consistency with relevant legislation, the *Children and Young People Act 1999*, when referring to children and young people is beneficial. Legislation must ensure that the definition of a young person is not confused with the definition of youth. The United Nations General Assembly definition of youth as persons between the ages of 15 and 24 inclusive.

The role of the Community Advocate and amendments to the Community Advocate Act 1991, is likely to be considered during the development of the roles and responsibilities of the Commissioner for Children and Young People currently being undertaken by the Vardon Implementation Team.

RECOMMENDATION 37

The Committee recommends that the Government review how Departments consult with young people, with a view to improving the extent and effectiveness of young people's involvement in the development of government policy and programs.

Agreed.

Government supports meaningful participation by children and young people. Government and this is demonstrated in the initiatives already in place as well as the recent commitments made to the recommendations of "The Territory as Parent" report. The Vardon Implementation Team is currently developing a participation model in accordance with recommendation 3.5 of the Vardon Report.

Government has undertaken a review of its consultation processes involving young people and continues to expand the opportunities for these processes to occur in varied forums. The Department of Education and Training has sought and obtained the views of children and young people in the development of the Children's Plan. In addition, the Office for Children, Youth and Family Support provides funding for the CREATE Foundation, an organisation representing the views of children and young people in care.

Government has introduced the Youth InterACT initiative to facilitate the provision of comments by young people. The Youth InterACT initiative includes the Minister's Youth Council, consultation register, Youth InterACT website and annual conference. The initiative enables a diverse range of young people to participate and express their views.

Membership of the Minister's Youth Council is representative of a diverse range of young people, to ensure that the advice provided to the Minister for Children, Youth and Family Support is based on a broad representative base of young people.

Young people are also represented on a number of Government committees and other forums such as the ACT Government Schools Network, the Young Peoples Framework Coordination Group, Committees within the Department of Urban Services and the Ministerial Advisory Council on Women.

The Office for Children, Youth and Family Support is working closely with the Youth Coalition of the ACT to improve the level of youth participation in non-government youth services. The Youth Coalition of the ACT are also providing input through the membership on the Reference Groups assisting the Vardon Implementation Team

The *Children and Young People Act 1999* is legislation which seeks to ensure the inclusion and participation of children and young people in decisions affecting their well being and case management practices ensure these processes are implemented across service delivery areas of Government. The consultation process undertaken during the review of this legislation has raised the need for participation to be more clearly stated and inclusion of a Charter of Children's Rights as recommended by the Vardon Report.

RECOMMENDATION 38

The Committee recommends that the Government provide additional resources to the Minister's Youth Council to enable the development and publication of a work plan.

Agreed.

The Minister's Youth Council has completed the 2004 Work Plan and this is available on the Youth InterACT web site. The 2002-2003 Budget announced the Youth InterACT initiative with an initial allocation of \$154,000 in the first year and a total of \$632,000 over four years. The Minister's Youth Council planning process is linked to the advancement of priorities identified at the annual youth conference.

RECOMMENDATION 39

The Committee recommends that the Government ensure all performance contracts with senior staff in the Department of Education, Youth and Family Services require compliance with statutory obligations in order to obtain a satisfactory appraisal.

Agreed.

The *Public Sector Management Act 1994* obliges all public employees to comply with this Act, the management standards and all other Territory laws. In addition, executive staff are required to enter into performance contracts which include compliance requirements.

Government, in response to a recommendation of Vardon Report has agreed to a review of Chief Executive performance agreements and the development of appropriate performance indicators relating to outcomes for Indigenous people.

RECOMMENDATION 40

The Committee recommends that the Government establish a commission for children and young people with the appropriate powers to enable the full investigation of complaints and to allow the commission to act effectively. This is to ensure definite outcomes as well as the capacity to review decisions previously made which affect the health and well being of a child or young person. The Committee recommends the commission be established as outlined in Chapter 10 of this Report.

Agreed.

Government supports this recommendation and Vardon Implementation Team will consider and determine the roles and responsibilities of the Commissioner. The final model for the role of the Commissioner for Children and Young People will be determined following consideration of the Vardon report, the FEMAG recommendations and the roles and responsibilities of such a position across other jurisdictions. The outcome may not result in complete adoption of the model as proposed in Chapter 10 of the report.

RECOMMENDATION 41

The Committee recommends that the Government consult with the community regarding the issue of jurisdiction for criminal and welfare matters relating to children and young people, with a view to raising this issue at the Standing Committee of Attorneys' General.

Agreed in principle.

The creation of uniform, cross-jurisdictional schemes for dealing with various criminal and welfare issues in relation to children and young people have been under consideration by the Standing Committee of Attorney's General. These include such matters as child protection registration schemes to track child sex and related offenders across State, Territory and national borders and a nationally uniform scheme for the protection of the rights of minors in relation to sterilisation.