

ACT Government 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

Tabled by

**Katy Gallagher
Minister for Education, Youth and Family Services**

December 2003

On behalf of the ACT Government, I table the 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.

On behalf of the ACT Government, I thank the Standing Committee members for their work and contribution towards improving outcomes for children and young people in our community.

The Report prepared by the Standing Committee is a commentary on the provision of services to children and young people in the Australian Capital Territory. This focus by the Committee was to enhance service delivery to enable “children and young people to have the best chance of entering adulthood confident in themselves and the community around them”.

The government, in reviewing the recommendations considered many to be positive and constructive. The government, for example, agrees in principle with the proposal of a Commissioner for Children and Young People, pending the outcomes of the Review of Statutory Oversight and Community Advocacy Agencies and the development of streamlined

advocacy and complaint mechanisms for children and young people.

The Standing Committee also highlights the need for all children and young people to have access to information concerning their rights, responsibilities and services available to meet their individual needs. Information informs the views of children and young people and will enable participation in the development of new directions. The government supports these principles and the ongoing empowerment of children and young people. Government reflects the adoption of these principles through the legislative provisions of the Children and Young People Act 1999, the provision of funding and support to agencies whose role is to advocate for the voice of children and young people and agencies who represent or are determined by the children and young people themselves.

There are children and young people in our community whose rights, interests and well being may not be adequately protected or promoted by those who have responsibility for their care. These very vulnerable children and young people often require the intervention of statutory services such as child protection, youth justice and or mental health services. In addition, drug and alcohol services may also be involved.

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.

The dedication and commitment of staff working in these challenging areas in all sectors of government and community services must also be acknowledged as an important means of achieving positive outcomes for children and young people.

The juvenile justice system involves young people of whom the majority, as the literature shows, do not remain within the system. Similarly, the care and protection system has many young people who do not become known to the juvenile justice system. The significant proportion of children and young people who are not shared clients is a reflection of the strength of the care provided and an indication of how the systems work effectively to achieve positive outcomes for children and young people.

Many recommendations made by the Standing Committee have been referred for consideration in the review of the *Children and*

Young People Act 1999. This process is well underway and the issues will be considered in future.

The outcome of the Review of Statutory Oversight and Community Advocacy Agencies will also impact on the provision of services to children and young people including areas covered by recommendations of the Committee. The Review of Statutory Oversight and Community Advocacy Agencies may strengthen the roles of those providing independent advocacy for children and young people, an important means of enabling children and young people to have their needs and issues considered and addressed, in an open and accountable manner. These services and others funded by government also enhance the participation and consultation processes with children and young people in the development of laws, policies and practices that may impact on children and young people.

Government is not able to work without assistance and support from non-government service agencies and those providing 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.

By working together, we will achieve change which benefits and improves the outcomes for all children and young people.

Children and young people are the future of our community and we need to continue to care, respect, inform, protect and assist as best we are able to.

I thank the Standing Committee for their work in raising the issues through their recommendations. As the government report outlines, many issues are being addressed or will be considered in future.

I table the 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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INTRODUCTION

The Standing Committee on Community Services and Social Equity resolved on 4 April 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.

OVERVIEW

Children and young people are valued members of the ACT community. The involvement and inclusion of children and young people in community processes and decisions reflects their important and essential role within our community.

The provision of care, services and supports 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 guided by legislation and policies. Services provided may be universal in nature and widely available in areas such as education, health and recreation. Some services are specific to the mandates of their legislative obligations and responsibilities, such as child protection and youth justice services.

Government is committed to the continual improvement in the provision of services to the community including the provision of specific services to children, young people and families. Sectors of government have undertaken major initiatives of change and improved service delivery to children, young people and their families during the past year and will continue to do so.

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

The government benefits from the recommendations made by the Standing Committee. The responses provided to the 41 recommendations indicate the ongoing process of improvement by government to benefit children and young people, especially those children and young people requiring statutory involvement.

Responses will show the initiatives implemented by government to address community concerns. Other initiatives require additional time to enable the processes of development and implementation to be completed.

Government agrees, agrees in principle or has noted 40 of the 41 recommendations made by the Standing Committee. Government does not agree with a recommendation made by the Standing Committee. This recommendation refers to the adequacy of existing performance measures for care and protection services.

RECOMMENDATIONS OF THE INQUIRY

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.

Noted.

The government considers the right of children and young people to know and understand the law and their rights as an important issue. This view is supported within a legislative context in the *Children and Young People Act 1999*. In addition, government considers the need for Indigenous children and young people, who are over represented in both the juvenile justice and care and protection systems, require particular attention.

The government will refer this recommendation and the issues raised in the report to the Aboriginal Justice Advisory Committee for consideration, in the context of proposals for the establishment of an Aboriginal Legal Service. In addition, the review of the *Children and Young People Act 1999* will consider the information provided to children and young people, their inclusion and involvement in matters of care and protection and youth justice.

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.**

Noted.

As stated in the above response, the government will refer both recommendations to the Aboriginal Justice Advisory Committee for consideration. In addition, the review of the *Children and Young People Act 1999* will consider whether the needs for information about the law and the rights of children and young people at risk of abuse are being adequately met.

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.

Noted.

ACT government schools operate under a school based management system and develop their own curriculum based on guidelines from the ACT Department of Education, Youth and Family Services. In primary and high schools, school boards approve each school's curriculum documents. In the colleges the courses are accredited by the ACT Board of Senior Secondary Studies.

The 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, Youth and Family Services 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.

The further incorporation of 'model legal rights and responsibilities units' as part of the SOSE Key Learning Area and/or civics and citizenship education will be considered as part of the Curriculum Renewal Project announced in the 2003-2004 budget.

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. Mental Health ACT is presently involved in discussions with the Southern Area Health Service (SAHS) to develop a joint funding proposal for a psychiatric facility for young people, which would be linked with the existing day program. Calvary Hospital is also considering a proposal that may result in the establishment of an inpatient facility for young people who are clients of mental health services.

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.

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 has established *Turnaround* - an integrated flexible service delivery model for young people with intensive support needs. *Turnaround* is a whole of government initiative, coordinated by the Department of Education, Youth and Family Services and will become operational in the first half of 2004.

Turnaround will provide support for up to 30-35 young people at a time and will be characterised by:

- A set of principles to guide good practice across the service system.
- A centralised assessment service based on the expansion and strengthening of the existing Intensive Support Program service.
- Strengthened and individualised case management including an individual case plan for each young person.
- A team model to support each young person including the young person, their family, people with whom they already have relationships (natural supports), as well as professionals.
- Efficient management of services and resources to best meet each young person's assessed needs.
- An integrated and collaborative approach across the service system to meet the needs of the young person.
- Effective and appropriate transition planning to meet the longer term needs of each young person.

- An evaluation process to measure the effectiveness of the new arrangements.

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.

The government considers the significant issues raised present many challenges to the provision of services to this group of young people and a feasibility study has commenced.

The term “young people engaging in sexually offending behaviour” referred to in the recommendation encompasses a very broad range of behaviours, which by their very nature are offensive, yet may or may not lead to the young person being charged with an offence.

Government is currently considering options for a secure residential treatment facility for young people engaging in sexually offending behaviour which could include young people who have been charged and convicted, those who have not been charged, those awaiting charges to be heard by the Court and those before the ACT Mental Health Tribunal.

A secure residential treatment facility as proposed would need to consider the legal implications of such a proposal and address the issues affecting such a broad range of young people including age, gender, intellectual abilities, nature of offending behaviour and the nature of specialist staffing required.

The review of the *Children and Young People Act 1999* will consider the issue of Therapeutic Protection Orders and the need for residential treatment arrangements for children and young people with a broad range of specific needs.

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.**

Noted.

Whilst the principle of information sharing in the best interests of a child or young person is practiced by government agencies, this practice is guided by the following considerations:

- 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 the relevant legislations including the Privacy Act, the Children and Young People Act 1999 and the Freedom of Information Act.

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.

Children and young people, as other members of the community, have a right to know what information is kept about them and what information is shared between agencies. Where consent to confidential information exchange has been given, such an issue is addressed. In addition, children, young people and adults have the entitlement to access a record containing personal information as outlined in Principle 6 of the *Privacy Act 1988*. The development of practices which ensure that children and young people are aware of the information kept about them will be considered.

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.

Consideration of solutions to effective sharing of information between agencies generally requires State and Commonwealth agreement. There are currently initiatives underway, including work by the Commonwealth, State and Territory governments toward the development of nationally consistent electronic health records and between Health Ministers in the development of a National Health Privacy Code.

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 ACT Government's Alcohol and Drug Program currently has no exclusion criteria, enabling children and young people to access their services.

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.

Noted.

The issue of domestic violence, particularly the long-term impacts on children and young people is a significant issue for the ACT community. Effective support for children and young people who have experienced or are using violence in their family relationships, has been identified as a need in a range of fora.

The Domestic Violence Crisis Service currently receives funding of \$1,201,835 per annum (GST inclusive) under the Community Services Program to support people affected by domestic violence in the ACT. 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. In addition, the government provides programs and 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.

ACT Health currently provides services for children and families who experience domestic violence through the Child at Risk Assessment Unit (CARAU). CARAU is a partner with Relationships Australia and Domestic Violence Crisis Service in a program offering a variety of services to all family members: the federally funded (to RA) Family Violence Program. CARAU offers individual and family counselling and a group work program for children and parents.

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.

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. Government will consult with relevant stakeholders on appropriate legislative amendments to enable the well-being of children and young people covered by protection orders to be considered when they are to be revoked.

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 identified \$1 million to provide 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 were funded in 2002-2003, including:

• Innovative respite care pilots	\$450,000
• Additional family support respite care packages	\$100,000
• Innovative Dementia Respite Service	\$20,000
• Reduction of fragmentation of respite care service provision	\$150,000
• Carers of People with a Mental Illness	\$100,000
• The respite unmet needs study	\$75,000
• Maintenance respite support and services for mental health	\$105,000

The allocation of ongoing funding in 2003-2004 will be 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 inaugural Youth InterACT Conference. These priorities are being 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.

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 again raise this issue with his State and Territory colleagues through the Housing Ministers Conference forum.

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.

(i), (ii) and (iv) - In the development of the ACT Homelessness Strategy, government has engaged David MacKenzie, Senior Research Fellow, Institute for Social Research, Swinburne University of Technology to undertake research to identify the mix of service models and the appropriateness of size and location of services required to respond to the supported accommodation needs of young people who are homeless or at risk of homelessness in the ACT. This review will examine 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.

This research is to be completed in January 2004 and will draw on literature and research including the findings of the Youth Supported Accommodation Assistance Program (SAAP) review of 2000. The outcomes of the review will be considered for inclusion in the ACT Homelessness Strategy to be launched in March 2004.

(iii) The Department of Disability, Housing and Community Services has maintained a strong commitment to training and resourcing for the ACT SAAP sector, including services assisting young people. The Department received funding through the 2003-04 Budget process for recurrent funds to provide sector development and support to ACT SAAP services. SAAP services also receive funding from the Commonwealth and require Commonwealth agreement to variations in their performance objectives and service provision.

A review of training, development and support needs in the ACT SAAP sector will be undertaken later this year, examining the specific needs of particular client groups including services assisting young people. A new support service model will be established by April 2004 in response to the findings of this review, and will address the specific needs of services assisting young people through sector development, support and training opportunities.

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.

Not agreed.

Performance measures for care and protection services in the ACT are aligned with the national requirements for data collection agreed to by other States and Territories. The provision of consistent national data enables comparative and longitudinal analysis of care and protection matters across Australia, the identification of changing trends and the impact of legislation on service provision.

The analysis of this data is provided through the publication of independent reports by the Australian Institute of Health and Welfare (AIHW) and the Report on Government Services, Steering Committee for the Review of Commonwealth/State Service Provision (The Productivity Commission Report). These reports are used by government for the purposes of seeking further funding and resources to improve service delivery.

Performance measures were recently amended to ensure continued compliance with national arrangements and improved clarity.

Improved outcomes for children, young people and their families is provided through the current data collection systems and analysis which are readily available to the community.

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) and (ii) Noted.

A review of the subsidy rates paid to foster and kinship carers towards the care of the child or young person in their care and examining options for attracting additional funding in order to increase this payment is underway.

The government recognises the significant commitment and care provided by foster carers to children and young people and will be considering the level of subsidy in the context of the 2004-2005 budget.

(iii) Noted.

The government supports access to respite care by foster and kinship carers and Family Services continues to work with funded foster care agencies to ensure access. This can be difficult at times due to ongoing pressure on respite placements in the ACT.

Carers cannot be guaranteed respite care because of the need to:

- Ensure that the provision of respite care to carers is also in the best interests of the child or young person,
- consider the views and wishes of the child or young person,
- achieve permanent and settled living arrangements for children and young people as outlined in the Children and Young People Act 1999,
- balance the availability and demand for respite care, and
- ensure that respite carers are satisfactorily trained in meeting the needs of children and young people in respite care.

(iv) Agreed.

The recruitment, assessment and training of foster carers was outsourced to non-government foster care agencies in 2000. For the past 12 months all agencies in the sector have been using the “Shared Lives Shared Stories” training which was developed by the Australian Child Welfare Association in NSW and is considered best practice. The Department of Education, Youth and Family Services has recently made clear that the Step By Step assessment tool, also considered best practice, will become the standard in the sector in 2004 and will be specified in the new contracts.

The draft National Plan for Foster Children and Carers includes the development of national training standards and accreditation of foster care training. This would assist in ensuring consistency across Australia and also allow transferability when carers move between states and territories. Throughout the development of the National Plan there will be opportunities for consultation with key stakeholders.

(v) Noted.

The accreditation of carers is a matter currently for consideration by the review of the *Children and Young People Act 1999*. The Review Report identifies this an issue for community comment.

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 to consider the issues raised in this recommendation. Family Services case workers are very aware of the importance and need to work closely with those providing care for the children and young people in order to achieve the best outcomes for the children and young people concerned. The Department of Education, Youth and Family Services has a policy entitled “Working with Children and Young People – Volunteering”. The principles and processes outlined apply to the provision of care to children and young people in need of care and protection.

Training is available for Family Services staff, care agencies and carers in relation to roles and responsibilities. Carers receive shared training provided by the agencies and Family Services as well as additional training by the agency. Joint training aims to clarify roles and responsibilities pursuant to the Children and Young People Act 1999, Looking After Children (LAC) roles and responsibilities, and training concerning the contact between children and their natural parents. Family Services has in the past engaged carers to assist in the delivery of this training and to provide their particular perspective. The regularity of joint training and the need to include all agencies rather than each individually is required and will be reviewed to ensure this is provided in unison with Recommendation 14.

The recommendation also refers to Case Management Conferences. These 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. Family Services arranges for Review of Arrangements meetings. These meetings provide an opportunity for children, young people, their carers, parents, agency support staff, other key service providers and Family Services to discuss and plan for the future care of the child or young person.

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.

Noted.

(i) and (ii) A template is used in the preparation of Annual Review Reports which includes the requirements of the legislation and derives from an outline provided by the Office of the Community Advocate pursuant to the Children's Services Act 1986. When the child or young person is in care and a funded agency monitors their care, the agency is required to provide a report to Family Services. This is attached to the Family Services report. Prior to the preparation of these reports, a Review of Arrangements meeting should take place where the child, young person, parents, carers, key service providers, agency representatives and Family Services have an opportunity to review the events of the previous year, consider all views and issues and determine a future case plan. If the child or young person is not willing to attend the meeting, arrangements must be made to ensure their views and wishes are obtained and considered.

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.

Noted.

The Department of Education, Youth and Family Services has recently reviewed and published a Complaints Policy for all concerns regarding services provided by the department. The Department undertook consultation with key stakeholders in the development of this revised policy.

Family Services takes complaints seriously and seeks to address them expeditiously at the local level. If this is unable to be achieved, the Manager of the area, the Director or Executive Director may become involved.

Copies of the revised Complaints Policy are available at all points of contact by the community with Family Services. Family Services staff have been updated on the revised policy at the local level. The revised policy is included in the departmental staff induction information accessible to staff on the departmental web site. The provision of this information to carers through their training will be discussed with out of home care provider agencies.

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.

Noted.

The provision of psychological assessments for young offenders is a complex issue. These reports may be ordered by the Court to enable the Court to determine what forms of intervention have been attempted in individual cases, which have succeeded and which failed. The reports may be required by youth justice for their information and case planning regarding a young person. Reports may also be required by the

legal defence team for the young person and such reports are privileged. Young offenders may also have psychological reports or other complex assessments prepared at the request of Family Services through care and protection proceedings. The provision of reports to encompass all these requirements and varied purposes located within the Children's Court does not meet these requirements. The need for improvement in the delivery of such services is a matter government will consider.

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 in principle.

Home detention was introduced as an alternative remand option in September 2003 for young people and adults under the *Rehabilitation of Offenders (Interim) Act 2001*. Further alternatives are currently being considered by government. The issue will be referred to the review of the *Children and Young People Act 1999* for further consideration and advice.

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.

Noted.

A Certified Agreement has recently been negotiated for ACT Government employees, including staff of youth justice. Appropriateness of pay across units will be considered, as part of negotiations for the new Certified Agreement currently underway. The current agreement expires on 31 March 2004.

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.

Noted.

The Government currently provides limited funding for drug and alcohol counselling at Quamby. In addition, the Salvation Army provides on-going services to this group of young people. Extending existing services, and additional funding for drug and alcohol counselling at Quamby will be further examined 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.**

Noted.

Consideration is being given to improving information sharing between care and protection and juvenile justice systems as currently there are different mechanisms for recording data. This process will address access issues by Quamby staff to the existing Family Services (Children and Young Persons System) database. Consideration is being given to a shared data base with a search function. Resource issues will be considered within the budget context.

Sole case management by Family Services of all shared clients with Youth Justice is constrained by determining the most appropriate outcomes for young people. Current practice is determined by:

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

Young people detained in custody who are the responsibility of both services are primarily supported by Youth Services as the lead agency, with assistance from Family Services. Upon the young person's release from custody, the young person may not have youth justice orders continuing their involvement. In such situations, Family Services assumes case management responsibility. Young people on community orders remain joint clients of Family Services and Youth Justice and coordination of the case plan is achieved through discussions and case conferences.

Family Services is the lead agency when it is agreed on an individual basis between Youth Services and Family Services that this is in the best interests of the young person.

As outlined in the government response to recommendation 5, the establishment of *Turnaround* commences a process involving a single case management model for young people with intensive support needs.

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.**

Noted.

The evidentiary requirements for care and protection cases and the burden of proof of such matters is being referred to the review of the *Children and Young People Act 1999*. Currently, section 197 of the Act states “In a proceeding under this Part, a fact is proved if it is proved on the balance of probabilities”.

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.

Noted.

The structure, definitions and terminology used in the *Children and Young People Act 1999* has been raised as an issue in the Review Report, currently awaiting community comment as part of the review of the *Children and Young People Act 1999*. Key stakeholders, including the Children’s Court magistrate and ACT Legal Aid will participate in further consultation forums to consider community input.

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.**

(i) and (ii) Agreed.

A Centralised Intake Service will be introduced in the near future providing a focal point for a streamlined service to mandated and community reporters. The Service will also enable mandated reporters to provide written reports if they choose. This will provide alternate processes to mandated reporters who work at night and need to meet their reporting responsibilities. In addition, Family Services have implemented a feedback mechanism to mandated reporters on each report made to Family Services.

Future interagency protocols between Family Services and other agencies where there are mandated reporters will address the responses to instances where mandated reporters had formed a reasonable suspicion a child or young person had been abused and failed to report according to their legal responsibilities.

(iii) Noted.

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 referred to the review of the *Children and Young People Act 1999*.

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 referred to the review of the *Children and Young People Act 1999*.

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, including other children or young people at both a local and national level. Through the Ministerial Council on Education, Employment 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 inaugural meeting of the National Community Services Working Group on Screening Persons/Volunteering in Child Related Areas was held on 19 November 2003. The proposed timetable includes national consultation of agreed models by October 2004.

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 in principle.

Access by young people to independent advocacy services is supported. The organisational structure required to support this proposal and any change of name will be considered in the context of the Review of Statutory Oversight and Community Advocacy Agencies.

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.

Noted.

The provision of early intervention and crisis responses to ensure the safety of children and young people must continue to be provided. The number of current reports requiring intervention and protective responses has continued to increase. In addition, there continues to be an increase in the number of children and young people requiring out of home care and care and protection orders. The response to the increased demand for intervention is met by an increased number of child protection positions.

Family Services is working towards the establishment of Overarching Interagency Guidelines for Child Protection (OIG) which will identify the shared responsibilities of all key agencies working in the care and protection of children and young people. This process will improve the cooperation and coordination of service delivery as well as provide intervention by agencies other than Family Services in the early intervention and prevention of child abuse and neglect.

ACT Health has allocated funding for a part-time project officer position to develop a health related child protection policy and training package tailored to meet the needs of all ACT Health staff. In addition, service provision by the Child at Risk Assessment Unit is currently being reviewed, to ensure an improved focus on early intervention and treatment strategies for ‘less serious’ and ‘lower level’ child-at-risk cases.

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.**

Noted.

The *Annual Reports (Government Agencies) Act 1995* (the Annual Reports Act) sets the framework for annual reporting across the ACT public sector. This framework includes identifying which public bodies provide annual reports; prescribing the format of reports; and deadlines for presentation and tabling of reports. The Financial Management Act 1996 also sets financial and performance reporting requirements for all departments.

General information on early intervention programs, new initiatives and any related evaluations and reviews is included in the Department of Education, Youth and Family Services Annual Report as is Quality/Effectiveness measures for programs, including details on funding levels.

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 ACT Government currently provides a universal home visiting scheme by community health nurses for all families with new babies, delivering at least one visit to each family wishing to participate. This is a service provided to families who are willing to participate with the service.

The need and potential to expand the current home visiting scheme will be considered in the context of the ACT Children's Plan.

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.

Noted.

Family group conferencing is an option available to children, young people and families to work with Family Services and other agencies 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 within the Court system, as an alternative to the adversarial nature of Court applications. 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.

Noted.

The Law Society is a non-government body which represents legal practitioners in the ACT. The Government is prepared to consider providing in kind assistance to the

Law Society and 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.

Noted.

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.

Noted.

This issue has been referred to the review of the Children and Young People Act 1999. Consultation with key stakeholders, including the ACT Law Society, will occur to encourage best practice in this area.

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.

Noted.

The need to maintain consistency in legislation 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.

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.

Noted.

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, Youth and Family Services has sought and obtained the views of children and young people in the development of the Children's Plan. In addition, the department provides funding for CREATE, an organisation representing the views of children and young people in care.

In addition, the 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 Education, Youth and Family Services 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 Department of Education, Youth and Family Services is working closely with the Youth Coalition of the ACT to improve the level of youth participation in non-government youth services.

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.

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.

Noted.

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. A report on the achievements of the Council is published on the interactive Youth InterACT website at www.youth.act.gov.au. The terms of reference for the Council outline the need to develop a work plan on an annual basis using the funds allocated to the initiative.

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.

Noted.

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 additional compliance requirements.

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 in principle.

The government supports this recommendation in principle and will consider a final position pending the outcomes of the review of Statutory Oversight and Community Advocacy Agencies to be completed later this year.

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.

Noted.

The Government notes that there are constitutional barriers to the Commonwealth taking over criminal matters. Jurisdiction for welfare matters will be considered.