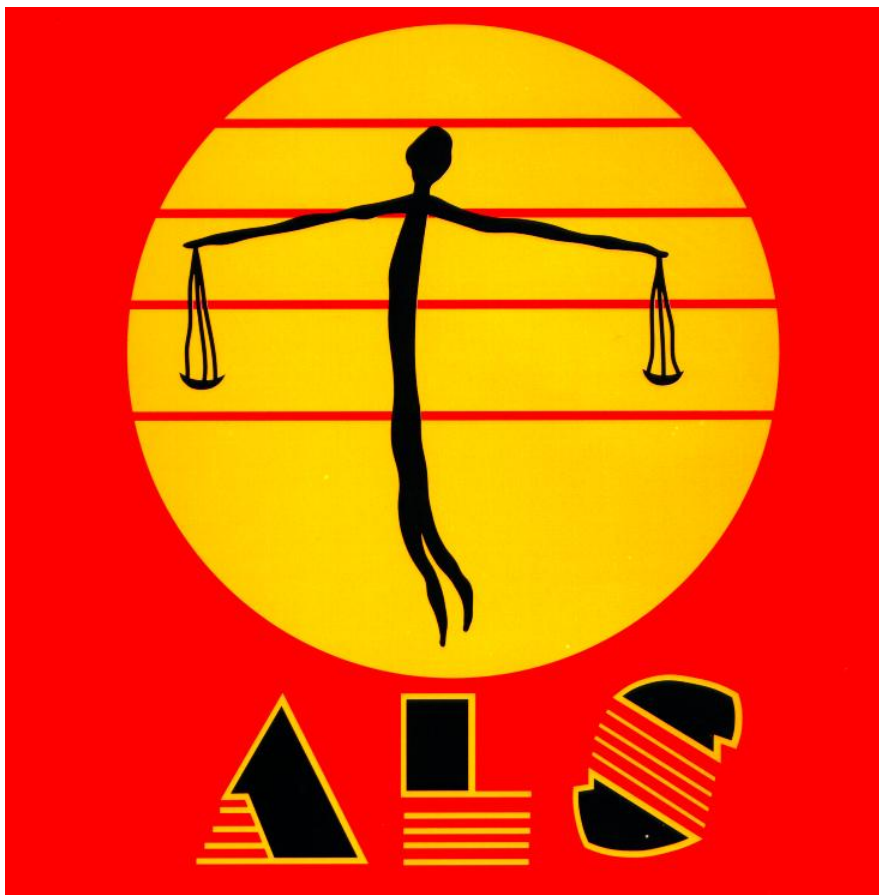


**Aboriginal Legal Service of Western Australia (Inc)**

**Submission to the Review of the *Commissioner for  
Children and Young People Act 2006***

**February 2013**



MD: PC

28 February 2013

Mr Mal Wauchope  
Public Sector Commissioner  
Locked Bag 3002  
West Perth WA 6872

Dear Mr Wauchope

**Submission: Review of the *Commissioner for Children and Young People Act 2006***

Thank you for the opportunity to contribute to the Review of the *Commissioner for Children and Young People Act 2006* (the Act).

As the terms of reference are quite broad, the Aboriginal Legal Service of Western Australia (ALSWA) will focus this submission on issues we believe to be of the greatest relevance to Aboriginal children and young people, and the work of ALSWA.

**General comments**

ALSWA strongly supports the position of the Commissioner for Children and Young People and has been pleased to see the Commissioner develop into the community's pre-eminent advocate for the rights and interests of children and young people in Western Australia – not just in name, but in practice.

Over the past five years, the Commissioner has identified and driven issues of concern that cut across government agencies and service providers. This horizontal function ultimately supports the future development of whole-of-government strategic policy and legislative responses. Importantly, by providing a focal point for children and young people's issues, the Commissioner has played an essential role in facilitating greater communication, cooperation and coordination between key organisations, government agencies and service providers. In addition to the practical outcomes that are achieved through bringing together relevant stakeholders to discuss issues and solve problems, the

less tangible ‘network strengthening’ outcomes are also invaluable and ultimately help to improve policy and service delivery for children and young people in Western Australia.

### **Independence**

The Commissioner’s independence from the Executive arm of government is a defining characteristic of this role, and is essential to its effectiveness. ALSWA would not support any changes to the Act that would detract from this independence, including making the Commissioner subject to ministerial direction.

### **Functions**

In ALSWA’s view, the functions of the Commissioner, as set out in section 19 of the Act, are largely sufficient; however, we would like the Commissioner’s oversight of government agencies to be strengthened.

Subsections (d) and (e) require the Commissioner to monitor the way in which government agencies deal with complaints made by children and young people, and to monitor trends in these complaints. Similarly, subsection (g) requires the Commissioner to monitor and review laws, policies, practices and services affecting the wellbeing of children and young people.

To support these monitoring functions, ALSWA believes the Act should be amended to require agencies to report regularly to the Commissioner. This would not only assist the Commissioner, but – particularly with respect to subsection (g) – such a reporting requirement would provide an effective mechanism to compel government departments to carefully consider the impact of their internal policies and practices on children and young people, as well as legislation and service delivery more broadly.

### **Aboriginal children and young people**

Section 20(1)(a)(i) of the Act requires the Commissioner to prioritise the interests and needs of Aboriginal children and young people. As the most vulnerable and disadvantaged group in our community, this prioritisation is appropriate, and necessary. In ALSWA’s view, the two issues of greatest concern with respect to Aboriginal children and young people in Western Australia are:

- the high level of involvement of Aboriginal juveniles in the criminal justice system; and

- the high rate of intervention by the Department of Child Protection in Aboriginal families.

ALSWA notes that the Commissioner has only conducted one inquiry over the past five years, yet this function is the most important advocacy tool at the Commissioner's disposal. The inquiry function is the strongest mechanism by which the Commissioner can influence the policy agenda and drive reform on issues that have been neglected or otherwise overlooked by the State Government and its agencies. ALSWA looks forward to inquiries into the issues raised above, consistent with section 20(2)(a)(i) of the Act.

ALSWA enjoys a positive and constructive relationship with the Commissioner and her office, and we have appreciated the Commissioner's responsiveness to concerns that ALSWA has raised. Notwithstanding this, we believe that a permanent advisory committee on issues affecting Aboriginal children and young people may help the Commissioner to maintain focus on this priority group.

Thank you again for the opportunity to contribute to this review. Please do not hesitate to contact me directly if you have any questions, or would like further information.

Yours sincerely

**JOHN BEDFORD**

Acting Chief Executive Officer