



Speech 14 May 2015

WA Family Pathways Network 2015 conference

Good morning.

Thank you Deborah for your introduction.

I would like to acknowledge the traditional owners of the land on which we meet today.

Welcome everyone to the WA Family Pathways Network 2015 conference.

My thanks to the organising committee for inviting me to officially open this important conference, I am encouraged by the focus on children and the important discussions that are to come.

Some of you will be more familiar than others with the role of the Commissioner for Children and Young People, so I would like to take this opportunity to tell you a little about the role and some of the key areas of work for my office.

The role is one of broad advocacy, representing the needs of all children and young people in Western Australia under the age of 18, who currently number more than 570,000.

Over the last decade, we have seen an 18.5 per cent increase in the number of 0 to 17 year-olds in WA.

And this growth will continue - there were more than 34,000 births registered in WA in 2013, the largest ever number recorded..

The role was created in 2007 following the passing of the *Commissioner for Children and Young People Act* the previous year.

Two of the principles of the Act are that ...

- children and young people are entitled to live in a caring and nurturing environment and to be protected from harm and exploitation; and
- parents, families and communities have the primary role in safeguarding and promoting the wellbeing of their children and young people and should be supported in carrying out their role.

The Commissioner is independent and reports directly to the WA Parliament and must regard the best interests of children and young people as the paramount consideration.

Further, under the Act, the Commissioner must give priority to and have special regard to the interests and needs of Aboriginal and Torres Strait Islander children and young people and those who are vulnerable or disadvantaged for any reason.

The Act requires me to consult with children and young people from a broad range of backgrounds and age groups throughout Western Australia each year to ensure their views and concerns are heard, respected and addressed.

In addition, the Act describes a number of other functions including to:

- monitor and review written laws, draft laws, policies, practices and services affecting the wellbeing of children and young people
- promote the participation of children and young people
- and encourage agencies to seek the participation of children and young people.

In my role, I must also have regard to the United Nations Convention on the Rights of the Child.

More countries have ratified this Convention than any other human rights treaty in history; there are 194 countries who have become State Parties to the Convention.

Australia is one of these countries, and the Convention is very clear on a distinct set of rights for all children – centred around the right to be heard and to have every opportunity possible to reach their full potential.

There are 54 articles in the Convention, and while I won't read them all, there are some that directly apply to your discussions today:

firstly, that children have the right to know their parents, and as far as possible, to be cared for by them.

that children should not be separated from their parents unless it is for their own good, such as neglect or other forms of mistreatment.

and that children have a right to say what they think should happen when adults are making decisions that affect them, and to have their opinions taken into account.

In your decision making - and I acknowledge that in family law decision making is often highly complex and emotionally charged – weighing up what is in the best interests of the child in situations of conflicting issues is not easy

However - it should always be remembered that children have this fundamental right to have a say, and to be heard and to have due weight and consideration be given to their views.

Enabling children and young people to be heard and promoting this to occur broadly in the community is one of the priorities of my office.

The work of the office is informed by the views and opinions of children and young people, and the best available evidence and research of what works well.

To date the Commissioner's office has consulted on a range of issues with more than 7,000 children and young people from diverse cultural, socio economic and geographic backgrounds across WA.

Children and young people have provided their views on what is important to their wellbeing broadly, on youth health, mental health, living with a disability, regional and remote living as well as reducing alcohol-related harm.

These consultations have underpinned the work of my office, and I would make the point to you that in each of these areas, the insights from children and young people have been profound – children have valuable views on issues and situations that affect them.

Hearing the views of children and young people, particularly those who are vulnerable or marginalised for some reason, is not always easy and requires effort, patience, skill and creativity to ensure that they feel comfortable and able to articulate their views effectively.

Last year I undertook a major consultation with more than 1,200 Aboriginal and Torres Strait Islander children and young people, and the outcomes of this will be tabled in State Parliament in a few months' time.

The perspectives these young people have of their families and communities and the benefits and challenges they see in their lives are quite remarkable and have significant policy and service implications that we must all seriously consider.

Later this year, my office will consult with culturally and linguistically diverse children and young people in WA, focussing on those from refugee and migrant backgrounds.

With around a quarter of WA's children and young people being born outside of Australia, this is an important area of work.

My office is currently also undertaking a project to promote and support the implementation of child-safe principles and practices in organisations in WA.

As part of the child-safe organisations project, we have asked children and young people about what makes an organisation safe and friendly.

We will be developing resources to assist agencies identify and manage any risks that affect the safety and wellbeing of children and young people, including physical and sexual abuse, bullying and accidental injury.

As you can imagine, children and young people raise a wide range of issues with me.

However, there are a number of key issues that remain constant. When we ask children and young people what is important to their wellbeing we are most frequently told:

- a positive connection with family and friends
- gaining a good education - kids generally enjoy school and understand the opportunities it provides
- opportunities for participation in a range of fun and safe activities
- a real desire to engage as active citizens – they want to be involved and often have unique insight into what is required to improve communities
- the majority of kids in regional WA express a strong connection to their communities and culture.

Interestingly - but not surprisingly, what children and young people tell us is important to their wellbeing also fits well with what the evidence says.

In 2014, international expert in child resilience, Dr Michael Ungar, visited Perth as the Commissioner's Thinker in Residence.

Resilience is a key factor in a child's ability to cope with the separation and divorce of parents and the changes to family life.

Dr Ungar defines resilience as: "...the capacity of individuals to navigate their way to the psychological, social, cultural, and physical resources that sustain their wellbeing, and their capacity individually and collectively to negotiate for these resources to be provided in culturally meaningful ways."

On the basis of his research internationally, Dr Ungar has identified nine things that all children need – including structure, consequences, parent-child connections, lots and lots of nurturing relationships, a powerful identity, a sense of control, a sense of belonging/cultural connection, fair and just treatment and physical and psychological safety.

In July last year my office tabled in the WA Parliament the second edition of the Wellbeing Monitoring Framework.

The framework provides accessible data on key areas of children and young people's wellbeing to assist with the development of policy and planning of services, along with information on best practice programs and services shown to improve wellbeing.

The framework includes two documents – *The State of Western Australia’s Children and Young People* and *Building Blocks: Best practice programs that improve the wellbeing of children and young people*.

The State of Western Australia’s Children and Young People highlights important information across 40 separate measures of wellbeing.

Measures include health and safety parameters from pregnancy and birth, through to late teenage years, including areas such as education and material wellbeing.

While in general the data shows us that most WA children and young people’s wellbeing needs are being met, in some areas we are behind national and international standards.

This is particularly the case for many Aboriginal children and young people where the data shows ongoing and concerning disadvantage.

One area worthwhile mentioning in this forum is the incidence of family and domestic violence.

As outlined in the report, according to police data, at least one child or young person was present at 23,832 family and domestic-related incidents attended by WA police in 2012-13 – just over half of all incidents reported.

While these are sobering statistics, as family and domestic violence is generally under reported, the picture is likely to be far worse, and Aboriginal children and young people are significantly overrepresented in family and domestic violence incidents.

Another area of concern is the abuse and/or neglect of children.

During 2011-12, more than 13,000 notifications of abuse or neglect of a child or young person were received by the relevant authorities in WA.

Three-quarters of these notifications were further investigated, while the remaining quarter was dealt with by other means, such as referral to support services.

Following investigations, neglect or abuse of children was substantiated in 2,583 cases. That is a rate of 4.7 in every 1,000 WA children. While this is the lowest rate of all Australian jurisdictions, it is the highest rate recorded for WA since 2005.

The rate for Aboriginal children who were the subject of a substantiated notification was 24.4 per 1,000 children.

While the *State of Western Australia’s Children and Young People* provides the statistics, the *Building Blocks* document lists and describes 126 best practice and promising programs from both WA and other states and territories.

Together, the reports can be used by agencies to identify evidence-based programs that may be suitable, with adaptation for local needs, to address areas where children and young people's wellbeing is of concern.

We know that the relationships between children and young people and their families are among the most important influences on a child's development and wellbeing.

For most children, their family is the primary source of security, support and development.

If this ideal was possible for all, then none of us would be here discussing how family law responds when children refuse contact – you are all well aware that a strong family environment is not always achievable.

So, the question is, how do we best support children who do not have that primary source of security?

We need strong support systems in place to help mitigate when things go wrong.

One key area of work for my office over the last number of years has been in mental health.

The inaugural Commissioner Michelle Scott undertook an Inquiry into the mental Health of Children and Young People in WA in 2010, and work in this area continues today.

As part of the Inquiry, around 700 children and young people shared their ideas about what contributed to good mental health and feeling well and, conversely, to poor mental health and feeling unwell.

They described positive contributors to mental health including:

- feeling healthy both physically and emotionally
- feeling positive about life
- feeling loved and cared for
- feeling acknowledged
- feeling connected
- and feeling informed about mental health issues broadly.

Children and young people also spoke about some of the negative contributors to mental health problems including feeling unloved due to family conflict and feeling alone or isolated if they were not connected to support networks, community facilities or appropriate services.

Feeling uninformed was also identified as a negative contributor to mental health.

The Inquiry recognised the needs of children and young people who are at greater risk of mental health problems due to challenging family or other circumstances. This includes those children and young people who have experienced family and domestic violence or who may be experiencing divorce, or separation.

Although their experiences vary, there is evidence that children and young people in these circumstances are affected by grief, loss, trauma, social isolation, stigma, stress, anxiety, low self-esteem and depression.

The Inquiry report contained 54 recommendations to improve the mental health and wellbeing of children and young people in WA.

One of these recommendations was that all agencies providing services for adults in these areas recognise that children and young people in these families are a vulnerable group, who have specific mental health needs, and that they should incorporate a child-centred approach to the services they deliver.

The office is now reviewing the progress that has been made in improving the mental health and wellbeing of children and young people since the tabling of the Inquiry report in 2011.

And so, that is an overview of the role of the office of the Commissioner for Children and Young People, and some of the main areas of work currently being undertaken.

How does this all fit with your topic of how the family law system should respond when children resist contact?

I hope that I have given you a context for your discussions in that we must ensure that children and young people have a strong voice in matters that affect their wellbeing.

I acknowledge that engaging children is a challenging area for the legal system in general, however, successful outcomes for children, their families and communities will rarely be reached without it.

The children and young people you interact with are potentially some of the most vulnerable in our community.

It is complex, and as you are all aware, there are many reasons why a child or young person may not want contact with a parent. That these children have reached the point where they no longer wish contact, when children and young people have told my office resoundingly that parents are the most important contributor to their wellbeing, speaks volumes for the trauma they are likely to have experienced.

These experiences can result in a range of issues which negatively affect their wellbeing, including a range of mental health problems.

The safety and wellbeing of these vulnerable children must be the highest priority.

Listening carefully to their views, providing them with opportunities to be heard, that are appropriate to their age and maturity, is vital.

Responding to these views in a meaningful way is even more important – not doing so will enforce the perception that adults are not to be trusted.

Consultations with children and young people have highlighted the importance to them of being acknowledged, being listened to and having their concerns taken seriously.

Children and young people often have a unique insight that adults simply do not consider, and this can lead to innovative solutions that provide better results for everyone concerned.

In essence, the whole approach to the legal services you deliver must be child-centred.

Our legal system needs people with the skills and capabilities to listen to children and young people – and the process and timeframes must enable this to occur.

In closing, I am pleased to open this important conference and grateful for the opportunity to outline my role.

I hope that I have set the scene for you to look creatively and genuinely into how to listen to children and young people, and how to maximise the ways in which you can promote the best interests of the child.