

Terms of Reference

HIS Excellency, Rear Admiral The Honourable Kevin John Scarce, Companion in the Order of Australia, Conspicuous Service Cross, Governor in and over the State of South Australia:

TO THE HONOURABLE MARGARET JEAN NYLAND AM

Greeting: Whereas:

- Concerns have been raised about the effectiveness of the State's child protection system to ensure the safety of children at risk of harm, including children who have been removed from their families and placed into the custody and/or under the guardianship of the Minister for Education and Child Development.
- The objects of the Children's Protection Act 1993, are, amongst other things, to ensure that all children are safe from harm and are, as far as practicable, cared for in a way that allows them to reach their full potential. In furtherance of those objectives, the Act provides for removal of children at risk of harm into the custody and/or under the guardianship of the Minister. Children in the custody and/or under the guardianship of the Minister may be placed in care, including in children's residential facilities and foster care arrangements as established and regulated under the Family and Community Services Act 1972.
- It is necessary and appropriate that the laws, policies, procedures and practices relevant to the State's child protection system be investigated as a matter of urgency to ensure such children are safe from harm and that the public can have confidence in that system and in the work of Families SA and other relevant agencies.
- It is necessary and desirable that a review be conducted in a manner that enables the relevant evidence to be obtained, but in a manner that does not undermine the presumption of innocence, or right to a fair trial, of any person.

I, the Governor, with the advice and consent of the Executive Council and under the *Royal Commissions Act 1917*, do hereby appoint you to be a Commissioner to inquire into and provide a report to me, on or before 5 August 2016, on the following matters:

1. The adequacy of existing laws and policies relevant to the State's child protection system for children at risk of harm.
2. Improvements that may be made to existing laws, policies, structures and allocation of resources relevant to the State's child protection system for children at risk of harm.

3. The adequacy of existing practices and procedures adopted by Families SA and other relevant agencies, including entities licenced by the Minister, in implementing the State's child protection system for children at risk of harm
4. Improvements that may be made to the practices and procedures of Families SA and other relevant agencies, including entities licenced by the Minister, to provide for the best practical and financially achievable implementation of the State's child protection system for children at risk of harm.
5. The inquiry into the above matters should include consideration of, but is not limited to, the following matters:
 - a. The means by which a child who may be at risk of harm is brought to the attention of relevant authorities.
 - b. The assessment, by relevant authorities, as to whether a child is at risk of harm.
 - c. The assessment, by relevant authorities, about whether to remove, or not to remove, a child from the custody and care of their guardians and to place the child in the custody and/or under the guardianship of the Minister.
 - d. Whether the environment into which a child is placed, either on a short-term or long-term basis, is safe.
 - e. The assessment, by relevant authorities, of persons who work and volunteer with children in the custody and/or under the guardianship of the Minister.
 - f. Management, training, supervision and ongoing oversight of persons who work and volunteer with children in the custody and/or under the guardianship of the Minister.
 - g. The reporting of, investigation of and handling of complaints about care concerns, abuse or neglect of children cared for in the custody and/or under the guardianship of the Minister.
 - h. The staffing of the State's child protection system to ensure the safety of children at risk of harm.

In conducting your inquiry and in your report you are required to avoid prejudicing pending or prospective criminal proceedings or investigations.

Where you are satisfied that a particular matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding, you are not required to inquire, or to continue to inquire, into that matter and nor are you precluded from doing so.

GIVEN under my hand and the Public Seal of South Australia, at Adelaide, this 15th day of August 2014.

By command,
JAY WILSON WEATHERILL, Premier