

LEARNING BRIEF:

# Lessons from WCCC institution building

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AUGUST 2022



**Commissioner  
for Children**  
OF THE WESTERN CAPE

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#kleinstemmetjiesMOETsaakmaak  
#amazwiamancinciMAKAVAKALE**

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*The office of the Western Cape Commissioner for Children (WCCC is a pioneering institution as it is the first independent Ombud for Children in the history of South Africa*

On 1 June 2022, the office of the Western Cape Commissioner for Children (WCCC) turned two years old. This is a pioneering institution as it is the first independent Ombud for Children in the history of South Africa. This office is the second of its kind on the African continent; the Mauritian Ombudsperson for Children was established in 2003. The 1998 Western Cape Constitution creates the WCCC office in chapter 9, which traditionally is the space for creating institutions to protect human rights and democracy. The Western Cape Commissioner for Children Act 2 of 2019 was assented to by the Premier on 29 March 2012. The WCCC is mandated to protect and promote the rights, needs and interests of children in the Western Cape. WCCC's main powers and duties are receiving complaints and enquiries, conducting investigations, monitoring services, conducting research, educating and increasing child rights awareness in society, lobbying key decision makers, engaging children and making recommendations and giving advice to institutions. The mandate focuses on the social cluster i.e. the departments of Social Development, Education, Health, as well as Cultural Affairs and Sport.



Parliament initiated a process of calling for public nominations for the Commissioner in late 2019. After a shortlisting and interviewing process, Parliament recommended a candidate for Commissioner to the Premier for appointment. Premier Alan Winde appointed Ms. Christina Nomdo as the first Western Cape Commissioner for Children on 1 June 2020. In the first two years, many lessons have emerged from the institution building process. This learning brief will reflect on lessons relating to explaining the mandate, strategies and approaches of the Commissioner, the independence of the office, the staffing and physical office.

## Explaining the WCCC mandate

Developing a clear communications strategy aided in raising awareness of the **limited mandate of the office**. The Commissioner needed to be able to communicate her intentions and approach to the work of her office in a clear and simple, above all, child-friendly manner. In the month of July 2020, the Commissioner and Government Communications team were able to workshop the preferred logo of the office with children across the country. Child Government Monitors developed **hashtags which expressed the mission statement of the office**, these are:

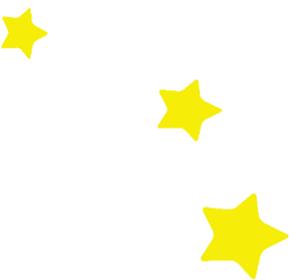
- #littlevoicesMUSTcount;
- #kleinstemmetjiesMOETsaakmaak; and
- #amazwiamancinciMAKAVAKAL.

Within weeks the Commissioner was able to develop three (3) different levels of articulations of her mandate – one for professionals, one for adults, and one story for children (in isiXhosa, Afrikaans and English). She worked

with Rx Radio's child journalists to voice record these stories, so that children can hear them from other children. The Commissioner used her own resources to print T-shirts with the logo and the hashtags in preparation for her Community Child Rights Workshops which commenced in October 2020. Due to the direct involvement of children in all aspects of the office, we were able to develop banners which reflected children we worked with, instead of stock images normally used. Four banners were developed in year one including two illustrations of our mandate, one of our child-centred approach and one of the children involved in the work of the WCCC. Within the first year, the Commissioner was also able to initiate a Facebook and Twitter account as well as a website: <https://www.westerncape.gov.za/childrens-commissioner/>. The Facebook page has 1 176 followers with an audience from

different provinces (Western Cape, Gauteng, Kwazulu-Natal) as well as other countries (United Kingdom, United States of America, India, Sweden, Botswana, Namibia, Mexico, United Arab Emirates, and Belgium). The official Twitter page has 226 followers, however, the Commissioner posts office updates on her personal Twitter page which has a following of 602 followers which is then retweeted to the official page. The official website has reached a similar audience locally and internationally as the Facebook page.

All products, such as reports, could be framed with the templates provided in the Corporate Identity. The products developed in year one of the office included the Annual Report 2020/1; 2 Community Child Rights Workshops reports; 1 Child Government Monitors report; and 1 Children's Consultation infographic. These were packaged and presented with a logo branded balloon to



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RIGHT: Examples of the banners that were developed in year one.





**MANDATE OF THE COMMISSIONER FOR CHILDREN**

ACCORDING TO WESTERN CAPE PROVINCE CONSTITUTION AND ACT 2 OF 2019

**The Western Cape Commissioner for Children must protect and promote the rights, needs and interests of children in the province by working with the departments of Education, Health, Social Development as well as Cultural Affairs and Sport.**

The Commissioner for Children is an independent institution from government and reports to Provincial Parliament on activities, functions and progress on objectives.

**Monitor**

- Establish and coordinate provincial monitoring systems for health services, education, welfare services, recreation and athletics and sports
- Impact of government services delivered and the impact of policy and laws on rights needs and interests of children
- Identify the patterns, causes and consequences of negative effects on rights needs and interests of children
- Build cooperative relationships with heads of departments, regional Commissioner of Correctional Services, Provincial Commissioner of South African Police Services, departments responsible for child justice, service delivery, organisations, national and local government, employers in child rights
- Act as person in respect monitoring

**Investigate**

- Conduct or initiate investigations and enquiries and make recommendations
- Determine, to receive, and investigate complaints about government services
- Determine the procedure for investigations and enquiries
- Subpoena persons for give evidence
- May NOT investigate a matter which is the subject of legal proceedings
- Any person may request investigations

**Educate**

- Develop and conduct information programmes on the Western Cape Commissioner for Children Act, South African Constitution, national child laws, international child rights, international child rights legal instruments, as well as projects and programmes affecting children

**Engage**

- Develop a child participation strategy for the Office of the Commissioner for Children
- Encourage children to be involved in the work of the Commissioner for Children
- Increase awareness of the mandate, powers and duties of the Commissioner for Children
- Develop communication procedures for children to engage with the Commissioner for Children
- Consult children and organisations working with children on the work of the Commissioner for Children

**Advise and Recommend**

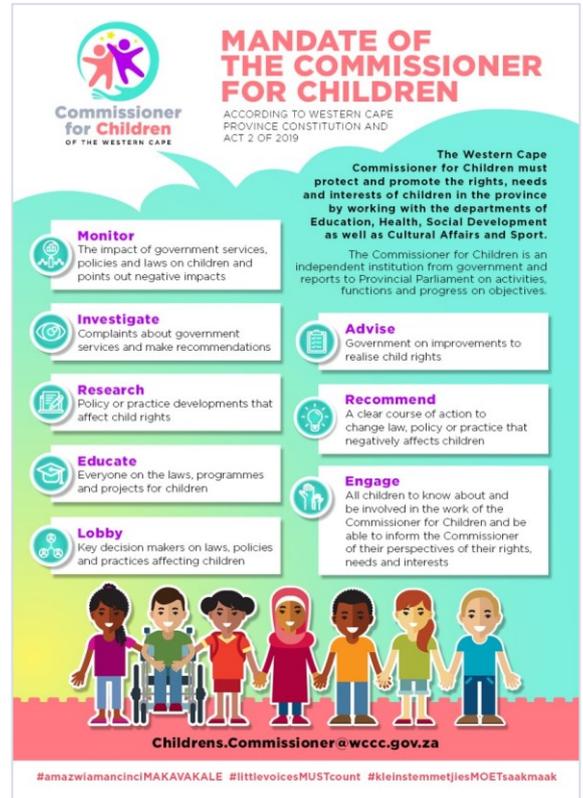
- In government decisions, laws and practice
- Based on monitoring, investigation or research
- After which a written legislative or reasons for refusal of recommendations may be required

**Lobby**

- National and provincial parliaments and local councils on matters of laws, regulations, laws and proposed laws affecting children
- Government, organisations, institutional agencies on policy and practice affecting children
- Request input of public and private sectors for policy development or legislative review

Childrens.Commissioner@wccc.gov.za

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**Monitor**

The impact of government services, policies and laws on children and points out negative impacts

**Investigate**

Complaints about government services and make recommendations

**Research**

Policy or practice developments that affect child rights

**Educate**

Everyone on the laws, programmes and projects for children

**Lobby**

Key decision makers on laws, policies and practices affecting children

**Advise**

Government on improvements to realise child rights

**Recommend**

A clear course of action to change law, policy or practice that negatively affects children

**Engage**

All children to know about and be involved in the work of the Commissioner for Children and be able to inform the Commissioner of their perspectives of their rights, needs and interests

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RIGHT: Examples of the mandate leaflets and the posters that were developed in year one.



**THE COMMISSIONER FOR CHILDREN WESTERN CAPE WEBSITE IS LIVE!**

CLICK TO VISIT

A pilot project of parent and child workshops was carried out in the Matzikama and Bergriver Municipalities between the 29 October – 2 November 2020. The aim of this report is to document the programme, activities and key messages for each target audience; the findings from the community workshops; analysis of findings; and lessons and recommendations for future community child rights workshops.

We are proud to present the first ever in-depth report on the Child Government Monitors Initiative! The aim of this report is to document the forum of children directly involved in the Office's programmes and governance. The Commissioner named this forum the Child Government Monitors.

Reflections - 2020 Report  
Reflections - 2020 pilot in West Coast District  
Reflections on 2020 achievements and recommendations

Commissioner for Children OF THE WESTERN CAPE

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Members of Parliament and staff within the Administration. In the second year, 3 Community Child Rights Workshop reports, 2 Learning Briefs, 1 Child Government Monitors report, 2 strategic engagement reports as well as the Annual Report 2021/2 will be produced. Despite all the products and engagements to explain our work and approaches, **the main lesson is that the mandate in law does not match the expectations of the public from a Commissioner for Children.**

## Strategies and approaches of the Commissioner

The Commissioner opted for a **relationship building approach to stakeholders, to build spheres of influence.** Stakeholder engagements with government, civil society, the public and especially children, were her focus. Her approach with government was to engage the political and administrative heads of her four mandated departments to explain her child-centred approach. They were all very accepting of the Commissioner for Children as a new oversight institution. Good cooperative relationships enabled the Commissioner to refer complaints and enquiries, visit service sites and be a resource to align the departments more closely to a child rights approach. The Commissioner met with as many civil society players as she could manage from the invitations she received to her office, and at times, initiating meetings with strategic child rights organisations. She mostly used mainstream media to communicate with the public by conducting many radio interviews, making position statements in the



RIGHT: Examples of socials that were developed in year one.

*“In the exercise and performance of his or her powers and duties, the Commissioner must — act independently, impartially and without fear, favour or prejudice.”*



print media, and making some appearances on television. Working with children required the most careful strategising.

### **Child participation is the main ethos and implementation strategy**

of the work of the Commissioner. From day one in office, the Commissioner gave expression to her commitment to work closely and directly with children in the province. The **Child Government Monitors** is one of a three-part child participation strategy. The Commissioner recruited children to be advisors in her office and named the forum Child Government Monitors. During a country-wide hard lockdown for the COVID-19 pandemic, she reached out to her extensive networks in the child rights sector to nominate children to form part of this structure. She also used the mainstream media to invite children to join her team. On 1 June 2020, she had already signed up 3 girls from Elsie's River High School who were lobbying the President of the South Africa, to restart the school year in 2021. When the Child Government Monitors turned 18-years-old, becoming adults, they proposed to stay on and help the Commissioner by acting as Mentors. Some of these Mentors have even started to volunteer their time to learn administrative tasks in the office of WCCC. By the end of the second year, we have 75 Monitors and Mentors connected to the office; 12 of which form part of the Child Advisory Council who engage most frequently with the Commissioner.

The second child participation strategy is **Community Child Rights Workshops**. The Commissioner decided that one of her first goals in the office was to acquaint herself with the lived realities of children in rural areas. She

worked with colleagues in the Department of Provincial and Local Government to conduct a pilot workshop in Matzikama Municipality Ward 8 in October 2020, in the communities which are closest to the border of the Northern Cape. She developed a method focusing on understanding safe and dangerous places in the community from children's perspectives as well as their recommendations for service improvements from the four mandate departments. Later, in the second iteration of these workshops, in the Hessequa Municipality, she added an activity to collect the 'dreams and worries' of children to gain insight into the character of childhoods in the province. She has since conducted these workshops in the municipalities of Bitou, Prince Albert, and Beaufort West. The Commissioner and her team have started to receive responses to these reports from the government departments which she will report to the children by hosting community-based children's feed-back meetings.

The third child participation strategy is to conduct **topical consultations with children**. At the start of 2021, the Commissioner initiated a short WhatsApp questionnaire and consent form which could be completed by children or could be conducted by parents with their children and submitted to the Commissioner. Thirty-five (35) children across the province participated in the consultation. WCCC was able to develop six (6) infographics focusing on children's mixed feelings about returning to school during the pandemic, coping with COVID health protocols at school, concerns about finishing the old school year and starting the new year, adapting to distance learning in COVID times,

and their general experiences of learning in COVID times. The current consultation with children focuses on the efficacy of Representative Councils of Learners (RCLs) at schools as the “voices” of children in school management. The main lesson from strategies and approaches of the Commissioner was that the **child participation strategies is a world-class international model for children’s participation in governance.**

are sometimes lengthy and complicated. There is a continuous and healthy debate between the WCCC and the DG’s office to understand how to give full effect to the independence of the office. The main lesson learnt is that the Commissioner needs to **continuously assert the independence of the office and guard against over bureaucratisation that may serve to co-opt her office into the Executive.**

## Independence of the WCCC

**The WCCC is embedded within the Executive and thus struggles to attain true independence.** The WCCC Act 2 of 2019 does not fully create the legal framework for the independence of the office of the Commissioner. On the one hand the law states that: **“In the exercise and performance of his or her powers and duties, the Commissioner must — act independently, impartially and without fear, favour or prejudice.”<sup>1</sup>**

Whereas, on the other hand, the office is subject to Executive authority as it is positioned within the Department of the Premier, as a strategic programme, with the Director General (DG) of the Province, as the Accounting Officer. The WCCC has a ring-fenced budget. This entails that every aspect of the Commissioner’s work requiring funding, will need to be signed-off by the DG. Although the DG is clear that he should not interfere or inhibit the work of the Commissioner, the bureaucratic processes involved in approvals of disbursement of funds

## Staffing of the WCCC

**The appointment of expertly qualified, passionate and committed staff made progress possible.** The staffing structure was pre-determined before the commencement of the office. A hold up of several months that required Parliamentary intervention with the national government to get the staffing structure approved, resulted in the Commissioner being the sole staff member of the office for the first eight (8) months of her term. In the interim, the Commissioner was supported administratively by a staff member on loan from the Department of the Premier.

The first Children’s Commissioner Officer (CCO), a qualified research psychologist, was able to support the Commissioner with the direct work with children. The second CCO, a qualified social worker, was able to manage the intake and recording process of all individual complaints and enquiries. The Head of Branch, a qualified organisational psychologist, immediately created systems and standard operating procedures for the Investigations and Advice processes. All staff in this branch also created

**The main lesson learnt is good staff makes all the difference but stretched capacities can lead to early burnout.**



<sup>1</sup> Western Cape Commissioner for Children Act 2 of 2019, section 6(a)

policies, for example, a child safeguarding policy and an investigations' policy, which was internationally and locally bench-marked. The appointment of an Assistant Director to this branch is underway.

The Commissioner, on the advice of Parliament, presented a bid to Treasury before the 2022/3 financial year to bring the office to critical mass capacity. Treasury provided R1million extra for COE in 2022/3 and R2 million extra from 2023/4, Year 2 of the Medium-Term Expenditure Framework. The Commissioner opted to fill the vacant post for a CCO in the Investigations and Advice Branch as well as the post for Head of Monitoring and Awareness and the CCO in this branch. This will bring the staff capacity in the office to seven (7), including the Commissioner. The main lesson learnt is **good staff makes all the difference but stretched capacities can lead to early burnout.**

**WCCC has engaged with other Ombudspersons for Children across the globe to benchmark the work of WCCC and to gain insights for institution building.**



## Physical office of the WCCC

**The office of the Commissioner for Children should not be a typical government building.** From the start of her term of office, the Commissioner envisioned a child-friendly fantasy house for the WCCC. Three million rand was set aside in the first financial year for the accommodation of the office of the WCCC. When the Commissioner pitched the idea to the DG, he expedited links with the Department of Transport and Public Works (DTPW) to find a suitable building. The Commissioner is not empowered in law to own property and needs to be accommodated in existing government infrastructure.

DTPW obliged by identifying and showing the Commissioner (and a Child Government Monitors) several options for permanent accommodation. A few suitable houses were identified, and the Commissioner settled on a specific property from that first visit in early 2021. However, complications with tenancy agreements means that the Commissioner is unable to take occupancy of the building. On the positive side, DTPW has agreed to invest in the property to bring it up to a good standard of maintenance. Therefore, the Commissioner will be able to use the monies set aside in the WCCC budget for child-friendly refurbishment. The main lesson learnt is that **creating the ideal (non-traditional) permanent office for WCCC is challenging.**

## Lessons learnt and way forward

*WCCC has engaged with other Ombudspersons for Children across the globe to benchmark the work of WCCC and to gain insights for institution building.*

Strategic international engagements serve to build a broader perspective for our work. WCCC has engaged with other Ombudspersons for Children across the globe to benchmark the work of WCCC and to gain insights for institution building. In May 2022, WCCC conducted a study visit to the Mauritian Ombudsperson for children and learnt from their investigations model. In September 2022, the WCCC will attend the Annual Conference of the European Ombudspersons for Children to gain practice insights. Two Child Government Monitors have applied to speak with the United Nations in September 2022 to share their experiences of children's participation in governance.



### Key Lessons: Institution-building in the first two years of office



The mandate in law does not match expectations of the public from a WCCC



A relationship building approach to stakeholders, built spheres of influence in governance



Child participation is the main ethos and implementation strategy which contributes to international best practice models



Good staff makes all the difference but stretched capacities can lead to early burnout



Creating the ideal (non-traditional) permanent office is a challenge



Continuously asserting the independence of the office and guard against over bureaucratisation





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