



The Only 2 in Africa:

A STUDY VISIT TO THE MAURITIAN OMBUDSPERSON
FOR CHILDREN

APRIL 2022



**Commissioner
for Children**
OF THE WESTERN CAPE

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Executive Summary

The Western Cape Commissioner for Children (the Commissioner) and her Head of Branch: Investigations and Advice, conducted a study visit to the Ombudsperson for Children in Mauritius (OCO). The OCO was established in 2003 as the first ever Children's Ombudsperson in Africa serving a population of 1.266 million people and a child population of 272 000. The Western Cape Commissioner for Children's office (WCCC) is the second independent child rights institution of its kind on the continent, established in 2020 servicing a provincial population of 7 million people and a child population of approximately 2 million. Thus far, these institutions are the only two Children's Ombudspersons institutions on the African continent. Therefore, it was important to build this strategic bi-lateral relationship to strengthen the promotion of child rights in Mauritius and South Africa and encourage other African countries to institutionalise an Ombud / Commissioner for Children. The WCCC builds strategic relationships with Children's Commissioners / Ombuds across the globe.

The study visit to the OCO yielded many lessons for institution-building of the WCCC. To be a truly independent institution, WCCC must be separated administratively from its current placing at the Department of the Premier and must have its own Accounting Officer. While the OCO is a National Human Rights Institution, the WCCC is a provincial mechanism. The scope of the WCCC is more limited as it focusses on oversight only of social sector departments. The staffing structure of the OCO developed organically as the work of the Ombud progressed, while the structure of the WCCC was designed prior to operationalisation — the office may need to grow organically in future.

The main aim of the study visit was to learn of the OCO's investigations policy and practice. Both the OCO and WCCC provide the public with multiple channels through which they may file complaints, and both institutions allow for child-friendly complaints mechanisms. The infrastructure required by the OCO to conduct investigations includes two registrars and five investigators in consultation with the Ombudsperson on a meticulously minuted paper-based system initiated when a complainant formalises the complaint in person. Whereas the WCCC investigation branch consists of four persons, only two of whom have been appointed thus far. Enquiries, complaints and requests come mostly through the Commissioner. The complaints system is electronic using excel databases stored on an office SharePoint. The WCCC will invest in a comprehensive information management system in the next financial year. The approaches to resolving complaints have many similarities but the differences result from the unique scope of work of each institution. Own-motion inquiries which seek to understand the root of a systemic problem and to make recommendation to shift the system are undertaken by both institutions. The OCO recently completed a systemic review of child-related services in Residence Anoska locality. Using similar social science research methods, the WCCC will undertake a systemic review of the parental and alternative care system for children in the province.

Frequent exchanges between the two offices could be structured to optimise the cross-pollination and learning.



It was important to build this strategic bi-lateral relationship to strengthen the promotion of child rights in Mauritius and South Africa and encourage other African countries to institutionalise an Ombud / Commissioner for Children.

Introduction

Ms Christina Nomdo assumed the position of Commissioner for Children in the Western Cape from 1 June 2020. This was a historic appointment, as the WCCC was the first Ombudsman / Commissioner for Children in South Africa. As a new institution, a key strategic priority for the 2020-2025 term of office is an institutional set-up. In this context, institutional set-up refers to the configuration of the operational capacity, resources, policies, and frameworks needed to enact the key powers and duties of the WCCC.

The focus of these engagements has been for the Commissioner and her team to build best practice points of reference around institutional structure, powers and duties, as well to build partnerships with similar institutions.

For the WCCC to build its capacity to monitor, investigate, research, educate, lobby, advise and recommend; the Commissioner implemented an **international relations strategy intended to learn from Children's Commissioners around the globe.**

The focus of these engagements has been for the Commissioner and her team to **build best practice points of reference** around institutional structure, powers and duties, as well to build partnerships with similar institutions. In addition to capacity building, another key tenet of the strategy is to **build strategic bilateral relationships** with Children's Commissioner institutions around the globe.

The Ombudsperson for Children's Office in Mauritius (OCO) has been in existence since 2003, the first ever Children's Ombud on the continent of Africa. Thus, a study visit by WCCC to the (OCO) was conceptualised and implemented. This report will present:

1. Key focus areas of the study visit;
2. Lessons learned from comparing the OCO and WCCC mandates, institutional context, and investigation practices; and
3. Key considerations for institution-building of the WCCC.

KEY FOCUS AREAS OF STUDY VISIT

The study visit was conducted between 9 and 15 April 2022. The Commissioner and Head of Investigations and Advice Branch formed part of the delegation conducting the study visit. A programme was constructed for the study visit to understand: a) OCO's full scope of work; b) organisational structure and operations, c) investigations policy and practice, as well as d) explore further synergies between the two institutions.

PROGRAMME

The programme was planned to give opportunity for the WCCC and OCO staff to engage as well as some site visits to introduce the WCCC to key strategic partners of the OCO.

The OCO presented and demonstrated their mandate, organisational set up, as well as their investigations policy, and practice throughout the visit. This included many learning exchanges amongst the OCO and WCCC investigation teams, direct engagement between the OCO and the WCCC, as well as a visit to an investigation site. On day one, the WCCC delegation was introduced to key staff in the office and was provided with a brief overview of the OCO's mandate and mission. On day two of the study visit, a learning exchange was facilitated between the offices. Here, the WCCC exposed the OCO to their investigations process, and the same was done for the WCCC by the OCO's investigation team. Following this, the WCCC visited the Prison Commissioner, and accompanied the staff of the OCO on monitoring visits to two residential care institutions; wherein the WCCC was exposed to their infrastructure and the ethos of care.



The WCCC delegation meeting the management team and care workers at a Child and Youth Care Centre for Girls



The WCCC delegation meeting his excellency Prithvirajsing Roopun, President of the Republic of Mauritius



The OCO has strong relationships with civil society organisations who work directly with children. To understand how the civil society sector supports child rights realisation, the WCCC visited two NGO partners of the OCO on day three and four of the study visit. This included a visit to the Southern Handicapped Association (which provides specialist education to children with disabilities) and the Safire (an organisation providing holistic support to street children). While at the Southern Handicapped Association, the WCCC was introduced to a confident young boy who engaged the WCCC very eloquently. The WCCC recommended

that the OCO considers recruiting this young boy for their subsequent child advisory forum as he is likely to participate very well. The study visit ended with a debriefing session on day 4 and elaboration of a way forward to build the partnership between the WCC and OCO.

The meeting with the President of the Republic of Mauritius, His Excellency, Mr Roopun was not confirmed until the WCCC had arrived in the country. The OCO wished to alert the President that the WCCC was the second Children's Ombudsperson institution on the African continent.

The President encouraged cooperation and learning between the two institutions.

Below is a summary of the programme.

DATE AND TIME	AGENDA ITEM
Monday 11 April 2022	<p>Courtesy Call – Ombudsperson for Children</p> <ul style="list-style-type: none"> • Presentation on the History of the Ombudsperson for Children's Office • Presentation of the roundtable discussion on the establishment of Ombudsperson for Children Office in South Africa • Discussions on: <ul style="list-style-type: none"> - Investigation Process; - Annual Reports and - Sensitisation Campaign
Tuesday 12 April 2022	<ul style="list-style-type: none"> • Presentation on Investigation process at the Western Cape Commission for Children • Courtesy Visit - The Commissioner for Prison • Visit to Rehabilitation Youth Centre (Girls) • Visit to Residential Care Institution
Wednesday 13 April 2022	<ul style="list-style-type: none"> • Systemic Investigation regarding Residence Anoska • Résidence Anoska • Meeting/Visit Southern Handicapped Association
Thursday 14 April 2022	<ul style="list-style-type: none"> • Visit to NGO Safire (NGO working with Street Children) • Debriefing, Evaluation of visit and the way forward



The WCCC meeting the Acting Commissioner for Prisons, Mr Jaganaden Rungadoo

FAR RIGHT: The WCCC presenting Safire NGO and one of their children with her annual report



a) OCO scope of work

The OCO is the third National Human Rights Institution (NHRI) set up in Mauritius after the setting up of the Office of the Ombudsman in 1968, and that of the National Human Rights Commission in 2001. It is the first independent Children's Ombud institution in Africa. Mauritian Act No. 41 of 2003, the Ombudsperson for Children Act (OCA 2003) was voted on 21 October 2003. The President of the Republic of Mauritius assented to the law on 10 November 2003. The law came into force on 20 November 2003 on Universal Children's Day.

The main objectives of the OCO are to ensure that the rights, needs, and interests of children are given full consideration by public bodies, private authorities, individuals and associations of individuals. Furthermore, the OCO is expected to promote child rights and the best interests of children, along with promoting compliance with the Convention on the Rights of the Child. To achieve these objectives, the OCO is empowered to:

1. Conduct investigations into cases where a child's rights have been violated;
2. Monitoring the well-being of children who reside in state care;
3. Promote the rights and interests of children through regular awareness and sensitisation campaigns, and;
4. Make recommendations or proposals to the Minister on legislation, policies and practices regarding services to children.

Until June 2004, the Ombudsperson for Children's Office was attached administratively and financially to the Ministry of Women's Rights, Child Development and Family Welfare. As it is an independent office, it was placed on the same footing as all other independent institutions in Mauritius, as well as to provide the office with its own budget. This is in line with the international principles

known as the Paris Principles which relate to the independence of National Human Rights Institutions. The OCO serves a national population of 1.266 million people including a child population of 272 000.

By comparison, the Western Cape Commissioner for Children Act 2 of 2019 came into force 20 years after the inclusion of this institution in the Western Cape Provincial Constitution in 1998. The Western Cape Commissioner for Children Act was assented to by the Premier on 29 March 2019 and the Commissioner was appointed from 1 June 2020. The WCCC is a sub-programme of the Department of the Premier and the Director General of this department acts as the Accounting Officer for the WCCC. The mandate of the WCCC is to protect and promote the rights, needs and interests of children in the Western Cape.

Like the OCO, the mandate of the WCCC makes provision for the Commissioner to conduct investigations and receive complaints about services affecting the rights of children. The WCCC may also apply their own discretion in selecting issues to investigate or complaints to resolve, providing it falls within its scope of oversight duties. The difference is in the scope of the mandate, WCCC scope of work is limited to the provincial Departments of Cultural Affairs and Sport, Education, Health, and Social Development. Furthermore, the Act prohibits the WCCC from investigating if it duplicates the mandate of another Department or if it is the subject of a legal proceeding. The WCCC serves a provincial population of 7 million people, including a child population of 2 million.

The main objectives of the OCO are to ensure that the rights, needs, and interests of children are given full consideration by public bodies, private authorities, individuals and associations of individuals.



**Commissioner
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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

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



Childrens.Commissioner@wccc.gov.za

While the WCCC is limited to resolve service delivery complaints or investigate systemic issues linked to social sector provincial departments; the OCO's scope of investigations and complaints resolution is not limited to service delivery issues or a limited list of departments.

Thus, there are similarities in the legal scope of investigations assigned to the OCO and WCCC; particularly in the ability to conduct own-motion inquiries and resolving complaints. The main difference lies in the scope of oversight. While the WCCC is limited to resolve service delivery complaints or investigate systemic issues linked to social sector provincial departments; the OCO's scope of investigations and complaints resolution is not limited to service delivery issues or a limited list of departments. They may investigate any complaint into child rights violations, barring if it is a matter undergoing a court proceeding at the time of investigation.

b) OCO organisational structure and operations

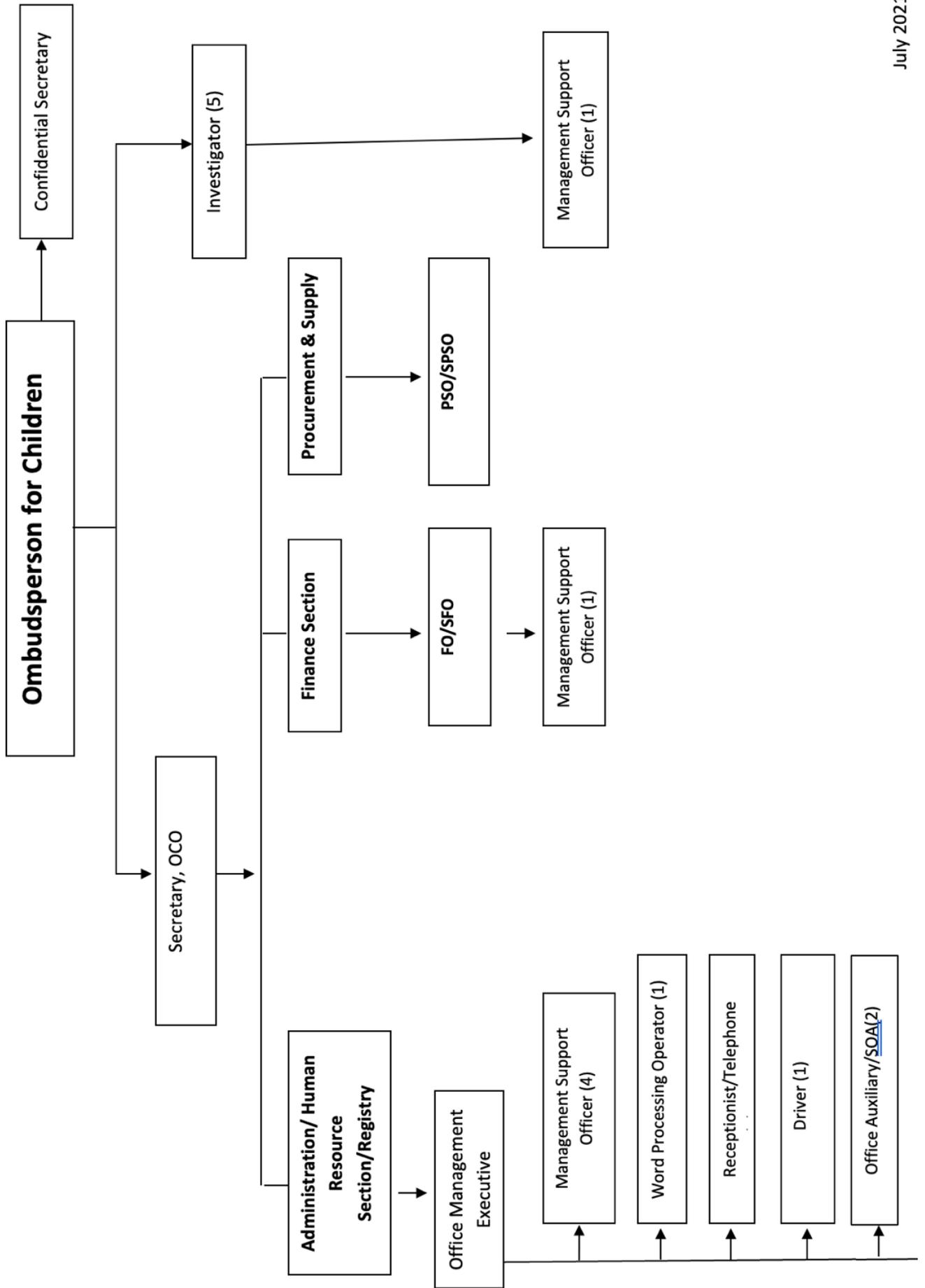
- The first Ombudsperson for Children took the oath on 11 December 2003 as per Section 3(3) of the OCA 2003. The office was not fully operational for the first two months. On 7 January 2004, an Assistant Secretary was nominated to act as Head of the Office. In early February 2004, two officers were seconded on duty to act as investigators. Other

administrative staff were appointed gradually to provide supporting services. Now, the office boasts a 21-person institutional structure; which is depicted in the organigram below.

- **The Secretary of the OCO:** The OCO's structure includes a Secretary (on the level of Director) to operationally manage the office. The Secretary is the Accounting Officer of the OCO and is responsible for managing the budget, human resources and office in general. The key advantage of the Secretary lies in their ability to independently manage the OCO's budget; which includes the approval of spending.
- **A decentralised Finance and Procurement Team:** The OCO has a dedicated finance and procurement team that form part of its organigram. This is linked to the decentralised nature of the finance functions across the Mauritian Government. In this context, the Finance Ministry is responsible for recruiting and deploying finance officials to the various government institutions.



The WCCC and OCO teams engaging around their core areas of work



The WCCC and OCO investigation teams discussing their investigations approaches



- These officials work according to centralised financial laws, policies and prescripts but provide specialised procurement and financial accounting support to the institutions they are deployed to. In the context of the OCO, it allows the Ombud and Secretary (i.e. Director) to structure their own budget allocations, approve spending internally and to thus, expedite the process.
- **A fully functioning Investigations Unit:** Every case opened at the OCO requires a detailed record of the case to be captured meticulously and stored securely. The registry is maintained by two personnel, one dealing with issues of general nature and the other one recording complaints and processing case files. The purpose of the registry office is to thus record and process all case files for the OCO; which are given to them by the investigators. In this context, investigators will minute all actions taken during a case and record it in a case file, which is captured by word processors in the registry office. Mauritian law requires that such information is stored securely and permanently by the institution. The investigations team consists of five investigators who all vary in their skills base – which range from education to social science. This high level of capacity allows the OCO to conduct comprehensive investigations into individual cases. For example, this includes the questioning of witnesses and conducting field observations to determine the grounds for an investigation.
- **Administrative support:** The OCO is supported by a comprehensive team of administrative staff, which includes one confidential secretary, one receptionist and four office support staff. This permits both the Ombudsperson and Investigators to focus on their core mandate and relieve them of administrative work. When compared to the WCCC, the office currently has been assigned one administrative staff member, on loan from the Department of the Premier. This means that the content staff (i.e. investigators and children's commissioner officers) must do their own administrative work. This often takes time away from performing the content of their work.



c) Investigations Policy and Practice

The OCO's law empowers it to investigate matters into the violation of child rights. Here, the Act provides the Ombud with the discretion to consider individual cases for investigation; which emanate from complaints and focus on remedying the complaint. The Act further permits the OCO to conduct an own-motion inquiry; which can be described as an in-depth investigation into a systemic issue of the Ombudsperson's own choosing. This section details the process of filing a complaint, the approaches to resolving complaints and methods to conduct an own-motion inquiry.



The Act provides the Ombud with the discretion to consider individual cases for investigation; which emanate from complaints and focus on remedying the complaint.

FILING A COMPLAINT

A complaint can be filed with the OCO through several methods—in person, via phone call, via email or by filling in a complaints' form (using the OCO's website). The OCO also receives anonymous complaints that they act upon. There are no limitations regarding who may file a complaint. Children also have the right to file a complaint and may do so without the accompaniment of an adult or parent.

Investigators record all incoming complaints on a complaints' form (an example of this can be found in appendix 1). This will be done through a consultation process between the complainant and investigator, and can be done telephonically or in person. The key pieces of information for the complaint form include the child's personal details, the client's personal details, and the statement of complaint. Once completed, the investigator will open a case file within one day of receiving the complaint and initiate the investigation within three to five days of filing the complaint.

In the context of the WCCC, all persons residing in the province are also able to file complaints using a

variety of methods, which include WhatsApp, email, social media or completing a form on the website. Complaints may be received in any kind of format; such as voice notes or WhatsApp message and may be filed by anyone; including children. The Children's Commissioner Officers (CCO) hold the primary responsibility for logging and tracking complaints received by the Commissioner. Complaints are logged in the electronic complaints register.

Once a complaint is logged, the CCOs are required to follow up with the client for more comprehensive information on the same day. This is known as the client intake process, and is where formality is introduced. For this process, the CCO will ask the client for demographic information as well as in-depth information about the case; including the nature of the problem, evidence to support claims, information about the stakeholders involved, avenues sought to address the complaint (if any) and the client's expectations of the WCCC. An example of the WCCC's client intake form can be seen in appendix 2.

When comparing the two systems with each other, there are similarities in the ways that complaints are received and processed. Both the OCO and WCCC provide the public with multiple channels through which they may file complaints, and both institutions allow for child-friendly complaints mechanisms. The OCO creates this environment by allowing children to file complaints without an adult or parent present, whereas the WCCC allows for this through WhatsApp; which is the most popular social media platform used by children in the Western Cape.

In addition to the complaints' channels, both the OCO and WCCC engage in similar complaints processing methods. At the OCO, investigators must take charge of this by documenting a complaint on the complaints form. Here, a filing system

Summary of key similarities in complaints mechanisms

Key Lessons: Similarities in Complaints Mechanisms



Multiple channels can be used to file complaints



Child friendly procedures and channels allow children to use the system



Complaints are captured using knowledge storage systems

is used to store all complaints and case files. Similarly, the CCOs at the WCCC will capture incoming cases using an excel-based register; with more detailed information being captured in the client intake forms. A summary of similarities can be found in the diagram below.

APPROACHES TO RESOLVING COMPLAINTS

When a complaint is received at the OCO, the first step toward resolution or settlement is to assess the admissibility of a complaint. In other words, the investigator must determine whether the complaint is valid. This is done through a problem analysis, which is determined through interviewing the client and analysing the evidence that supports their claim. To determine the grounds of a complaint, the investigator will use a variety of methods, such as document analysis or interviewing witnesses involved in the case. In addition, the investigator must also determine whether the complaint falls within the mandate of the institution.

If the grounds for the complaint are deemed valid, the investigators must determine whether the OC is required to mediate the issue directly or whether it must be referred to the concerned authority for resolution. The latter will occur if the issue must be resolved using the specialised services of police, social workers, psychologists or lawyers; or if it is a service delivery matter. Once the

ministry takes action, the investigator will be sent a report, which will be assessed against child rights standards and practices. If the report mentions changes or interventions put in place by the ministry, the investigators will assess if said changes or interventions were indeed put in place. If the case is a dispute between parties, the Ombudsperson will step in to mediate the matter.

In the WCCC, the admissibility of a complaint is typically deliberated when comprehensive information is captured by the CCO. Here, the CCO will determine admissibility by understanding the root cause of the problem and whether sufficient evidence exists to support the claims made. Upon completion of the client intake form, a decision about the way forward will be made. This decision is collectively deliberated by the Commissioner, the Deputy Director (DD) and the CCO. A complaint will be referred to a government department if it meets the following criteria:

- It is linked to a provincial organ of state;
- If the provincial organ of state is one of the WCCC's oversight Departments, i.e. the Departments of Social Development (DSD), Cultural Affairs and Sport (DCAS), Education (WCED), or Health (DoH);

When comparing the two systems with each other, there are similarities in the ways that complaints are received and processed.

- If the nature of the case is not an appeal of a decision made by a Department;
- If the case is not under deliberation by a court or a tribunal.

Once a complaint has been deemed admissible by the WCCC, it will be referred to a provincial department via formal email, which will be sent either by the WCCC or the DD. When a complaint is referred to a department, the department must respond in writing within a reasonable time frame. The response from the Department should detail their actions to either investigate or settle the complaint that is received. Once the department's response is received, the WCCC may consider the case resolved – here, a complaint referred to a provincial government department is considered resolved if the department has communicated a satisfactory plan of action to the WCCC. Once this occurs, either the CCO or Commissioner will contact the client regarding the outcome of the complaint referral; and provide further guidance if necessary.

resolution; wherein a referral process is adopted. For the OCO, this involves an investigator referring a complaint to a ministry whose mandate is linked to the problem; and advising the ministry to directly address the complaint. Similarly, the WCCC investigation team will refer a complaint to a department under whose mandate the complaint falls. A key difference, however, relates to how the resolution process is concluded. At the OCO, investigators will monitor whether an intervention or solution was implemented by a ministry; whereas the WCCC does not yet implement such a step due to capacity constraints. When a case is referred and the department develops a plan of action, the WCCC could revisit the case in the future to determine whether a change has occurred.

Furthermore, the most stark difference in complaints resolution lies in the mediation process. As aforementioned, the OCO will act as a mediator in a case where there is a dispute between two parties. In fact; the OCO is empowered by the law to do so. Whereas in the case of the WCCC, mediation is not a power conferred by the mandate of the institution.. A summary of similarities and differences can be seen on the next page.



Upon completion of the client intake form, a decision about the way forward will be made. This decision is collectively deliberated by the Commissioner, the Deputy Director (DD) and the CCO.

Again, there are clear similarities in the approaches adopted by the OCO and WCCC when it comes to addressing complaints. This starts with one of the very first steps in complaints resolution, which is to assess the admissibility of the complaint. In the OCO, admissibility is determined by means of a problem analysis, mandate analysis and determined the grounds for evidence. In the WCCC, the same approach is used; but different methods are applied. For example, investigators at the OCO will go as far as to interview witnesses to determine a case's admissibility; whereas the WCCC will focus on the engagement with the client themselves; and the documentary evidence they present.

There are also similarities when it comes to the scope of complaints

Summary of key similarities and differences in complaints mechanisms

Key Lessons: Similarities in Complaints Mechanisms



Both the WCCC and OCO assess admissibility of complaints at the time of receipt



Both institutions refer complaints to service delivery departments for resolution

Key Lessons: Differences in Complaints Mechanisms



When determining admissibility, the OCO investigators will question witnesses. The WCCC must capacity to do so.



Following a complaint referral, the OCO investigators will monitor the solution implemented by the department. The WCCC must build capacity to do so



The OCO will mediate cases of dispute, whereas the WCCC is not yet empowered by the law to do so.

The law in Mauritius, as well as the Western Cape, allows for the Ombud and the Commissioner to conduct an own-motion inquiry.

METHODS TO CONDUCT AN OWN-MOTION INQUIRY

While the previous section unpacked complaints resolution practices, this section will focus on the methods used for own-motion inquiries. As aforementioned, the law in Mauritius, as well as the Western Cape, allows for the Ombud and the Commissioner to conduct an own-motion inquiry. To reiterate, an own-motion inquiry can be described as an in-depth investigation into a systemic issue of the Ombudsperson's own choosing. Thus, an own-motion inquiry is vastly different to complaints resolution, as it seeks to understand the root of systemic problems and proposed recommendations to shift the system.

The WCCC team was practically exposed to one of the OCO's own-motion inquiries by visiting the investigation site and engaging with people in the community, which is known as Résidence Anoska. Specifically, the investigation aimed to understand the situation of children in the locality and encourage stakeholders to devise evidence-based child-related

interventions to better protect and promote the rights of children. To conduct the investigation, the following methods were employed:

- **In-depth Interviews:** The OCO consulted government bodies and NGOs working in the community regarding the state of children residing there. Some individual inhabitants, including heads of families in the community, also volunteered to be interviewed on different areas, for example, the history of the community, their personal experiences of living in this locality, their family and work lives and their concerns on the problems faced by the locality, among others.
- **Focus groups:** Investigators organised several focus group discussions with community members, both children and adults, where they openly interacted on the challenges faced by the community and on their ideas to improve the situation.

When engaging with the investigation methods employed, it is clear that a combination of sociological, psychological and ethnographic research methods were used to conduct the enquiry



- **Quantitative Surveys:** A questionnaire comprising of 11 questions was administered by the OCO's staff to the inhabitants of Résidence Anoska during face-to-face meetings organised at their homes.
- **Document Review:** The investigations team reviewed different documentation related to the community investigated, which included a 2011 publication by Mr Eric Mangar entitled "*The resettlement and integration of La Pipe Community in Mauritius: A Resettlement theory for planners, dam builders, NGOs and affected population against forced resettlement*" and newspaper articles.
- **Field Observation:** The OCO's staff carried out field observations at varied points in time over the investigation period, including different times of the day, to collect information on the daily ways of life of the inhabitants of the locality and to take stock of environmental features such as the state of houses, community-based facilities, and green areas.

When engaging with the investigation methods employed, it is clear that a combination of sociological, psychological and ethnographic research methods were used to conduct the enquiry. The same type of investigation methods will be used by the WCCC during the course of its upcoming systemic inquiry; which aims to create an understanding of the child-care and protection system in the Western Cape. Specifically, a mix of document reviews, in-depth interviews, focus groups and field visits to child and youth care centres will take place in aid of the enquiry. Again, this demonstrates similar ways of working between the two institutions.

d) Synergies between OCO and WCCC

There is much that the two offices can learn from each other as the approaches to institutionalisation have been somewhat different. Some of the differences can be accounted for by the difference in the democratic culture of the two societies and the legal milieu in which the offices operate. The President of the Republic of Mauritius encouraged the two offices to work together. Other Children's Commissioners in Europe commended the two offices for initiating a strategic relationship and for being the only two institutions of its kind in Africa.

A very apparent strength of the OCO is the years of experience accrued by the office since its inception in 2003. There has been three (3) Ombudspersons appointed successively, each making their own mark. The system in the office are tried and tested. Conversely, the WCCC has just appointed its first Commissioner two (2) years ago and the office is in set-up phase. All policies and systems are still being developed and trialled.

In terms of child participation, the OCO works with a programme of child ambassadors who represent the voices of children, promoting their rights to be heard. In this context, the OCO will regularly recruit a group of children to advise her office on a particular issue affecting the rights, needs or interests of children. The child members of the forum shift with each topic. The WCCC has very strong, internationally benchmarked child participation strategies — they are the hallmark of the office. Child Government Monitors who are self-selected or nominated have grown into remarkable child human rights

*The WCCC delegation
meeting the community
leaders of Residence
Asoka*



*The WCCC
in Residence Asoka*



defenders making demonstrable impact on governance. Community Child Rights Workshops are facilitated by the Commissioner especially in remote communities with children, their parents and service providers. Consultations with children on topical issues, for example '#learninginCOVIDtimes', are conducted online using WhatsApp surveys or in-person focus groups. The

authentic voice from children is escalated to the highest decision-making structures in government who provide feedback to children.

Frequent exchanges between the two offices could be structured to optimise the cross-pollination and learning when it comes to child participation.

Lessons learnt

a) Lessons from the OCO's mandate

Lessons from the mandate includes:

- **Limited mandate:** At inception of the WCCC office a limited mandate may be useful as a starting point to focus the efforts of the office. However, the limited mandate of the WCCC does not match the expectations of the office in the public domain. The OCO does not have a limited mandate and is able to act as a mediator between parties. Increasing the mandate of the WCCC over time may be needed to deal with the priorities that undermine the realisation of child rights.
- **Specialised focus on children in alternative care:** The OCO's legislation is unique in that it has specific reference to children in state care; with an emphasis on protecting their rights and ensuring that state care facilities conform with norms and standards. This is a special area of research interest for the WCCC, as one of her strategic priorities for the 2020-2025 term of office is to understand the impact of the alternative care system upon children in the Western Cape.

The OCO does not have a limited mandate and is able to act as a mediator between parties.



- **A fully functioning Investigations and Advice Branch:** The OCO has a fully staffed team of five investigators. Whereas at the WCCC, capacity is split between the lead investigator and one Children's Commissioner Officer (CCO); who are too constrained to render comprehensive investigative work. Thus, in order for the investigations portfolio to mature its level of work, it requires sufficient capacity to do so. The team will reach its full complement as per the organisational design when it appoints two Assistant Directors and an additional Children's Commissioner Officer. However, it is too early to tell whether the organisational design fits the type and amount of work expected of the Investigations Branch.
- **Systems for Data Storage:** The OCO and WCCC apply two different data management approaches when it comes to the investigations portfolio. The OCO uses a paper-based registry office; requiring multiple word processors to keep up with demand. The WCCC uses a digital platform which is managed by the investigations team. This is currently manageable for the WCCC's organigram as the CCOs and senior investigators are collectively responsible for managing the case database. However, as case work increases, the nature of administrative support provided to the investigations must shift to include case management support.

b) Lessons from institutional context

Lessons from the institutional context includes:

- **A dedicated Accounting Officer:** The current Accounting Officer for the WCCC is the Director-General of the Premier's Department. If the WCCC were to appoint a Director, it may be in a good position to lobby for said Director to become its Accounting Officer; thus giving the WCCC greater institutional independence.

b) Lessons from investigations practice

- **Information management systems:** The OCO opts for a meticulously minuted paper-based system to capture case information and all other meetings of the office. The WCCC works on an excel system for capturing complaints, enquiries and requests to investigate. A smarter system could be created where information is centrally stored in a digital format and staff are able to engage the system with an application from their cell phone to enable real time data capturing.
- **Investigations capacities:** The OCO has five (5) investigators with social science qualifications. When the WCCC Investigations and Advice Branch is fully capacitated it will comprise of two (2) Children's Commissioner Officers, two (2) Assistant Director and a Deputy Director. When the WCCC team had a social worker on board, she effectively managed the frontline of this system — completing the intake process and capturing the data. Trends are analysed with the DD and presented to the Commissioner. The ASD will assume this role when they are appointed. The DD and Commissioner should provide management and oversight respectively. Assessment of the systems optimal functioning can only be done when all staff are in place.
- **Investigations practice:** The investigation of complaints and enquiries are very similar in both offices. The character of own-motion inquiries is different and related to discretionary decisions by the Ombud / Commissioner. Both offices prefer using social science research methods. It would be useful to track and

compare the respective own-motion inquiries at a future date.

Conclusion and Way Forward

This study visit is the first step in creating a learning exchange and strong bi-lateral relationship between the WCCC and the OCO. Since this visit, the OCO has invited the WCCC to join their Day of the African Child celebrations by traveling with two child cultural ambassadors from the Western Cape in mid-June 2022. The WCCC has invited the OCO to send staff representatives to a Budget Analysis Workshop Training with the Child Government Monitors in July 2022. The WCCC would also like the Ombudsperson for Children to personally attend the opening of the official office of the WCCC, the date is yet to be decided.

The OCO opts for a meticulously minuted paper-based system to capture case information and all other meetings of the office.



Appendix 1

OMBUDSPERSON FOR CHILDREN'S OFFICE

COMPLAINT FORM

NATURE OF COMPLAINT:.....

Case received by: Email Phone Letter

In person Own motion

A. Information regarding minor (s)

Surname of Child:.....		
Other Names of Child:.....		
Age of Child:.....	Gender: Female <input type="checkbox"/> Male <input type="checkbox"/>	D.O.B.....
Name of Mother:.....	Profession:.....	Tel:.....
Name of Father:.....	Profession:.....	Tel:.....
Name of Legal Guardian:.....	Profession.....	Tel:.....
Address:.....		
Siblings:	<u>Names</u>	<u>Age</u>
1.....
2.....
3.....
Educational Institution:.....	Grade:.....	

B. Information regarding Complainant

Name of Complainant:.....	
Relationship to Child: Mother <input type="checkbox"/> Father <input type="checkbox"/> Relatives <input type="checkbox"/> Others <input type="checkbox"/>
Address:.....	
Phone No (Home):.....	(Mobile):.....
Profession:.....	NIC No:.....
Marital Status:.....	

E. Please specify if this complaint has already been submitted to the institution(s) below:

- (i) **Police:** Whether a statement has been given, when and where?
.....
OB No.:.....
- (ii) **Hospital:** whether child has received medical, treatment, when and which hospital?.....
- (iii) **Child Development Unit:** When and Which CDU?
.....
Name of the CDU Officer:.....
- (iv) **Court:** Is there a Court case? Yes No
Have you retained services of a lawyer? Yes No

NOTE

Section 7(4) of Ombudsperson for Children Act 2003:
The Ombudsperson for Children shall not investigate any case which is pending before any Court but may refer any child involved in such a case to the Ministry for advice, assistance or counselling.

- (v) **Other Institution:** Yes No
Date and Name of Institution:.....

F. Declaration of Complainant

I declare that I have not entered any action in Court in this case. I understand I must inform the Ombudsperson for Children's Office immediately, if ever I decide to start Court procedures in this case.

I certify that all information provided above is true and correct.

I understand that I shall commit an offence if I knowingly give false information.

Signature of Complainant/thumbprint:.....

For office use
Signature of Investigator:.. ..
Case referred by:..... Case referred to:.....
Date:

Appendix 2

Case Registration Form

Case ID			
Date Received			
Case category (tick one)	Complaint	Request for Investigation	Enquiry
Demographic Details			
Name			
Age			
Contact Details			
Municipal Location			
Regarding (Child)			

Case Definition	
<p>Key questions to ask:</p> <p style="text-align: center;"><i>If enquiry</i></p> <ul style="list-style-type: none"> • What kind of information are you wanting to seek? • What avenues have you used before? • How would you like the Commissioner to assist you <p style="text-align: center;"><i>If complaint</i></p> <ul style="list-style-type: none"> • Describe the problem you're facing • When did it start • Provide a timeline of events (if possible) • Who are the main stakeholders (people, 	

<p>organization)</p> <ul style="list-style-type: none"> • <i>What avenues have you sought to solve the problem so far</i> • <i>How would you like the WCCC to assist you</i> 	

Case Outcome	
<p><i>Key points to include regarding an outcome:</i></p> <ul style="list-style-type: none"> • <i>Outcome of the case</i> • <i>Steps taken by WCCC to reach case outcome</i> • <i>Time taken to reach case outcome</i> • <i>Extent to which complainant/enquirer is satisfied with outcome</i> • <i>Extent to which complainant/enquirer is satisfied with WCCC process</i> • <i>Are there any recommendations for improvement with regard to the process followed?</i> 	



**Commissioner
for Children**
OF THE WESTERN CAPE

**#littlevoicesMUSTcount
#kleinstemmetjiesMOETsaakmaak
#amazwiamancinciMAKAVAKALE**