



31 May 2012

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Committee Secretary
Senate Standing Committee on Legal and
Constitutional Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Re: Enquiry into Australian Human Rights Commission and Amendment (National Children's Commissioner) Bill 2012

This correspondence is in response to a request for a submission to the Australian Human Rights Amendment (National Children's Commission) Bill 2012. I welcome the opportunity of responding.

I would draw your attention to shortfalls within the new subsection 46MB relating to the functions to be performed by the National Children's Commissioner. In particular, 46MB (1) includes:

- (b) to promote discussion and awareness of matters relating to the human rights of children in Australia;
- (c) to undertake research, educational or other programmes, for the purpose of promoting respect for the human rights of children in Australia, and promoting the enjoyment and exercise of human rights by children in Australia;

—which are then expressed in 46MB(4) and 46MB(5). My concerns relate to the wording of subsections (4) and (5).

As a sole practitioner (not a formal organisation) who has consulted all over Australia for over 25 years in the early childhood field, I see the gap between legislation and on-the-ground delivery. Every day I talk to professionals in the field who feel that no-one is listening to their concerns. Obviously current State and industry structures or instruments are not reaching down to the grass roots. I see the National Children's Commissioner as a means of addressing some of the problems; or at least that the wording of the Bill should not prevent the Commissioner from doing so.

I outline my concerns with 46MB(4) and 46MB(5).

Shortcomings in 46MB(4)

- (4) *In performing function under this section, the National Children's Commissioner may give particular attention to children who are at risk or vulnerable.*

Then in the Explanatory Memorandum, this is explained as:

..... children who are at risk or vulnerable..... with a disability.....

I accept that the Bill's wording is intended to cover those with a disability, but there are still problems with this. Concern is repeatedly expressed to me during my work of the reactive nature of support and funding for meeting children's needs. A proactive stance is constantly being sought, for example, with one of the most frequently quoted being, "assessment of children at risk during the early childhood years to ensure that early intervention occurs". Nobel Prize winning economist Heckman's work is frequently cited as the economic advantages of this approach being undertaken and frustration that it hasn't been sufficiently taken up within the early childhood years. This however is one of the most prominent issues raised but is only one of many where people on the ground feel their voice is not



being herd. It is an anomaly unless the Commission is enabled to discuss the disability issues in a wider context than formal State Government boundaries, then the rights of “mildly disabled / delayed development” children will be disadvantaged (i.e. “fall through the cracks”).

Shortcomings in 46MB(5)

- (5) *In performing functions under this section, the National Children’s Commissioner may consult any of the following:*
- (a) *children;*
 - (b) *Departments and authorities of the Commonwealth, and of the States and Territories;*
 - (c) *non-government organisations;*
 - (d) *international organisations, agencies;*
 - (e) *such other organisations, agencies or persons as the Commissioner considers appropriate*

I accept that the Commission is able to consult widely and the Bill’s wording reflects this. However the Explanatory Memorandum identifies only *children and formal organisations*.

There is no apparent role for the grass roots practitioner; this would include individual professionals (many of whom have 30-50 years of hard-won knowledge) or individuals within specialised fields (whose information may complement or extend that residing in formal organisations). Unless the Commission is aware that such individuals have valuable contributions to make, then his / her consultation performance will be suboptimal. Again there can be a discrepancy between intent and implementation (no matter how well-meaning the draft Bill is).

I do not consider that I can propose new (or expanded) wording which would pre-empt these shortfalls. I can only tell you that the expression of no word change to accommodate these situations will result in unanticipated dysfunctional outcomes.

I ask that you seriously consider this submission and I would welcome providing more feedback to relevant interested parties.

Yours sincerely

Prue Walsh