



Creating a better life for children and young people in care

CREATE Foundation Response

to

Commonwealth Commissioner for Children and Young People Bill 2010

CREATE Foundation is the peak body representing the voices of all children and young people in out-of-home care. CREATE is the only organisation in Australia established for the sole purpose of advocating on behalf of children and young people in care at both national and state levels.

CREATE's core mission to create a better life for children and young people in out-of-home care is achieved through:

- **connecting** children and young people to each other, CREATE and their community
- **empowering** children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard
- **changing** the care system, in consultation with children and young people, through advocacy to improve policies, practices and services.

CREATE supports the introduction of the *Commonwealth Commissioner for Children and Young People Bill 2010*. We wish to make six recommendations which aim to strengthen the Bill.

Recommendation 1: Commissioner should have influence over State and Territory practices.

In order for the role of the National Commissioner to play a major role in the health and wellbeing of children and young people in Australia, adequate powers and resourcing must be made available. The Commissioner must not only advocate for, but act upon the needs, views and rights of children and young people. This could be achieved by undertaking investigations to deal with complaints, and focussing on specific cases.

Recommendation 2: Longer-term development of clarity around the role of both national and State and Territory Commissioners/Guardians

At present, the Children's Commissioners or Guardians that operate at a State and Territory level have differing powers as set out in their legislation. To avoid duplication, the roles and responsibilities of the national and State/Territory Children's Commissioners and their inter-relationships should be more clearly defined.

Recommendation 3: Commissioner should pay special regard to the rights, needs and interests of groups of particularly vulnerable children and young people.

The Bill should provide a remit for the Commissioner to pay special attention to the needs and interests of groups of particularly vulnerable children and young people, including:

- Children and young people in out-of-home care
- Aboriginal Torres Strait Islander children and young people (including monitoring compliance with the Aboriginal Child Placement Principle)

Recommendation 4: Commissioner should not be restricted to considering only the situation of children and young people under the age of 18

CREATE Foundation has been continuing to advocate at a National, State and Territory level to increase the age that young people transition from out-of-home care. One State supports young people until 25 years, while others cease assistance between 19 and 21 years. It would seem unreasonable for the Commissioner to be restricted in terms of the extent of coverage of his or her role.

Recommendation 5: Commissioner should prepare his/her own independent report to the UN Committee on the Rights of the Child (UNCRC)

If the Commissioner is to remain independent (*Section 10 (11)*), then the Commissioner should not have to transmit a report to the UNCRC through the Minister: this may see the Commissioner having to balance the views of the Australian Government with those of the Commissioner. Rather, the Commissioner should prepare his/her own report about Australia's performance under UNCRC.

Recommendation 6: Reports of the Commissioner should be made public

To ensure transparency, reports of the Commissioner should be made publicly available. This includes monitoring of the development and application of laws affecting children and young people (*Section 3 (2)(b)*), report to the UNCRC (*Section 25*), and annual reports on the operations of the Office of the Commissioner (*Section 26(1)*).