



Australian Human Rights Commission Amendment

(National Children's Commissioner) Bill 2012

**Submission
May 2012**

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Children With Disability Australia

Children with Disability Australia (CDA) is the national peak body that represents children and young people with disability and their families. The organisation is primarily funded through the Department of Families, Housing, Communities and Indigenous Affairs (FaHCSIA) and is a not for profit, community based organisation. Additional funding is also received by the Department of Education, Employment and Workplace Relations (DEEWR). CDA has a national membership of 5000 with the majority being families.

Vision

CDA's vision is that children and young people with disability living in Australia are afforded every opportunity to thrive, achieve their potential and that their rights and interests as individuals, members of a family and their community are met.

CDA's Role

CDA has the mandate to advocate for children and young people with disability living in Australia and undertakes the following to achieve its purpose:

1. Education of national public policy-makers and the broader community about the needs of children and young people with disability
2. Advocacy on behalf of children and young people with disability to ensure the best possible support and services are available from government and the community
3. Inform children and young people with disability, families and care givers about their rights and entitlements to services and support
4. Celebrate the successes and achievements of children and young people with disability

Guiding Principles

Children the Priority: the rights and interests of children and young people with disability are CDA's highest priority consistent with Australia's obligations under the UN Conventions, Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

Right to Childhood: children and young people with disability are children first and foremost and have a right to all aspects of childhood that children without disability are afforded.

Right to Participation: children and young people with disability have the right to participate, in whatever capacity, in the decisions that impact on their lives.

Inclusion: children and young people with all types of disability, from all cultural and religious backgrounds and all geographic locations are supported by the work of CDA.

Recognition: for the contributions made by families and care givers to support the rights and interests of children and young people with disability.

Partnerships: CDA works collaboratively with relevant government, non-government and private sector agencies to promote the rights and interests of children and young people with disability.

Transparency: CDA is accountable, effective and ethical as the national peak body charged with the mandate of advocating for children and young people with disability.

Overview

Children with Disability Australia (CDA) welcomes and strongly supports the enactment of the Australian Human Rights Commission Amendment (National Children's Commissioner) Bill 2012 (The Bill) for the establishment of a National Children's Commissioner.

It is CDA's view that the office of a National Children's Commissioner could contribute to creating greater awareness of the inequities of participation and opportunities which presently exist for children with disability and could further progress affirmative action in these areas. In that regard, CDA welcomes the inclusion in The Bill of subsection 46MB(4) that gives the Commissioner the discretion to focus on particular groups of children who are at risk or vulnerable, including children with disability.

Comments

Recognition of a Child's Right to Family

Whilst CDA strongly supports that the National Children's Commissioner would have a responsibility to engage with and consult with children (subsection 46MB(5)) it is imperative that The Bill recognises a child's right to family. This relationship should be respected and supported in The Bill and families should be provided the opportunity to advocate on behalf of their child.

It is the usual experience that families of children with disability are extremely strong advocates for their child, have an intimate knowledge and expertise regarding their child's needs and wishes. The functions of a National Children's Commissioner should not negate this role but rather enhance and allow collaboratively advocacy to occur which enhances the realisation of children's rights and expression of their opinions and opportunities to participate.

The Bill should also give consideration to how children with disability whose disability has a significant impact on communication and/or cognitive ability can also be involved in consultations with the Commissioner. In these instance the role of the family or other significant people, is imperative in articulating the needs and wishes of the child. Some children will require supported decision making and be dependent on others for identification and expression of their view but this should not preclude them from participating and providing their views.

Recommendation

The Bill should be amended to specifically acknowledge and respect the role of families in relation to the realisation of children's rights.

Conclusion

CDA considers that the establishment of a National Children's Commissioner will make a significant contribution to the promotion and protection of the rights of children in Australia and CDA strongly supports the enactment of The Bill.

Yours sincerely,

Stephanie Gotlib
EXECUTIVE OFFICER