

Relationships Australia

13 December 2010

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

Commonwealth Commissioner for Children and Young People Bill 2010 **Submission**

Introduction

This submission is written on behalf of the federation of Relationships Australia organisations. It represents our common view about elements of the *Commonwealth Commissioner for Children and Young People Bill 2010* (the Bill). Relationships Australia welcomes the opportunity to provide comment on the Bill.

Each Relationships Australia organisation provides a range of services relating to children and young people. We believe that there should be universal services available to all, and that those children and young people who are vulnerable or at risk are able to access early intervention services particularly targeted to their needs.

Relationships Australia provides services for families that include, but are not limited to, counselling, family dispute resolution (relating to living arrangements for children, property settlement and other areas of family dispute), family violence programs (for victims, and perpetrators – where appropriate), post-separation support for children, youth diversion programs, children's contact services and other wrap-around support services for children, young people and families. We provide a special focus on the provision of services for children, young people and families from Aboriginal and Torres Strait Islander communities. Services are funded by the Commonwealth Departments of Attorney-General, and Families, Housing, Community Services and Indigenous Affairs, as well as State and Territory Governments.

We are committed to social justice and inclusion, and respect the rights of all people, in all their diversity, to live with dignity and safety, and to enjoy healthy relationships.

Submission

Relationships Australia welcomes the establishment of the Office of Commissioner for Children and Young People and wholeheartedly supports the objects of the legislation. We also welcome the principles underpinning the Act (s4) that parallel those articulated in the UN Convention on the Rights of the Child. This puts Australia's responsibilities for its children and young people in a broader human rights context and within an international legal framework.

Particular feedback is provided below:

1. We believe that particular emphasis should be given in the objects of the Bill (s3) to the needs to vulnerable children and young people. Specifically included in that category, in our view, should be the needs of children and young people from Aboriginal and Torres Strait Islander backgrounds.
2. Because of the needs of many young people over 18 years of age who are unable to live independently for various reasons, we recommend that the Commissioner should be empowered to deal with young people up to the age of 25 years in certain circumstances.
3. Relationships Australia welcomes the protection of the rights of children and young people in immigration detention (s9(1)(d)) in order that their previous trauma is not prolonged or aggravated by those from whom refuge has been sought. We recommend that s9(3)(c) expressly includes Australian operated and funded immigration detention centres, whether on- or off-shore.
4. We believe s9 generally gives the Commissioner a very substantial range of functions and associated workload, and recommend that the Commission be resourced accordingly.
5. The Commissioner's functions and powers do not currently include the investigation of complaints relating to the violation of the rights of children. We believe such a role should be included in s9(1).
6. We recommend a change of terminology within the legislation from *Indigenous* to *Aboriginal and Torres Strait Islander* in s9(1)(c).
7. Under s9(1)(e), we do not believe that the Commissioner should act as legal guardian, but rather have oversight of the quality of care provided to children and young people by the relevant authorities who currently provide that function, to ensure that their rights are observed and respected in decisions made on their behalf.
8. We believe that the coordination of policies, programs and funding (s9(1)(i)) is a function that should rest with Government agencies at various jurisdictional levels. We recommend, rather, that the Commission have an oversight role in this regard.

9. We believe the legislation should also specify how the Commonwealth Commissioner would relate to State Commissioners and what powers there may be for the Commonwealth Commissioner to investigate or have oversight of functions at the State level if there are concerns with State Commissioners or if, as is the case in South Australia, there is no State Commissioner.
10. We recommend that the Commission be given the power under s9(2) to compulsorily require full cooperation in the performance of its functions, with associated sanctions, in line with powers given to other Australian commissions.
11. Under s10, we recommend the Bill expressly include that non-Government organisations providing services to families, children and young people, and researchers conducting related research, be consulted in the performance of the Commissioner's functions.
12. We welcome the independence of the Office of Commissioner and seek assurance that the Commission will be adequately resourced to enable it to operate over the long-term with complete independence.
13. We recommend adding the words "in its entirety" or "without omission" following "... who must transmit the report" to s25(3)(Part4) Division 2.
14. We recommend that the Commissioner be required to report to Parliament, in each annual report, a summary of those issues about which he/she has had cause to write or report to the relevant Minister or to the Parliament within the reporting period, and to disclose areas of current concern.

We would be interested to know what mechanisms have been employed to hear children's voices in the drafting of the legislation and what consultative mechanisms are anticipated in establishment of this Commission, should the legislation be enacted.

It is our hope that the establishment of the Commission for Children and Young People will ultimately lead to an overall enhancement of the health and wellbeing of children and young people living in Australia, through improved coordination of programs, policies and funding between jurisdictions, intervention in legal cases, and the involvement of children in decisions that affect them. In particular, it is our hope that Aboriginal and Torres Strait Islander children and children who have suffered trauma are able to flourish through the functions of the Commission being realised.

Alison Brook
National Executive Officer
PO Box 313, Curtin, ACT, 2605
(02) 62854466