



Ms Julie Dennett
The Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Sent via email: legcon.sen@aph.gov.au

Dear Ms Dennett

**Submission to the Senate Inquiry into
Australian Human Rights Commission Amendment (National Children's Commissioner) Bill**

Youthlaw commends the Government for introduction of the *Australian Human Rights Commission Amendment (National Children's Commissioner) Bill* which we strongly support.

We thank the Senate Legal and Constitutional Affairs Committee for giving us the opportunity to make these brief comments to their Inquiry.

1. About Youthlaw

Youthlaw is Victoria's state-wide community legal centre for young people under 25 years. Youthlaw works to achieve systemic responses to the legal issues facing young people, through casework, policy development, advocacy and preventative education programs, within a human rights and social justice framework.

Youthlaw is located at Frontyard Youth Services in central Melbourne. This is a group of co-located services including crisis housing support, Centrelink, legal and health services, provided for young people who are homeless or at risk of becoming homeless.

Youthlaw is active in law reform and policy processes, where children and young people are affected by current laws, proposed amendments or new laws, policies and procedures. Our work relating to law reform processes is conducted within a child rights framework based on standards set in the United Nations Convention on the Rights of the Child (CROC). In particular Youthlaw's policy & project work is informed by the principle of youth participation embedded in CROC.

For many years Youthlaw has been calling for the establishment of an independent Commissioner for Children and Young People established by legislation with reference to CROC, with broad jurisdiction and powers to assist with the promotion, protection, monitoring and enforcing children and young people's rights.

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2. Functions and powers of National Children's Commissioner

Youthlaw supports the intent of clause 46MB which describes the various proposed functions and powers of the Commissioner. However we make the following comments and suggestions in relation to some specific functions to enhance the Commissioners capabilities to effectively promote and monitor the implementation of human rights of children.

a. *Examine existing and proposed Commonwealth enactments* clause 46MB (1) (d)

We respectfully recommend expanding the description of this function to include:

*To examine existing and proposed Commonwealth enactments, **and the policies, programs and practices of government departments, public authorities** for the purpose of ascertaining whether they recognise and protect human rights in Australia, and to report to the Minister the results of any such examination.*

b. *Monitoring and Implementation advice*

We submit there needs to be a specific statutory commitment to the monitoring and implementation of CRC and other relevant human right principles.

We therefore suggest adding new clause 46MB (1) (d):

Promote harmonization of national legislation, regulations and practices with international human rights instruments relevant to children's rights and monitor and promote their effective implementation, including through the provision of advice to public and private bodies in construing and applying these rights.

c. *Reports and recommendations* clause 46MB (3)

In addition to the Commissioner having the power to conduct inquiries and publish reports, there needs to be an obligation placed on the government to consider and act on the advice.

We recommend expanding the description of this function to include a capacity to require government action on recommendation or at least require a response from Government on recommendations. Additionally the Commissioner should report on progress on recommendations and actions taken by Government and other bodies.

d. *Proactively involve children & young people in decisions that affect them*

Youthlaw supports this clause which promotes consultation with children and young people.(clause 46MB (5)(a))

The Commissioner should proactively involve and consult children and young people from diverse groups with different needs, in ways that are appropriate to their circumstances, age and maturity so that their views are taken into account in the exercise of the Commissioners functions.

However we recommend this section goes further so that the Commissioner's office is a forum where children and young people can expect to be heard and listened to, and to be provided with opportunities to participate more fully in our community. They should be involved in the development, appointment, engagement, planning and evaluation of this office.

The Commissioner's report to Parliament must also be made accessible to children and young people.

We also recommend that this participation should extend to having a say in regard to the appointment of the Commissioner(see 46MC(1)).

The Commissioner should encourage the broad development of accessible, effective and children friendly mechanisms and remedies in existing bodies.

3. Resourcing

It appears from experience of other jurisdictions with Children Commissioners that the key to effective functioning is that a Commissioner's office must be provided with adequate resources to effectively fulfil the role and functions

We implore Parliament to approve this resourcing.

Yours sincerely

Tiffany Overall
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