



SENATE LEGAL AND CONSTITUTIONAL AFFAIRS

LEGISLATION COMMITTEE

Commonwealth Commissioner for Children and Young People Bill 2010

SUBMISSION

Submission Number: 58

Submission Details: Queensland jurisdictional response

Response to the Senate Inquiry Regarding the Commonwealth Commissioner for Children and Young People Bill 2010.

Dear Committee Secretary

Thank you for the invitation to provide a submission to the Senate Inquiry in relation to the Commonwealth Commissioner for Children and Young People Bill 2010.

Please find below the Queensland Commission for Children and Young People and Child Guardian's (the Queensland Commission) response to this Inquiry. The Premier of Queensland, the Honourable Anna Bligh MP, has indicated that she supports this submission as representing the Queensland Government view.

**Commonwealth Commissioner for Children and Young People Bill 2010
(the Bill)**

The Queensland Commission for Children and Young People and Child Guardian and the Queensland Government (Queensland) are supportive of a national rights-based advocate for children and young people with a specific focus on advocating for their rights, from a national perspective.

Queensland acknowledges the Commonwealth's intent in developing a national commissioner role, and can see the merit in having an oversight mechanism of some type at a national level. However, in its existing form, the Bill cannot be supported.

Queensland has significant concerns with core aspects of the Bill relating to proposed monitoring roles and powers. A national commissioner for children would have difficulty providing effective and independent oversight of service delivery, particularly for vulnerable children and young people in state and territory child protection systems.

Queensland is concerned that a single, remote national body would struggle to usefully monitor and oversee the delivery of services to children and young people in all States and Territories, each of which has its own unique approach to the delivery of primary, secondary, and tertiary child protection systems.

Queensland is of the view that States and Territories are currently equipped to monitor and report on support for children and young people on the ground in their own child protection systems, and as such, are able to provide the appropriate responses to their particular circumstances. Queensland would question the likelihood of being able to replicate this at a national level without it being more resource intensive, less effective and potentially increasing the risks for vulnerable children and young people.

The Queensland Government has invested significant resources in establishing rigorous processes to ensure the independent monitoring and oversight of service delivery to children and young people in the Queensland child protection system. This has been informed by experience, knowledge of local communities and importantly, the 1999 Queensland Government commissioned inquiry into the abuse of children in Queensland institutions.¹

¹Forde Inquiry Report – Commission of Inquiry into Abuse of Children in Queensland Institutions (August 1999)

For example, the Queensland Commission's Community Visitors, who regularly visit and listen to children and young people in out-of-home care to:

- see monthly that they are safe and receiving appropriate care
- advocate on their behalf
- help resolve any concerns or grievances, and
- offer support if required.

Community Visitors are required to complete a report after each visit to a child and the information from these reports is used by the Queensland Commission to identify any issues which require changes in the way a department or organisation operates at individual and systemic levels and to advocate for systemic improvements in service provision or changes to legislation.

The Victorian Ombudsman in his report, *'Own motion investigation into Child Protection – out of home care'* identifies Queensland's monitoring framework as one of two models warranting serious consideration by the Victorian government to improve transparency and scrutiny of the Victorian child protection system. The other model suggested was that of the Child and Youth Advocate in Alberta, Canada. The Ombudsman's report noted:

"approaches adopted by other jurisdictions which include community visitors schemes, independent advocates and regular surveying of children in out-of-home placements would provide a level of scrutiny not presently evident in the Victorian out-of-home care system".

It is questionable whether a nationally based advocate would be able to deliver this level of on the ground scrutiny and oversight in monitoring services for Queensland's vulnerable children.

The Queensland Commission also systematically reports on the lived experiences of all children in care through its *Views of Children and Young People in Care* surveys. The research comprises the largest ongoing study of its kind involving the direct participation of children and young people in state care.

The *Views* research provides children and young people with an opportunity to voice their opinions on the child protection system. Insights gained through these surveys help us to identify individual and systemic risks to children's and young people's safety, wellbeing and rights. Increasingly, our surveys are being used to inform child protection and youth justice policy and practice decisions and shape key departmental performance indicators.

The Queensland Commission also conducts investigations, monitoring activities, audits and reviews in relation to services provided to children in the child safety and juvenile justice systems and develops recommendations for legislative, procedural, policy and practice changes and initiatives to improve the effectiveness of these systems and outcomes for vulnerable children and young people.

This level of detail and individual examination of children and young people's experiences in service delivery frames, and particularly, the child protection system, could not be obtained in a more diluted, national monitoring framework.

On this basis, it is Queensland's view that states and territories should retain the ability to find out from children and young people what their experiences of the child protection systems are in each State and Territory.

The best use of federal resources in this sphere would be to concentrate on a broader advocacy role for a national commissioner, with a specific focus on children's rights. Further discussion could be undertaken to consider the merits, costs, functions and practicality of extending the role of the Australian Human Rights Commission to include national, rights-based advocacy for children and young people.

Queensland supports a rights-based advocate for children and young people, with a specific focus on advocating for the rights of children and young people from a national perspective.

This could include capacity to advocate for and promote children's rights on higher level issues across jurisdictions, for example, serious contraventions of the *United Nations Convention on the Rights of the Child*.

A national advocate could coordinate responses in relation to national level issues affecting children and young people's rights, for example:

- responding to *United Nations Convention on the Rights of the Child* Committees
- advocating more globally on broader children's rights such as corporal punishment and the right to be heard
- providing a clear and authoritative voice in relation to issues impacting upon children who fall within the direct jurisdiction of the Commonwealth (for example, refugees, social security and children and young people in the family law system) , and
- establishing an avenue for children and young people to make complaints in respect of Commonwealth processes they are involved in

In conjunction with state and territory Children's Commissioners and Guardians, the national children's rights advocate could represent a strong and unified voice on key advocacy priorities which seriously affect children and young people's rights on national issues.