



**Commissioner for Children and Young People**  
Western Australia

Committee Secretary  
Senate Legal and Constitutional Affairs Committee – Legislation Committee  
PO Box 6100  
Parliament house  
CANBERRA ACT 2600

Dear Sir/Madam

### **Inquiry into the Guardian for Unaccompanied Children Bill 2014**

As Acting Commissioner for Children and Young People in Western Australia I have a statutory responsibility to promote and monitor the wellbeing of all children and young people under the age of 18 years. In undertaking my functions I must give priority to Aboriginal and Torres Strait Islander children and young people and to those children and young people who are vulnerable or disadvantaged for any reason. I must also have regard to the United Nations Convention on the Rights of the Child.

In this capacity I am pleased to provide the following comments on the *Guardian for Unaccompanied Children Bill 2014*.

Ordinarily, parents provide the primary safeguarding role for children and young people. In situations where, for whatever reason, children and young people have become separated from their parents, the state has a particular responsibility to ensure they are afforded the necessary protection and assistance.

Unaccompanied, non-citizen children are a particularly vulnerable group. Not only have they become separated from their primary source of protection but they are also most likely to have experienced trauma, have limited English language communication and have very different cultural knowledge and understanding to conventional Australian practices<sup>1</sup>.

As a party to the Convention on the Rights of the Child, Australia has a range of obligations regarding the rights of children including an obligation to ensure that

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<sup>1</sup> Australian Human Rights Commission. A last resort? Report of the National Inquiry into Children in Immigration Detention., 2004. [www.humanrights.gov.au](http://www.humanrights.gov.au)

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children who are deprived of a family environment and children who are refugees are afforded special protection and assistance.

The current system under which the Minister for Immigration and Border Protection is both the guardian for unaccompanied, non-citizen children and is also responsible for their detention and visa application determination raises serious concerns about the capacity for effective advocacy given the potential conflict of interest in these roles.

The Australian Human Rights Commission<sup>2</sup> called for the appointment of an independent guardian for unaccompanied, non-citizen children in 2004. My office has also previously raised concerns about this matter and has advocated for the appointment of an independent guardian with statutory responsibility to protect the rights and monitor the treatment of unaccompanied, non-citizen children under the jurisdiction of the Australian government<sup>3</sup>.

As such I support the objects of the proposed legislation under the Guardian for Unaccompanied Children Bill 2014.

Yours sincerely

JENNI PERKINS

A/Commissioner for Children and Young People WA

2 October 2014

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<sup>2</sup> Australian Human Rights Commission 2004. A Last Resort? National Inquiry into Children and Immigration Detention. [www.humanrights.gov.au](http://www.humanrights.gov.au)

<sup>3</sup> Commissioner for Children and Young People. Australian Human Rights Commission National Inquiry into Children in Immigration Detention 2014. [www.ccyp.wa.gov.au](http://www.ccyp.wa.gov.au)