

Commonwealth Commissioner for Children and Young People Bill 2010

Youth Advocacy Centre (YAC) welcomes the opportunity to provide a submission to the Constitutional Affairs Legislation Committee on the Commonwealth Commissioner for Children and Young People Bill 2010 (CCCYP Bill).

YAC is a community legal and welfare centre which offers legal and welfare assistance to young people between the ages of 10 and 17. The geographical area which the Centre services is largely the Brisbane area, with some occasional assistance to young people in other areas of the state. The nature of the Centre's work ranges from legal advice, representation, education, counselling, family mediation, and support for young people around issues such as accommodation, education and income. The Centre also participates in law and policy reform activities.

YAC strongly supports the CCYP Bill's creation of an independent statutory office of the Commonwealth Commissioner for Children and Young People for a number of reasons:

A Commonwealth Commissioner would play an important role in linking individual states and territories to Australia's international obligations under the Convention of the Rights of the Child in a federated system.

This role is brought into focus by a Queensland example. Queensland continues to include 17 year olds in the adult criminal justice system which is a clear breach of Australia's obligations under the Convention. While the Queensland Commissioner for Children and Young People has recently released a policy statement against the current system, the Queensland government is not a signatory to the Convention and therefore not directly accountable to the UN for that breach. A Commonwealth Commissioner would provide a critical level of critique and analysis at the Federal level, when States and Territories fail to observe and implement Convention standards.

Australia is one of the few countries in the Western world that does not have a Children's Commissioner, despite long standing recommendations to do so. The report by the Australian Law Reform Commission *Seen and Heard: priority for children in the legal process*, noted that the establishment of a Commission for Children is well supported by a range of stakeholder including Members of Parliament, judges, welfare agencies and commentators. The report recommended that a national body located in government was required to coordinate policy development and service delivery for children as well as an independent body to provide broad based national advocacy for children.

A practical role the Commissioner can play in the lives of young people is to be a legal guardian in processes in which some young people can't currently access. For example, YAC has had a recent case involving children who were granted refugee status, and as a result of being unaccompanied minors, had incorrect identifying information recorded about them. This could have been corrected by their legal guardian. The absence of this has required the delay of a court application causing considerable distress to these young people.

The independence of the office is key to the effectiveness of the Commissioner. For example, over time the office of Queensland Commissioner for Children and Young People and Child Guardian has been incorporated into a government department, which gives the appearance of compromising the watchdog function, if not actually compromising analysis and critique of policies and practices impacting upon young people.

The States' Commissioners experience is that initially the role of the office is an evolving one which is refined once the office is established. YAC would welcome further opportunity for a more detailed response in the implementation of the Commissioner's role, should the Bill be passed by Parliament.

YAC does not require this submission to be kept confidential.