

A Submission to the

AUSTRALIAN SENATE
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Inquiry into the Commonwealth Commissioner for Children and Young People Bill 2010

Prepared by BoysTown



BoysTown

Fresh start.
New hope.

Authorised By:

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Introduction

BoysTown wishes to thank the Senate's Legal and Constitutional Affairs Legislation Committee for the opportunity to provide comment on the Commonwealth Commissioner for Children and Young People Bill 2010. It is our belief that the initiative to establish a national Children's Commissioner will advance the interest of Australian children and young people. BoysTown's commentary is based on our experience in providing services to Australian youth. This experience is outlined below.

Background of the organisation

BoysTown has been delivering services to children, young people and their families for almost 50 years. BoysTown services target marginalised children and young people in the Australian community and we have sought to understand and address the issues that lead to their social exclusion.

BoysTown currently provides a range of services to our young clients and their families seeking one-off and/or more intensive counselling and support including:

- Kids Helpline, Australia's only national 24/7 telephone and on-line counselling and support service for five to 25 year olds with special capacity for young people with mental health issues;
- Accommodation responses to homeless families and women and children seeking refuge from Domestic/Family Violence;
- Parenting Programs offering case work and child development programs for young mothers and their children;
- Parentline, a telephone counselling service for parents and carers in Queensland and the Northern Territory;
- Paid employment and training support to approximately 500 young people each year in supported enterprises as they transition to the mainstream workforce;
- Training and employment programs that support approximately 6,000 young people each year, allowing them to re-engage with education and/or employment, and
- Responses to the needs of the people of the remote Indigenous communities of the Tjurabalan in Western Australia.

BoysTown is able to provide support to children and young people and their families through a range of prevention, intervention and crisis support services that can be tailored to best suit individual circumstances. We also have significant partnerships in place with the Federal, State and local governments as well as educational institutions and other community organisations to ensure the continuous provision of support services to young Australians in need.

BoysTown's Position

BoysTown supports the Commonwealth Commissioner for Children and Young People Bill 2010 which aims to establish an independent Office for a national Children and Young People's Commissioner with the power and mandate to listen to, understand and advocate for children and young people.

The establishment of a national office for Children and Young People Commissioner is a critical step towards meeting Australia's international obligations to protect and promote the rights of children and young people within our borders including those who are living or staying in any of the recognised Australian external territories.

BoysTown acknowledges and upholds the principles in relation to the functions, roles and responsibilities of the Commonwealth Commissioner as set out in the Bill. However we would also like to raise other issues in relation to the draft legislation which if heeded will strengthen the Commissioner's ability to advocate and protect Australian youth.

1. The Bill currently only provides protection for children and young people under 18 – refer to Section 5. BoysTown advocates for a broader definition of youth which would include all young people aged up to 25. The rationale for this includes the following:

- 'Young people' are currently defined as those persons aged 25 years old and below, as evidenced by many youth studies, as well as programs and services. For example the recently released tender for Telephone and Web Based Support Services for Young People Project by the Department of Health and Ageing defines young people as those aged 12 to 25.
- Young people, as defined by the United Nations, are those persons between the ages of 15 and 24 years. This definition was made during preparations for the International Youth Year (1985), and endorsed by the General Assembly (see A/36/215 and resolution 36/28, 1981). All United Nations statistics on youth are based on this definition.
- A further rationale for this suggested amendment is research demonstrating the inability of young people under the age of 25 to fully understand the consequences of their actions. In a study conducted by the National Institutes of Health (NIH) in the U.S., it was found that the region of brain that inhibits risky behavior and is important for controlling reason, organisation, planning and impulse control does not fully form until age 25.¹ This implies that young people aged 18 years to just under the age of 25 are still at risk of making mistakes that may have profound effects on their lives and consequently require special protection.

2. The Bill notes in Section 3 (3) that the legislation will assist Australia's compliance with the Convention on the Rights of the Child. However there is a range of other International Treaties that impact on the rights of children to which Australia is a party. A review of these other International treaties and Covenants also needs to be undertaken to ensure that The Commonwealth Commissioner for Children and Young People Bill meets any other required commitments. Examples include:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT)
- Convention on the Prevention and Punishment of the Crime of Genocide
- Convention on the Reduction of Statelessness
- Convention relating to the Status of Stateless Persons
- Convention relating to the Status of Refugees
- Geneva Red Cross Conventions, on the protection of children during international and internal armed conflict

¹ Jay N. Giedd, Structural Magnetic Resonance Imaging of the Adolescent Brain, 1021 Annals N.Y. Acad. Science 105-09 (June 2004).

3. BoysTown believes that ensuring the independence of the Office of the Commonwealth Commissioner for Children and Young People is crucial. To give effect to Section 11 of the Bill, we endorse the implementation of the following safeguards enunciated by UNICEF²:
- The appointment of the Commissioner should not be in the hands of any individual(s) identified with a particular political party. The appointment should be an 'open merit based' selection process, in accordance with relevant Government Guidelines. If possible, this should be undertaken in consultation with independent youth organisations across Australia.
 - The funding of the Commission should be removed from political control and be guaranteed for a significant period of time. This means that resourcing must be decided by the Parliament.
4. BoysTown believes that in order for the Commonwealth Commissioner for Children and Young People to realise its roles and responsibilities, there must be effective and efficient collaborative arrangements between the Federal, State and Territory levels of Government, and current Commissions for Children (and Young People). Details of how, when, and where this collaboration will take place needs to be spelt out in the Bill.

Conclusion

BoysTown supports the intent of the Commonwealth Commissioner for Children and Young People Bill 2010. It is recommended that the scope of the legislation be broadened to include young people under the age of 25 instead of 18 as many youth services cater to this older age group. The independence of the Commissioner could be enhanced by an open merit based selection process and a guaranteed term of funding determined by Parliament. It is further suggested that a review of other International Treaties and Covenants should be undertaken to ensure that this Bill is consistent with other agreements to which Australia is a party.

BoysTown would welcome the opportunity to participate in future consultations concerning the implementation of the Commission.

² United Nations' Children's Fund, Innocenti Research Centre, Florence Italy (2001). Independent Institutions. Protecting Children's Rights. Innocenti Digest No. 8. 2001.