



AUSTRALIAN
CHILD RIGHTS
TASKFORCE

Submission on the *Child Development and Wellbeing Bill 2013*

James McDougall
Australian Child Rights Taskforce

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Background

These comments are provided following the final community consultation forum on the Bill held on Tuesday 22 October 2013 at State Library of South Australia, Adelaide. The intent is to provide some final comments at the conclusion of the public consultation and in light of the changes that have already been made to the Bill.

Overview

The Government is to be congratulated on the work undertaken and we offer our support for the passage of the Bill through the SA State Parliament in the months ahead.

The Commissioner

The provisions of the Bill establishing the office of the Children's Commissioner are broadly endorsed. The key principle for the effectiveness of the office is that it should be independent of Government and able to act as a monitor and an advocate for the protection and implementation of the rights of children and young people in South Australia.

We recognise the challenge of developing effective complaints mechanism for children and young people (informed by the experience of the Australian Human Rights Commission and other similar agencies). In those circumstances we endorse the inclusion of clauses 16(1) (f) and (g). We note that the WA Children's Commissioner doesn't have a complaint handling function but has given a focus on improving quality of process in government departments, has prepared guidelines on how to ensure children and young people have the opportunity to interact with departmental decisions.

Therefore attention can be given to raising awareness more broadly in government of the need to pay attention to the complaints mechanisms for children and to develop tools for children to make a complaint.

We endorse the importance of developing collaborative arrangements with other statutory agencies such as the Ombudsman, Guardian for Children and Health and Community Services Complaints Commissioner.

The Council

The provisions of the Bill establishing the Council may require some further attention to ensure that its functions and its relationship with the Government and the Commissioner are clear. The Council should act as adviser to the Government. Its key focus should be on the development and review of the Outcomes Framework. It will need an effective working relationship with the Government. It should collaborate with the Commissioner but the Commissioner's role will be independent of the Council.

It may be useful to spell out these matters more clearly in the Bill. It could also be useful to articulate the role and authority of the Presiding Member of the Council to guide the deliberations of the Council and its agenda.



Given that the role of the Council will be broad, the option to establish Committees under Clause 29 is endorsed.

Given the importance of the Outcomes Framework to meeting the purposes of the Bill, particular attention should be given to adequate resourcing for data collection, research and monitoring. A lack of adequate resources will impact on the effectiveness of the work of both the Commissioner and the Council.

The Text of the Bill

We support the clearer reference to rights in the Bill and the explicit reference to the United Nations Convention on the Rights of the Child. We remain concerned that the actual construction of Clause 4(1) may be too narrow in its reference to rights ‘recognised in accordance with statutory and common law’. This may be addressed by the removal of the brackets so that the Convention is seen as an additional reference point and not limited to qualifying ‘statutory and common law’.

In addition the ongoing development of international human rights law could be acknowledged by the addition of the phrase “and other relevant international human rights instruments”.

We endorse the inclusion of the concept of the competencies of children and young people.

We endorse the inclusion of the notion of children and young people as citizens.

We support the changes to the reporting arrangements in clause 20 to include reporting to Parliament.

Alliances

We acknowledge the fundamental importance of community-based networks and alliances to the effective implementation of the Bill.

We are not convinced that the current prescription of ‘child development alliances’ in the Bill will meet the need for effective local engagement.

We would support an explicit commitment to local engagement and consultation but would encourage this in the context of the need for flexibility and the recognition of existing formal and informal alliances already operating and already committed to child development. A good example would be the existing Communities for Children sites.

Once again the issue of adequate resourcing will be fundamental to efficacy.

In the circumstances we suggest that a commitment to flexibility, local engagement and the development and support of existing and future networks and alliances may be a preferable approach than a legislative prescription.



Final Comments

We believe that the Bill offers a sounding building block for the effective implementation of the principles of child rights, wellbeing and development.

It can support incremental change in attitudes and actions in government and in the wider community.

We are all duty bearers to children under the Convention. In time we can all recognise our responsibility as a community and as each individual to children and young people.

Contact

For further information please contact:

James McDougall

Consultant

E: jmcd@ihug.com.au

P: 0419 243 179

Tara Broughan

UNICEF Australia

E: tbroughan@unief.org.au

P: 02 8917 3203

