

The Child and Family Welfare Agencies Association (CAFWAA) welcomes the introduction of the Commonwealth Commissioner for Children and Young People Bill 2010 and sees it as an opportunity to invest in ensuring that the voices of children and young people are heard and valued.

The following comments are made, particularly in relation to children and young people who are at risk or involved in the Out of Home Care system. This group is particularly vulnerable and the complexities of their situation need to be safeguarded.

The Bill contains some points that are of concern to CAFWAA members:

Limiting the scope to children less than eighteen years. It is recognised that this fits with the definition of 'child' as contained within the United Nations Convention on the Rights of the Child (UNCRC) however, for children/young people in the Out of Home Care system many of the States and Territories legislation definitions include those up to 25 years of age. This is important as it recognises the importance of the transition period from care to independence and is an area that is not well serviced in any State/Territory.

Section 9.1 (e) enables the Commissioner to act as legal guardian for unaccompanied children. This presents the potential for conflict of interest. It could be that the Commissioner has projects or inquiries in place around this group or is investigating specific cases (Section 9.1 (h)) and will be unable to maintain a degree of independence in dealing with these matters.

It is imperative that this office takes a 'whole of community' response to the well being of children and young people. Whilst it is recognised that there needs to be a focus on Aboriginal and Torres Strait Islanders, equally other vulnerable groups must not be lost in what could be an overwhelming need. These include refugee children; children of recently arrived asylum seekers; children living in rural and remote regions; children growing up in families where parents have mental health, substance abuse, homelessness or other issues; children living permanently with their grandparents and children living with parents who have a disability.

Duplication of work with the current State and Territory Commissioners must be avoided.

This may require a mechanism within the Commission's office to coordinate the work being done at a national level and providing a conduit for the transfer of knowledge. Clearer definitions of roles and responsibilities are also needed to support this.

The independence of the office must be maintained through direct reporting to both the UN and Federal Parliament.

Engaging with children and young people on a regular basis will require a methodology to ensure the consultation is representative and informed. One of the roles of the Commission may, therefore, be to establish an Advisory Committee or engage with the groups used by the State and Territory Commissioners.

The Commissioner needs to have appropriate powers and resources to effectively monitor current systems which affect children and young people. This may include the capacity to research and provide advice to all levels of government in policy decisions that impact on

children and young people under Australia's obligations to the UNCROC.

The Commissioner needs to consult regularly the non-government agencies that provide services to children and young people.

Thank you for the opportunity to comment on the major step forward in ensuring that the children and young people of Australia are championed at a national and international level.