



Secretariat of National Aboriginal and Islander Child Care

## **SNAICC Comments on the *Commonwealth Commissioner for Children and Young People Bill 2010***

The Secretariat of National Aboriginal and Islander Child Care (SNAICC), the national, non-government peak body for Aboriginal and Torres Strait Islander children, strongly supports the introduction of the *Commonwealth Commissioner for Children and Young People Bill 2010*.

### **A National Aboriginal and Torres Strait Islander Children's Commissioner**

While the impetus for the creation of a National Children's Commissioner came from the *National Framework for Protecting Australia's Children 2009 – 2020*, SNAICC recommends that this discussion be broadened to include the establishment of a National Commissioner dedicated to Aboriginal and Torres Strait Islander children's issues. SNAICC has been advocating for the establishment of a National Aboriginal and Torres Strait Islander Children's Commissioner as a priority commitment in the SNAICC Federal Election Briefing Paper 2010 that provided the basis for meetings with a range of parliamentarians over 2010.

SNAICC believes that the scope and complexity of issues and policies affecting Aboriginal and Torres Strait Islander children requires a dedicated position with an exclusive focus. As recognized by the Council of Australian Governments' *Closing the Gap* Agenda, overcoming the intergenerational disadvantage facing many of our children and families requires a sustained commitment to effective reforms and resources in key areas. These key areas incorporate measures with a specific focus on children's issues, all of which require ongoing monitoring and evaluation. The Agenda is also premised on acknowledgement of the importance of our culture and engagement with our children, families and communities. To meet this national commitment, a dedicated position is required.

The National Aboriginal and Torres Strait Islander Children's Commissioner needs to have a permanent, independent role with the position held in a secure tenure arrangement of five years, similar to the current Aboriginal and Torres Strait Islander Social Justice Commissioner.



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The position should have broad powers to investigate and review measures implemented for the care, protection and wellbeing of Aboriginal and Torres Strait Islander children, with direct reporting to Parliament. This would encourage and sustain ongoing vigilance and a national perspective on Aboriginal and Torres Strait Islander children's health and wellbeing.

The National Aboriginal and Torres Strait Islander Commissioner would:

- consult with Aboriginal and Torres Strait Islander children and the organisations that represent them
- provide national advocacy for Aboriginal and Torres Strait Islander children
- monitor compliance with the Aboriginal Child Placement Principle
- monitor outcomes for Aboriginal and Torres Strait Islander children in care
- monitor and report on the impact of government policies on Aboriginal and Torres Strait Islander children
- provide a central information and referral point for Aboriginal and Torres Strait Islander children, families and communities, and
- educate and promote Aboriginal and Torres Strait Islander children's issues and rights nationally.

The position would clearly complement monitoring and implementation of current Council of Australian Government initiatives such as the *National Framework for Protecting Australia's Children 2009-2020* and the *National Quality Framework for Early Childhood Education and Care*. It would also facilitate Aboriginal and Torres Strait Islander community partnerships and feedback.

If a separate Children Commissioner focusing on Aboriginal and Torres Strait Islander children and young people is not supported by Government, a Deputy Commonwealth Aboriginal and Torres Strait Islander Children's Commissioner should be explicitly created under 8 (2) (b) of the Bill.



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SNAICC's Recommendations on the Bill

Recommendation	Detail
1.	A separate Commonwealth Commissioner or Deputy Commissioner for Aboriginal and Torres Strait Islander Children and Young People should be established to monitor the health, wellbeing and care of Aboriginal and Torres Strait Islander children and young people.
2.	The budgetary allocation should reflect the nature of the Commissioner's responsibilities, and should be set by Parliament. SNAICC recommends an allocation of \$16 million over four years.
3.	The Bill should be built on a public health model. Elements referring to Aboriginal and Torres Strait Islander children, young people, families and communities should reflect a positive, strengths based approach that acknowledges the centrality of culture and the resilience of Aboriginal and Torres Strait Islander people.
4.	The scope of the Commissioner(s)' work should not be restricted to children and young people under the age of 18 years. This reflects the different definition of 'youth' across jurisdictions up to the age of 25 years.
5.	The role of the Commissioner should be grounded in but not restricted to the National Framework for the Protection of Australia's Children 2009-2020.
6.	<b>Section 3(3)</b> should include a reference to Indigenous children and their rights under Article 30 of the Convention.
7.	<b>Section 5</b> should include a definition of best interests based on the Committee on the Rights of the Child's General Comment No 11 (2009) on <b>Indigenous children and their rights under the Convention</b> .
8.	<b>Section 9</b> should include a positive description the Commissioner or Deputy Commissioner's functions and powers in relation to Aboriginal and Torres Strait Islander children and young people that does not focus solely on their vulnerability



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	and overrepresentation in the statutory system. For example, s 9(1)(c) could read ‘advancing the status of children and young people in Australia, including Indigenous children, young people and any group identified as being at risk...’. An additional section could read ‘advancing positive relationships with Aboriginal and Torres Strait Islander communities and families’.
9.	<b>Section 9 (1) (i)</b> should not include a coordination role as this could compromise the Commissioners’ independence. The proposed role is too amorphous and large a task for a statutory authority. The Commissioner’s role is better placed to provide advice and review rather than responsibility for such coordination.
10.	<b>Section 9 (1)</b> should include monitoring of the <i>National Framework for the Protection of Australia’s Children 2009-2020</i> and other relevant COAG initiatives.
11.	<b>Section 9(1)(c)</b> needs to make clear that the Commissioner can <u>initiate</u> any reviews, inquiries or research.
12.	<b>Section 10 (d)</b> should include carers as well as parents and guardians.
13.	<b>Section 10 (f)</b> should include consultation with the non-government sector, particularly with Aboriginal and Torres Strait Islander community controlled organisations.
14.	<b>Section 25</b> The Commissioner should not be responsible for providing the Australian Government’s report to the United Nations on Australia’s implementation of the <i>Convention of the Rights of the Child</i> as this would compromise their independence. The Commissioner should provide a separate report to the United Nations, based on consultation with children, young people, their families and communities and with the non-government sector.