



Western Australian  
Branch

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*Submission to the Joint Standing  
Committee on the Commissioner  
for Children and Young People  
Re: Review of the functions exercised by the  
Commissioner for Children and Young People*

**February 2015**

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## Introduction

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**Terms of Reference:** A review of the functions exercised by the Commissioner for Children and Young People, with particular reference to the recommendations contained in the recent *Review of the Commissioner for Children and Young People Act 2006* tabled in the Parliament on 20 August 2014

The Australian Association of Social Workers is the professional representative body of Social Workers in Australia, with more than 8000 members nation-wide. The social work profession is committed to the pursuit of social justice, the enhancement of the quality of life and the development of the full potential of each individual, group and community in society. Social Workers are recognised as a core professional group working with children and young people, in particular those who are vulnerable or disadvantaged to enhance their wellbeing.

The Australian Association of Social Workers (AASW) WA Branch welcomes the opportunity to provide a submission to the review of the functions exercised by the Commissioner for Children and Young People, with particular reference to the recommendations contained in the recent *Review of the Commissioner for Children and Young People Act 2006* tabled in the Parliament on 20 August 2014.

We have been requested to make particular comment on the following:

1. The manner in which the Commissioner's proposed child abuse complaints support function should operate; and
2. The impact the proposed child abuse complaints support function may have on the Commissioner's existing functions

## Comments

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### **1. The manner in which the Commissioner's proposed child abuse complaints support function should operate**

We support some but not all aspects of Recommendation 12, 13, 14 and 15 of *Review of the Commissioner for Children and Young People Act 2006*

- 1.1 The Commissioner for Children and Young People (CCYP) is best suited to promoting, advising and monitoring child and family welfare in the community in its broadest sense (e.g. positive paternal involvement in child rearing; the importance of education and play for children's and young people's development; community amenities for children and young people: promoting healthy living and healthy relationships; sexual and mental health; promoting mother's health during pregnancy and the role government and non government services can play if families run into trouble). The AASW (WA) considers the Commissioner's primary focus should be directed to promoting children's and young people's welfare, not responding to individual system failures or complaints.



We support CCYP's role in relation to education and outreach programs about *'how to disclose any child abuse that occurs while in the care of a government agency or service provider' and to provide information 'in relation to support services available'* (Recommendation 12). CCYP should also have the power to undertake, if necessary, special inquiry into how service providers respond to complaints of child abuse arising when children and young people are or were in their custody or care. At the same time these tasks need to be proportionate to other functions undertaken by the Commissioner. It would be unfortunate if the CCYP became identified (stigmatized) as a statutory child protection agency.

- 1.2 The AASW (WA) does not support Recommendation 13 that CCYP jurisdiction should be extended to undertake a child abuse complaints support function in relation to government agencies and service providers. The WA Ombudsman has expertise to independently investigate complaints from the public relating to the standards and administrative practices of government agencies. We suggest that this complaint handling function be extended to government and other agencies delivering services to children and young people.

As set out in our previous submission, we recommend that the role of the WA Ombudsman be expanded to include the function of an independent 'one stop shop' for any complaint concerning child abuse in government and non government agencies. The 'one stop shop' needs to have a child focussed culture and could be operated by the Ombudsman but located as a section within the CCYP so as to ensure a high level of child focus.

- 1.3 Children, young people or adults who have complaints about abuse 'in care' or other failures of government agencies and/or non government service providers should be fully informed of how they can action the complaint. CCYP can play an educative role to inform the community of pathways for making such complaints.

Agencies providing services to children and young people should have transparent and accountable (the the Ombudsman's office) complaints receipt and processing policies and procedures. Agencies must promote these processes among their staff and clients and demonstrate how they follow accepted processes and ensure procedural fairness. Agencies should be required to report to an independent agency (e.g. the Ombudsman) on complaints received and how these are handled and CCYP should have access to this information to inform any special inquiry undertaken by the Commissioner.

## **2. The impact the proposed child abuse complaints support function may have on the Commissioner's existing functions**

- 2.1 If the proposed child abuse complaints support function is added to the Commissioner's existing functions, the AASW (WA Branch) recommends that additional resources be



provided to CCYP. Without additional resources, this new function may compete with the Commissioner's performance of existing advocacy, promotion and monitoring functions directed towards the prevention of conditions that lead to abuse.

- 2.2 The provisions of a child abuse complaints support function may add an additional layer for the victim to have their complaint heard and responded to. The proposed tangible outcome for the complainant from the retelling of their story of abuse will be referral to the relevant investigation authority/s (Recommendation 12).

There is growing research evidence that the retelling of stories of abuse can have detrimental impacts for the victim complainant, particularly when they do not perceive a just outcome. To minimise negative consequences, CCYP will need to put in place clear guidelines as to the amount and quality of information to be provided by the complainant in order to trigger referral to the relevant investigative authority/s.

- 2.3 Greater clarity is required as to the form of child abuse complaints CCYP will receive and handle. Recommendation 12 refers to 'abuse alleged to have occurred in government agencies or service providers'. Recommendation 13 states that 'the complaints support function supplement not duplicate the role of other relevant agencies in receiving and referring disclosure of alleged physical, sexual, emotional, or psychological abuse and neglect'. Recommendation 13 casts a wider net reaching beyond the limits of abuse alleged to have occurred whilst in the care of a government agency or service provider.

## Conclusion

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1. The AASW (WA) considers the Commissioner Children and Young People (CCYP) provides an important role in promoting the welfare of children and young people, not responding to individual complaints of abuses even when this is couched as a 'support function to supplement and not duplicate the role of other relevant agencies'. (Recommendation 14)
2. CCYP should be provided with appropriate powers to deliver education and outreach programs about disclosure of child abuse for children, young people and their families and advocates while a child or young person is in the care (or was in the care) of a government agency or service provider. CCYP should also have the power to conduct special inquiries into child abuse arising while in the care of a government agency or service provider. Such an inquiry would focus on systemic issues not individual cases.
3. The WA Ombudsman Office should provide a 'one stop shop' to receive and handle complaints of child abuse while in the care of a government agency or service provider. The Ombudsman unit must support a 'child friendly culture'.

4. If CCYP is provided with powers to undertake a 'child abuse complaints support function' then appropriate resources must be provided to perform this function. This should not be at the expense of CCYP's existing preventive functions.
5. Clear guidelines and straightforward mechanisms need to be put place to reduce the possibility of victim complainants being 're-traumatised' through the complaint handling process.

Submitted for and on behalf of the Australian Association of Social workers Ltd



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