



Australian Youth  
Affairs Coalition

*in conjunction with*



Joint submission in response to  
*The Commonwealth Commissioner for  
Children and Young People 2010 Bill*

January 2011

# Australian Youth Affairs Coalition

The Australian Youth Affairs Coalition (AYAC) is Australia's non-government youth affairs peak body, which seeks to represent young people aged 12-25 and the sector that supports them.

AYAC represents a growing membership of State and Territory youth peak bodies, national youth organisations, researchers, policy makers and young people themselves, who are all passionate about creating an Australian community that supports and promotes the positive development of young people.

AYAC aims to:

- Provide a body broadly representative of the issues and interests of young people and the youth affairs field in Australia
- Advocate for a united Australia which respects and values Aboriginal and Torres Strait Islander heritage, promotes human rights, and provides justice for all
- Represent the rights and interests of young people in Australia, at both a national and an international level
- Promote the elimination of poverty and to promote the well being of young Australians, with a particular focus on those who are disadvantaged
- Recognise the diversity of Australian society, to promote the cultural, social, economic, political, environmental and spiritual interests and participation of young people in all aspects of society
- Advocate for, assist with and support the development of policy positions on issues affecting young people and the youth affairs field, and to provide policy advice, perspectives and advocacy to governments and the broader community
- Facilitate co-ordination and co-operation within the youth affairs field

AYAC and its members are dedicated to working for and with young people and seek to ensure they have access to mechanisms, which allow them to make decisions about issues that affect them in the Australian community.

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*We acknowledge the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respect to them and their cultures, and to the elders both past and present. We acknowledge and pay our respects to the Gadigal people of the Eora Nation on whose land AYAC is based.*

# A Joint Submission

This submission has been prepared by AYAC in collaboration with:

- YAPA: Youth Action and Policy Association NSW
- YACVIC: Youth Affairs Council of Victoria
- YACWA: Youth Affairs Council of Western Australia
- YNOT: Youth Network of Tasmania
- YACSA: Youth Affairs Council of South Australia
- YCACT: Youth Coalition of ACT
- YANQ: Youth Affairs Network QLD
- MYAN (Australia): Multicultural Youth Advocacy Network
- CAAH: Centre for the Advancement of Adolescent Health
- headspace
- The Inspire Foundation

## About the Organisations

### YAPA

YAPA is the peak organisation representing young people and youth services in NSW. YAPA works towards a society where all young people are supported, engaged and valued. The role of YAPA is to: monitor and respond to government policies and proposals affecting young people; promote and advocate on issues affecting young people and youth services; bring young people and youth workers together to act on issues affecting them; work to raise a positive profile of young people in the media and in the community; provide training, forums and conferences to young people and youth workers; provide information and referral; and produce a range of resources, publications and newsletters.

### YACVIC

YACVIC is the peak body and leading policy advocate on young people's issues in Victoria. YACVIC's vision is for a Victorian community that values and provides opportunity, participation, justice and equity for all young people. YACVIC is an independent, not-for-profit organisation. Core funding is from the Victorian Office for Youth. YACVIC is governed by a volunteer board and run by a paid secretariat. YACVIC has two main advisory mechanisms, the Policy Advisory Group and the Youth Reference Group.

### YACWA

YACWA is the peak non-government youth organisation in Western Australia. YACWA operates primarily as a human rights organisation that seeks to address the exclusion of young people in a rapidly changing society. YACWA's vision for Western Australia is one that celebrates and engages young people in all aspects of the community. YACWA's role is to strengthen the trust, cooperation, collaboration; professionalisation and voice of the non-government youth service sector to better serve the young people of Western Australia.

**YNOT**

YNOT is the peak body for the non-government youth sector in Tasmania. YNOT has input into and responds to policy direction, advocates for the youth sector and lobbies for the needs and initiatives of young people. YNOT is informed and supported by the youth sector organisations through its three regional coordinating groups: YAP, NYCC and NWAY. Integral to the work of YNOT is the peak consultative body, the Tasmanian Youth Forum.

**YACSA**

YACSA is the peak body representing young people and the youth sector in South Australia. YACSA's vision is that young people are vital and valued members of their communities. YACSA works towards supporting meaningful improvements in the quality of young people's lives; provides support to the youth sector; advocates to governments and the community on a range of matters which affect young people's lives; and is a source of information and referral on the interests and issues of young people.

**YCACT**

The Youth Coalition of the ACT is the peak youth affairs body in the Australian Capital Territory and is responsible for representing the interests of people aged between 12 and 25 years, and those who work with them. YCACT is represented on many ACT government advisory structures and provides advice to the ACT Government on youth issues as well as providing information to youth services about policy and program matters. YCACT actively promotes the wellbeing and aspirations of young people in the ACT with particular respect to their social, political, cultural, spiritual, economic and educational development.

**YANQ**

YANQ is the peak community youth affairs organisation in Queensland, representing individuals and organisations from Queensland's youth sector. YANQ promotes the interests and wellbeing of young people across the state by disseminating information to members, the youth sector and the broader community; undertaking campaigns and lobbying; making representations to government and other influential bodies; resourcing regional and issues-based networks; consulting and liaising with members in the field; linking with key state and national bodies; initiating projects; hosting forums and conferences; providing input into policy development; and enhancing the professional development of the youth sector.

**CAAH**

The NSW Centre for the Advancement of Adolescent Health is funded by, and works in partnership with, NSW Health and other sector stakeholders to improve the health and wellbeing of young people aged 12-24 in NSW. NSW CAAH's role as a technical support agency is to build the confidence and capacity of partner agencies in responding to youth health issues through developing and disseminating information and resources, delivering professional educational training, undertaking applied research, and contributing to advocacy and policy development.

**MYAN (Australia)**

The MYAN is a nationally recognised body that represents migrant and newly arrived young people in order to advance their rights and interests. As a national network, the MYAN is

comprised of representatives from each of Australia's states and territories. The MYAN was established in 2005 in response to an identified need for a national advisory and advocacy network for multicultural youth issues. The issues and needs of multicultural young people are often overlooked as they are a sub-group of both the broader youth and multicultural sectors and underrepresented in the policy and advocacy work of both the government and non-government sectors. The MYAN is auspiced by the Centre for Multicultural Youth.

### **headspace**

headspace provides mental health and wellbeing support, information and services to young people and their families across Australia. Established and funded by the Commonwealth Government of Australia in 2006, headspace is the National Youth Mental Health Foundation. The people that work at headspace are providing solutions for young people aged 12 to 25 years.

Our primary focus is the mental health and wellbeing of all Australians. We know that getting help early is the key to resolving these problems quickly. headspace is making a difference where it is needed most – our young people.

### **The Inspire Foundation**

The Inspire Foundation is an Australian nonprofit organisation established in 1996 in response to Australia's then escalating rates of youth suicide. In 1997, the proposal for Inspire's flagship program Reach Out was accepted by the Federal Government and funded under the National Youth Suicide Prevention Strategy. Reach Out was a breakthrough program and one of the world's first web-based youth mental health services. Fourteen years on, Inspire now leads an international network which includes Inspire USA Foundation and Inspire Ireland Foundation.

Inspire's vision is to have a global impact on young people's mental health and wellbeing by helping millions of young people lead happier lives. Inspire combines technology with the direct involvement of young people to deliver innovative and practical online programs that prevent youth suicide and improve young people's mental health and wellbeing. Young people are at the centre of all Inspire does and are partners in the development and delivery of all Inspire initiatives. Inspire serves young people aged 14 to 25 through our flagship program ReachOut.com.

## Summary of Recommendations

In response to **The Commonwealth Commissioner for Children and Young People Bill 2010**, AYAC believes that this is a unique opportunity for the Australian Government to create an independent body with the power to monitor and analyse issues that impact children and young people and to advocate for their needs and rights.

We urge the Federal Government to use this inquiry as a catalyst for action that enables children and young people to have their rights fully recognised, regardless of their geographic location, race, gender, level of disability and social, religious and economic circumstances. We propose the following recommendations to assist in achieving this:

1. S3(2)(b): Emphasis should be placed on **making recommendations** in addition to monitoring the development and application of laws affecting children and young people.
2. S2(3)(2)(a) & S5(1): Extend the age limit to 25, in line with the current '*National Strategy for Young Australians*'.
3. S4(b): The term 'family' should be more clearly defined to avoid ambiguity and the potential for discrimination by exclusion.
4. S8(2)(b): Ensure a Deputy Commissioner is appointed whose sole focus is Closing the Gap. S8(2)(b) should be amended to read 'A Deputy Commissioner will be appointed under section 22 whose sole mandate is to represent the rights and interests of Aboriginal and Torres Strait Islander children and young people'.
5. S9: This section should be strengthened to include a focus on early intervention and prevention for all children and young people.
6. S9(1)(a): Amend statement to 'all children and young people in Australia, including those who are seeking asylum'.
7. S9(1)(c): Amend statement to 'Advancing the status of children and young people in Australia, including **Aboriginal and Torres Strait Islander** children and young people...'
8. S9(1)(c): 'Other groups identified as being at risk' should be made explicit and include children and young people experiencing homelessness, those in out-of-home care, those experiencing or affected by disability and/or substance misuse (including young carers), those living in rural and remote areas of Australia, and those experiencing violence and/or bullying.
9. S9(1)(c): A separate item should be included to provide the Commissioner with the mandate to initiate reviews.
10. S9(1)(e): This item should be amended to ensure the workload of the Commissioner is not compromised.

11. S9(1)(f): This statement should be strengthened to include all developmental stages of childhood, including the middle years (9-14 years) and later teenage years.
12. S10(a)(b)(c): These points are too general and need clarification.
13. S10(f): Replace 'other organisations' with 'nongovernment organisations, academic experts and research institutions.'
14. S12: A third point should be added to include nongovernment organisations, academic experts and research institutions.
15. S13(2): The recruitment process should involve young people.
16. S25(3): The Commissioner should report directly to parliament, as an independent officer of parliament.

AYAC looks forward to the findings of this committee and to working with governments to ensure that a Commonwealth Commissioner for Children and Young People is in a strong legal position to ensure the rights of all children and young people in Australia are upheld.

While AYAC supports the intent of the Bill and applauds its introduction, we propose a number of recommendations to enhance the powers of the Commonwealth Commissioner, thereby enhancing the rights of all children and young people in Australia.

We look forward to the findings of this inquiry and would welcome the opportunity to meet to discuss this further.

# Introduction

Our organisations welcome the opportunity to contribute to a national discussion on the establishment of a Commonwealth Commissioner for Children and Young People. Our response is based primarily on the following principles:

- **Human rights and social justice:** Working towards an Australian community that respects and promotes the human rights of young people.
- **Participation:** Promoting the valued inclusion of young people in all aspects of the Australian community and educating the community about effective youth engagement strategies.
- **Collaboration:** Engaging stakeholders in a collaborative manner and establishing a meaningful dialogue with partners to build a coalition around the positive development of Australia's young people.
- **Social inclusion:** Ensuring universal access to all aspects of community life for young people and working to eliminate inequalities faced by Australia's young people.
- **Closing the Gap:** Working to eliminate inequalities between Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander young Australians.
- **Young People in Context:** Recognising that young people are influenced by their environment, which may include family, peers, health professionals, youth workers and/or educators.
- **Sustainability:** Promoting the need for sustainable development to ensure the needs of the present are met without compromising the ability of future generations to meet their own needs.
- **Evidence base and resources:** Promoting evidence-based practice and providing adequate resources appropriate to the needs of young people.
- **Accessibility:** Ensuring that young people have access to adequate and appropriate programs and services, regardless of their geographic location, race, gender, level of disability and social, religious and economic circumstances.
- **Independence and accountability:** Operating as an independent and vocal advocate and functioning in a transparent and accountable manner.

Based on the above principles, we express our strong support for a National Australian Children's and Young People's Commissioner and applaud the introduction of the *Commonwealth Commissioner for Children and Young People Bill 2010*. However, we propose recommendations in this submission that further clarify and strengthen this important role, ensuring the rights of all Australian children and young people are upheld.

While Australia ratified the United Nations Conventions on the Rights of the Child (CRC) some 20 years ago, many Australian children and young people still do not enjoy their human rights, nor do they have access to a unified voice that promotes their interests. While we have achieved much since 1990, we have yet to comply fully with the legislative requirements of the CRC. The Committee on the Rights of the Child recently expressed 'concern that, while the Convention may be considered and taken into account [in Australia]...it cannot be used by the judiciary to override inconsistent provisions of domestic



law<sup>1</sup>.” The Committee also observed the absence of a National Children’s and Young People’s Commissioner. Appointing a National Children’s and Young People’s Commissioner is therefore an important step in incorporating the CRC into domestic law and fulfilling our international legal obligations.

A National Commissioner could provide important leadership across States and Territories in coordinating policies, programs and funding to ensure national consistency, while offering national level responses to specific issues or challenges. Such a role could identify best practice models already in use and apply them nationally, thus strengthening current State and Territory models. The role could also review international models, such as those in Norway, Sweden, England and New Zealand, as these countries have national commissioners working successfully to strengthen human rights for children and young people.

Establishing a National Commissioner should enable children and young people to have an independent voice, as well as representing and advocating on behalf of children. Children and young people have a right to have their views heard and taken seriously, especially on matters affecting them directly. A National Commissioner would be an important mechanism for harnessing children and young people’s ideas and incorporating them into policy and legislation.

As an extension of this, a Commissioner could represent children and young people, and act as a national advocate, particularly on behalf of those children and young people who are vulnerable and/or at risk. These groups include (but are not limited to) those who experience violence, bullying or harassment, those experiencing or affected by disability, and those who experience homelessness, Aboriginal and Torres Strait Islander children and young people, children and young people in detention, children and young people in out-of-home care, and children and young people living in rural and remote areas of Australia.

Lastly, a National Commissioner could monitor the welfare and wellbeing of children and young people in Australia, as well as providing feedback on proposed policies, laws and practices that impact children and young people, and monitoring their ongoing operation and application. This should include Australia’s compliance with the CRC. Importantly, a National Commissioner should also have the mandate to initiate reviews deemed appropriate to the advancement of children and young people’s rights in Australia.

While it is important that a National Commissioner be established so that our legal obligations are fulfilled and in order for children and young people’s rights to be fully protected, it is crucial that this role be more than symbolic. That is, the National Commissioner must be fully independent and adequately resourced to carry out all necessary roles. This Bill provides the Australian Government a unique opportunity to create an independent body with the power to monitor and analyse issues that impact children and young people, and to advocate for their needs and rights.

We agree with the National Children’s Youth and Law Centre (NCYLC) that the Commissioner’s role should ‘result in real improvements in the status of children and young people across Australia [resulting in] a reduction in the numbers of youth in detention, increased access to health and other social services, as well as increased participation in the

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<sup>1</sup> Committee on the Rights of the Child (2005) *Fortieth Session: Consideration of Reports Submitted by States Parties Under Article 44 of the Convention: Concluding Observations: Australia*, p3

life of the Australian community, especially in the decision-making processes which affect them.<sup>2</sup> We therefore propose recommendations in this submission that further clarify and strengthen this important role.

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<sup>2</sup> National Children's and Youth Law Centre (2011) *Submission: Inquiry into the Commonwealth Commissioner for Children and Young People 2010*, p6

## General Comments & Recommendations

While we welcome the Bill in principle and support its intent, we submit comments and recommendations designed to strengthen and clarify the Bill. These are outlined in detail below.

### Recommendation 1: Place emphasis on making recommendations

S3(2)(b) *Monitor the development and application of laws affecting children and young people.*

We recommend that emphasis is also placed on the related aspect of **making recommendations** to relevant Ministers regarding potential amendments to legislation. This would enhance the Commissioner's position and ensure the role is proactive, rather than reactive only.

### Recommendation 2: Increase the age to 25 years

S2(3)(2)(a) *Advocate at a national level for the needs, views and rights of people below the age of 18;*

S5(1) *Children and young people includes all people below the age of 18 years.*

We recommend expanding the age range to all people below the age of 25. While we recognise that the age limit under the Convention on the Rights of the Child is 18, Australia's 'National Strategy for Young Australians' focuses on people up to the age of 24 and some States recognise young people as being 25 and under.

### Recommendation 3: Clearly define the term 'family'

S4(b) *The family has the primary responsibility for the upbringing and development of its children and should be supported in that role.*

The term 'family' should be more clearly defined. We suggest 'family, including biological parents, adoptive parents, foster parents, guardians, and/or carers (whether they be married, single, in a de facto relationship - same-sex or opposite sex)'. This would also acknowledge the strong role that kinship and extended family plays in Aboriginal, Torres Strait Islander and culturally and linguistically diverse (CALD) communities. By defining family in more concrete terms, ambiguity and the potential for discrimination by exclusion is avoided.

### Recommendation 4: Appoint a Deputy Commissioner to represent the rights and interests of Aboriginal and Torres Strait Islander people

S8(2)(b) *The Deputy Commissioner (if any) appointed under section 22 to assist the Commissioner.*

We endorse the Secretariat of National Aboriginal and Islander Child Care's (SNAICC) recommendation that a Deputy Commissioner be established whose mandate is solely

dedicated to focusing on Aboriginal and Torres Strait Islander issues and on 'Closing the Gap'. It is well documented that Aboriginal and Torres Strait Islander children and young people are amongst the most marginalised in the Australian Community. In the Prime Minister's 2010 report on Closing the Gap, six targets are identified: life expectancy, mortality rates in children under five, early childhood education, reading, writing and numeracy, students in Year 12, and employment outcomes<sup>3</sup>. These targets require a dedicated position within the Commissioner's Office and a Deputy Commissioner is best placed to achieve these targets, both in line with federal and international policies. We therefore recommend that S8(2)(b) be amended to read 'A Deputy Commissioner will be appointed under section 22 whose sole mandate is to represent the rights and interests of Aboriginal and Torres Strait Islander children and young people' [note the absence of 'if any'].

**Recommendation 5: Strengthen the functions and powers of the Commissioner to include and focus on early intervention and prevention initiatives**

S9                      *Functions and powers of the Commissioner*

This section should be strengthened to include a focus on early intervention and prevention initiatives. Research has shown that such initiatives have proven critical in determining positive outcomes for children and young people at risk<sup>4</sup>. In particular, early intervention and prevention is a key priority in the Australian Government's *National Strategy for Young Australians*: 'Early intervention works not only to prevent future problems such as substance abuse and criminal behaviour, but also to create the conditions that enable all young people in Australia to maximise the opportunities available to them'<sup>5</sup>. We therefore recommend the Commissioner's role be expanded to include the ability to instigate and promote early intervention and prevention initiatives.

**Recommendation 6: Amend S9(1)(a) to 'all children and young people in Australia, including those who are seeking asylum.'**

S9(1)(a)              *Providing national leadership in monitoring and advocating for the wellbeing of Australian children and young people.*

We recommend this statement be amended to read: 'Providing national leadership in monitoring and advocating for the wellbeing of **all children and young people in Australia, including those who are seeking asylum**'. This avoids any ambiguity, particularly in the instance where children do not have Australian citizenship or residency.

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<sup>3</sup> Commonwealth of Australia (2010) *Closing the Gap: Prime Minister's Report 2010*, p2

<sup>4</sup> NSW Department of Family and Community Services (2005) *Prevention and Early Intervention Literature Review*

<sup>5</sup> Australian Federal Government (2010) *The National Strategy for Young Australians*, Canberra, p27

## **Recommendation 7: Replace ‘Indigenous’ with ‘Aboriginal and Torres Strait Islander’**

S9(1)(c) *Advancing the status of children and young people in Australia, including Indigenous children and young people nationally, to meet Australia’s international obligations.*

According to *Working with Aboriginal People and Communities*, ‘Many Aboriginal and Torres Strait Islander people are opposed to the term ‘Indigenous’ as it generalises both cultures’<sup>6</sup>. The report recommends against using the term ‘Indigenous’ whenever possible. We therefore recommend that S9(1)(c) be amended to read ‘Advancing the status of children and young people in Australia, including Aboriginal and Torres Strait Islander children and young people and other groups identified as being at risk...’.

## **Recommendation 8: Increase the scope of children and young people who are at risk and/or vulnerable**

S9(1)(c) *Advancing the status of children and young people in Australia, including Indigenous children and young people and other groups identified as being at risk, by:*

- i. reviewing existing laws;*
- ii. proposing new policies; and*
- iii. conducting research, undertaking inquiries and reporting to Parliament*

We commend the inclusion of Aboriginal and Torres Strait Islander children and young people in the Bill and, in agreement with the Secretariat of National Aboriginal and Islander Child Care (SNAICC)<sup>7</sup>, suggest that this could be strengthened to include a positive description of the functions and powers in relation to Aboriginal and Torres Strait Islander children and young people.

Additionally, we recommend that ‘other groups identified as being at risk’ be further clarified to include: children and young people experiencing homelessness, those in out-of-home care, those experiencing or affected by disability and/or substance misuse (including young carers), those living in rural and remote areas of Australia, and those experiencing violence and/or bullying’. This is in keeping with The Australian Human Rights Commissioner Discussion Paper, which states: ‘The rights of some children are vulnerable. For example, these include children experiencing homelessness, children experiencing violence, bullying or harassment and children experiencing or affected by disability, including those living with mental illness’<sup>8</sup>.

There are also certain groups of at-risk children who are less likely to be able to enjoy their full range of rights. These groups include Aboriginal and Torres Strait Islander Children; children in out of home care; children in detention, including those in immigration

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<sup>6</sup> NSW Department of Community Services (2009) *Working with Aboriginal People and Communities: A Practical Resource*

<sup>7</sup> SNAICC (2010) *SNAICC Comments on the Commonwealth Commissioner for Children and Young People Bill 2010*

<sup>8</sup> Australian Human Rights Commission (2010) *An Australian Children’s Commissioner: Discussion Paper*, p3

<sup>9</sup> Ibid.

<sup>10</sup> Humanist Society of Victoria (2010) *Commonwealth Commissioner for Children and Young People: Submission from the Humanist Society of Victoria*, p3

detention; and children living in rural and remote areas of Australia'<sup>9</sup>. We also agree with the Humanist Society of Victoria that there is a need for 'the dignity and safety' of LGBTIQ (Lesbian, Gay, Bisexual, Transgender, Intersex, Questioning) teenagers to be respected'<sup>10</sup> and that this should be reflected in the Bill.

### **Recommendation 9: Include scope for initiating reviews**

S9(1)(c) *Advancing the status of children and young people in Australia, including Indigenous children and young people and other groups identified as being at risk, by:*

- i. reviewing existing laws;*
- ii. proposing new policies; and*
- iii. conducting research, undertaking inquiries and reporting to Parliament*

We are concerned that there is no distinct item for **initiating** reviews and recommend that this be included in Section 9(1)(c).

### **Recommendation 10: Amend S9(1)(e) to ensure the workload of the Commissioner is not compromised.**

S9(1)(e) *In appropriate cases, acting as the legal guardian of unaccompanied children and young people who arrive in Australia without the requisite visa or other authority for entry into Australia.*

Having the Commissioner act as the legal guardian of unaccompanied minors is an improvement on the current situation in Australia, whereby the Minister for Immigration acts as legal guardian of unaccompanied minors in Australia. This is considered by many to be a conflict of interest. This was recently highlighted in the Christmas Island shipwreck, where the Immigration Minister is 'simultaneously the guardian, detaining authority and visa decision maker.'<sup>11</sup>

Whilst some organisations regard the move of guardianship responsibility from the Minister for Immigration to the National Children's Commissioner as a significant improvement, we have concerns about this due to the potential impact on the Commissioner's independence and on the Commissioner's workload. Our preferred option is that another Office be set up to specifically hold this responsibility. If this is not possible, we suggest that a position within the Commissioner's office be solely created for this purpose, so as not to take up disproportionate resources from the Commissioner's other responsibilities.

### **Recommendation 11: Promotion and investment should be provided for all developmental stages of childhood / adolescence**

S9(1)(f) *Promoting public education programs about, and ensuring strong investment in, early childhood development.*

We recommend that this statement is strengthened to include all developmental stages of childhood, including the middle years (9-14) and later teenage years. The Australian Research Alliance for Children and Youth (ARACY) has raised concerns that existing services

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<sup>11</sup> The Australian (2010) *Aunts of Orphaned Boy on Next Boat*, Dec 23 2010

do not adequately address the developmental needs of children aged 9-14 years. They cite a growing body of research highlighting the biological, neurological, psychological and social changes that occur as children 'transition into adolescence [and] have a major impact on how they feel, think and act'<sup>12</sup>. It is therefore crucial that children and young people at all developmental stages are central to governmental investment.

**Recommendation 12: Clarify *how* the views of children and young people are to be sought and incorporated into policy and practice**

- S10(a)(b)(c)
- (a) *Consult with children and young people in ways appropriate to their age and maturity; and*
  - (b) *Listen to and seriously consider the concerns, views and wishes of children and young people; and*
  - (c) *Adopt work practices that ensure the Office of the Commissioner is accessible to children and young people and encourages their participation.*

These points are too general and need clarification. We support Mission Australia's recommendation that 'an excellent place to commence this work is in identifying effective consultation networks and practices across the country and incorporating these into some form of practical consultation framework'<sup>13</sup>. Furthermore, we agree with Mission Australia's comment that 'the Commissioner's Office [should] access a diversity of views, and not just the views of those who are faring well and able to access the more typical channels and platforms of engagement.'<sup>14</sup> AYAC is well placed to provide expert advice and recommendations on how to effectively involve young people in decision-making processes. This will ensure that the participation of young people is not tokenistic in nature.

Consultation should be conducted on a continual basis and be culturally appropriate, and we recommend this be stated explicitly in S10.

**Recommendation 13: The Commissioner should also consult with nongovernment organisations, academic experts and research institutions**

- S10(f)
- Consult with relevant Commonwealth agencies, State and Territory bodies and other organisations.*

We recommend that this explicitly include nongovernment organisations, academic experts and research institutions.

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<sup>12</sup> Australian Research Alliance for Children and Youth (2010) *Towards advancing a policy and practice agenda that recognises and responds to children's holistic developmental needs in the early adolescent years*, [www.aracy.org.au](http://www.aracy.org.au), accessed January 2011

<sup>13</sup> Mission Australia (2010) *Mission Australia's Contribution to the Standing Committee on Legal and Constitutional Affairs' Inquiry into the Commonwealth Commissioner for Children and Young People Bill 2010*, p10

<sup>14</sup> Ibid

**Recommendation 14: Include a third point including nongovernment organisations, academic experts and research institutions**

S12 *Cooperation with other agencies*

We recommend a third point be added to explicitly include nongovernment organisations, academic experts and research institutions.

**Recommendation 15: The recruitment process should involve young people**

S13(2) *Appointment of the Commissioner*

We recommend that young people be involved in the recruitment and selection process of the Commissioner. This would further ensure young people's meaningful participation in decisions that directly affect them.

**Recommendation 16: The Commissioner should report directly to Parliament, as an independent officer of Parliament.**

We strongly agree with National Children's and Youth Law Centre and other key organisations that the Commissioner should report directly to parliament, as an independent officer of parliament. Furthermore, we agree that funding for the work undertaken by the Office should be 'structured in a way that does not place pressure on the Commissioner to satisfy the requirements of the Minister, but of the children and young people for whom and in whose interests they are supposed to act. The Minister should be required to present the Commissioner's reports to the United Nations or other international bodies without revision.'<sup>15</sup>

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<sup>15</sup> National Children's and Youth Law Centre et al. (2011) 'Inquiry into the Commonwealth Commissioner for Children and Young People Bill 2010', p4