

***The role of the
Commission for Children and Young People
in child protection***

Paper 1 of Symposium 2c
*Child protection is everybody's business – contributions from the Queensland
Commission for Children and Young People*

Paper presented
by

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The Role of the Commission for Children and Young People in Child Protection.

I am a 42 year old Aboriginal man. I was made a Ward of the State in 1964 and was sent to an orphanage in Central Queensland. The physical abuse I endured while there was executed with bull whips and various other instruments administered by orphanage staff...We were made to punch brick walls. If it was deemed that the punch wasn't hard enough, your arm was grabbed and you were given assistance. We were also made to eat soap, go without food or placed in solitary confinement in a cupboard or darkened room. I was sexually abused over a period of time... I've seen injustice in life's various social structures, injustices dished out by people of seemingly irrefutable reputations and qualifications. I don't trust any of them (Commission of Inquiry Into Abuse of Children in Queensland Institutions, 1999 p.251).

In the past few years, stories like this have shaken the beliefs held by many institutions in Western countries that they had been providing adequate care for vulnerable children. This particular extract is from the statement of a witness to the Commission of Inquiry into Abuse of Children in Queensland Institutions, held during 1998. This Commission reported its findings to the Queensland Government in June 1999. The report highlighted the need for major systemic change to the entire child protection sector in Queensland.

Around this time, media coverage of child sexual abuse and severe cases of child maltreatment created increased community concern about child welfare in the state. Through this painful, but necessary exploration of past practices and experiences, the question has been asked - how could this happen and how can we ensure it does not happen again?

Increasingly, there has been discussion in Australia and internationally of the role a dedicated Commission can play in promoting and protecting the rights, interests and wellbeing of children. For example, Lisa Payne (2002, p.285) in a policy review of Children's Commissioners published recently in *Children and Society* wrote:

A Commissioner is there to ensure that the existing systems which work with and for children operate to the highest possible standard ¹

In 1996, Queensland had been the first state in Australia to legislate for a Children's Commission. As a result of emerging community and government concern, the Queensland Government legislated for changes in its functions through the *Queensland Commission for Children and Young People Act 2000*. This legislation made the existing Commission one of the most multi-functional and empowered Children's Commissions in the world.

The vision of the Commission is

To promote and protect the rights, interests and wellbeing of all Queensland's children and young people, now and for the future.

This is the first of four papers to be delivered in this symposium, *Child Protection is Everybody's Business – Contributions from the Queensland Commission for Children*

¹ Payne, L. (2002) Children's Commissioners, *Children & Society*, vol. 16, pp.284-286

and Young People. It will provide a broad overview of the role of the Commission in protecting Queensland children and young people and promoting their welfare.

Principles of the Commission

The *Commission for Children and Young People Act 2000* (the Act) empowers the new Commission to promote and protect the rights, interests and wellbeing of all Queenslanders under 18. It specifically acknowledges the rights of children and young people and its principles embody aspects of the United Nation's Convention on the Rights of the Child.

The Commission's overarching principles acknowledge that:

- every child and young person is a valued member of society
- in decisions involving a child or young person, their best interests are the paramount concern, and their views and wishes should be taken into account with regard to their age and maturity
- every child and young person is entitled to:
 - have their dignity and privacy respected
 - be cared for in ways that protect them from harm and promote their wellbeing
 - express concerns and grievances and have them dealt with in a way that is fair, timely, and promotes their participation
 - receive information and help to exercise their entitlements, and
 - access services necessary to meet their needs, and
- the family has primary responsibility for a child's upbringing and development, and should be supported in that role.

The Commission is an independent statutory body attached to the Queensland Department of the Premier and Cabinet. The Commissioner meets regularly with the Director-General of this department and with the Premier of Queensland.

Functions of the Commission

The Commission's core functions and powers include:

- promoting laws, policies and practices which protect the rights, interests and wellbeing of children and young people
- administering a state-wide Community Visitor program to provide advocacy and support services to children and young people in youth detention centres, authorised mental health services and out-of-home residential care
- receiving, investigating and resolving complaints about the delivery of services to children and young people in care
- establishing youth and other expert advisory committees to advise the Commission about specific issues related to children and young people
- monitoring and reviewing laws, policies and practices relating to the delivery of services to children and young people or those which impact on them
- employment screening for certain categories of child-related employment, and

- conducting and coordinating research into issues impacting on children and young people.

The new Act is unique, as it provides the Commission with both ombudsman and advocacy functions. This does not occur anywhere else in Australia, positioning this state as a leader in the field of social investment and child protection, at a national and international level.

This paper will now give a brief overview of each of these functions, which will be discussed in more detail in the following papers.

Advocacy

The Commission's advocacy function is mandated by legislative provisions requiring it to:

- consult with children and young people in a way that promotes their participation in decision making by the Commission
- listen to, and seriously consider, the concerns, views and wishes of children and young people
- adopt work practices that ensure the Commission is accessible to children and young people and
- be sensitive to the ethnic or cultural identity and values of children and young people, including, in particular, Aboriginal and Torres Strait Islander children.

This role can be best defined by a quote from a New South Wales Standing Committee report² on 'Social Issues Inquiry into Children's Advocacy':

Advocacy for children is about systems and individuals recognising the rights and needs of all children and young people and responding to those rights and needs. It also involves allowing children and young people to have a say in decisions that are likely to affect them.

Children's advocacy is not about undermining the role of parents and families, nor is it about denying children the fact of childhood and their need for protection. It is about taking a proactive approach to ensure that all children have the opportunity to reach their full potential as human beings...

This classification of advocacy is a useful framework to illustrate the types of advocacy the Commission practices:

- Systemic advocacy

A major part of the Commission's role is to provide information to government departments and community agencies that deliver services to children and young people. For example, for some time the Commission has advocated systemically for investment in early childhood development by focusing attention on the economic logic of, and the research supporting, investing in the early years of life.

² New South Wales Standing Committee on 'Social Issues Inquiry into Children's Advocacy' Report No. 10, September 1996.

The Commission encourages service providers to develop mechanisms to enable children and young people to participate in decision-making and play an active advocacy role on working groups, committees and councils.

- Individual/representative advocacy

This occurs directly through the Commission's Community Visitor and Complaints and Investigations functions, which will be discussed at more length later.

Underpinning our advocacy role is a commitment to work practices that ensure the Commission is accessible to children and young people, and to be sensitive to their ethnic or cultural identity and values, particularly those of Aboriginal and Torres Strait Islander children.

- Parental advocacy

The Commission recognises that the family has primary responsibility for a child's upbringing and development and should be supported in that role. A very successful Focus on Fathering forum held in 2002 is an example of our proactive advocacy for the vital role of parenting.

- Self/peer advocacy

The Commission listens to and seriously considers the concerns, views and wishes of children and young people. We also promote and participate in child-friendly community activities and make strategic use of media opportunities on issues which impact on children and young people.

- Citizen/voluntary advocacy

Like many involved in the AIFS conference, the Commission's staff are actively involved in community services and groups. At a more formal level, an initiative introduced in the Year of the Volunteer gave staff the opportunity to do voluntary work for up to two weeks a year during working hours.

The Commission continues to consult with and listen to children across Queensland and has heard important messages through such forums as a series of workshops with refugee children and young people, working with Indigenous children and young people on Palm Island, Cape York and Gulf region, discussions with young people who access out-of-home care services across Queensland, and messages expressed through various children's activities organised in conjunction with the Commonwealth Heads of Government Meeting (CHOGM).

The core functions of the Community Visitor program and the Complaints and Investigation Unit also provide direct advocacy for individual children and young people.

Community Visitor Program

The Community Visitor program consists of locally based people across the State who provide advocacy and other support services to children and young people at "visitable sites". These sites include authorised mental health facilities, out-of-home residential facilities including those for children and young people with a disability and youth detention centres.

The Act provides Community Visitors with the necessary powers to enter and inspect visitable sites, talk to a child or young person who wishes to speak to the visitor and access documents held at the facility which relate to the residents or the operations of the facility.

The Community Visitors are required to respect the privacy of children and young people at these sites.

Complaints

Under its ombudsman function, the Commission receives, seeks to resolve and investigates complaints about services provided to children and young people who are under certain orders of, or subject to intervention by, the Department of Families.

This includes complaints about services provided to children and young people by government, as well as non-government organisations which receive government funding.

In seeking to resolve a complaint, the Commission for Children and Young People has a number of mechanisms available, including advocacy, mediation and formal investigation. The complaint handling provisions of the Act are designed to help children or young people access already-existing resources, and provide timely and appropriate services where no other appropriate entity is available to deal with the complaint.

Expert advisory committees

The Commission's ongoing role in promoting the participation of children and young people in decisions which affect them is met through membership on a wide range of local, state and federal government, non-government and community committees.

For example, the Commissioner's role as Expert Assistant Commissioner to the National Enquiry into Children in Immigration Detention Centres for the Human Rights and Equal Opportunity Commission highlighted the needs of refugee children and young people at a national level. At state level, forums were convened with service providers and their clients to discuss matters affecting the rights of refugee children and young people, including access to education, health services, accommodation and transport.

The Commission is also represented by invitation on various state Ministerial Advisory Councils to provide discrete advice on areas of government policy to senior government ministers. One such Advisory Council is the Queensland Child Protection Council which was established in 1999 as part of the reform of the child protection system. This Council provides leadership and policy advice to the Minister for Families on child protection matters and advocates for the safety and wellbeing of children and young people. The membership of this Council, including the Commissioner, is drawn from a range of sources, including community based agencies, professionals, advocacy groups and individuals. Members are appointed on the basis of their ability and capacity to provide expert advice on relevant areas of policy and their participation in relevant networks.

Monitoring and reviewing laws, policies and practices

Under the Act, the Commission is responsible for monitoring and reviewing laws, policies and practices impacting on children and young people to ensure that the rights, interests and wellbeing of children are addressed.

The Commission provides expert advice to government on economic, social, legal administrative and infrastructure issues by taking part in government and non-government working parties, committees and taskforces, submissions to parliamentary representatives, monitoring, analysing and advising on policy trends and innovations in services at local, state, national and international levels.

The Commission's policy position on issues of relevance to children and young people is widely disseminated to key stakeholders.

Employment screening for child-related employment

The Commission's role which has inevitably attracted much recent public interest and support is that of employment screening for certain categories of child-related

employment. The screening provisions require people seeking to work with children and young people in a paid or voluntary capacity or on a self-employed basis to undergo a criminal history check.

The new Act gives the Commission power to access a person's complete criminal history, including charges as well as convictions, regardless of when or where they occurred. The provisions are based on the premise that children and young people are entitled to be cared for in a way that protects them from harm or the likely risk of harm.

On this point, the Commission makes an effort to highlight the fact that a mandated criminal history check is only one component of an effective child protection strategy for child-related employment. Through community representations and the media, the Commission encourages organisations to have their own risk management strategies in place to protect children and young people from harm. These include adequate supervision of staff and/or volunteers, development of organisational policies and codes of conduct, referee and other probity checks. The Commission is currently developing a 'Working with Children Kit' to assist government and non-government organisations to create child and youth friendly environments.

Conducting and coordinating research

The *Commission for Children and Young People Act 2000* provides the impetus for the Commission to conduct comprehensive research into issues affecting the rights, interests and wellbeing of children.

The Commission's Research Unit analyses, coordinates, conducts and promotes research to inform decision-making and public debate on current issues. It also monitors research findings and emerging issues through readings, literature reviews and networking.

By conducting research grounded in evidence-based practice, the Commission contributes meaningfully to policies and practices which affect children and young people. The importance of taking an evidence-based approach to ensure the wellbeing of our children and young people can not be understated. Wherever possible, the views of children and young people are reflected in Commission research activities.

Promoting "child friendly" laws, policies and practices

As mentioned earlier, the Commission promotes child friendly laws, policies and practices. This is done through ongoing media coverage, representations to key stakeholders and the initiation of key projects which inform the development of policy and legislation. As an example, the Commission recently received state government approval to conduct a review of child labour laws, policy and practice in Queensland. This will involve comprehensive consultation with government agencies, unions, industries employing children, child rights organisations and the general community.

In addition, the 'Working with Children Kit' mentioned earlier will outline best practice policies and procedures for organisations working with children to help enhance safety in child-related employment. This is expected to be available by mid 2003.

The kit aims to promote work practices that protect children from harm, and will include specific advice on:

- creating a child friendly work environment
- what constitutes child abuse and other inappropriate conduct

- selection processes for choosing suitable people to work with children
- pre-employment checks, including criminal history and other background checks
- training, supervision and management of staff including volunteers, and
- appropriate ways to respond to allegations of abuse or other inappropriate conduct, and the establishment of systems to deal with these issues.

The kit will be designed for use by any organisation, institution or group working with children and training will be available through the Commission.

Looking forward

The Forde Inquiry of 1999 identified many and varied problems in the child protection and youth justice systems. The Queensland Ombudsman's 2002 report into the death of three-year-old Brooke Brennan, further identified a range of jurisdictional, procedural and resourcing issues which must be addressed in this state. The Commission supports persistent calls for increased funding in the area, believing they are justified.

On the other hand, initiatives underway at both the state and national provide cause for cautious optimism. At the national level, there is the Longitudinal Survey of Australia's Children - a project designed to gain a better understanding of Australia's children and their developmental pathways. The Commission has been coordinating Queensland's involvement in this project.

For the first time, there is also a Federal Minister for Children and Youth Affairs who is in the process of convening a high level, cross-portfolio Task Force to advise on developing a National Agenda for Children. Current calls for a National Children's Commissioner are also to be applauded.

At the state level, initiatives include:

- proposed legislative change increasing the powers of the Commission for Children and Young People to allow it to better monitor and investigate matters relating to vulnerable children and young people
- the *Putting Families First* initiative, which provides a framework for the development and implementation of strategies to improve services to Queensland families
- the development of formal internal complaints mechanisms in the Department of Families and Disability Services Queensland, and
- the establishment of the Child Protection Service System Improvement Project, which is looking at developing a child needs classification and assessment framework, a corresponding resourcing and response package, and a 'brokerage' service to match client needs with resources and responses.

Recognition of the many and varied achievements of the Queensland Commission for Children and Young People has seen a growth in its role. This year will see the expansion of the Community Visitor program and a review of Employment Screening.

Although there is still a long way to go, there is reason to be optimistic that the necessary commitment at both state and national level, will enable ongoing improvement in the way vulnerable children and young people, and indeed all children and young people, are supported.

It is pleasing to note that the Commission positions Queensland as a leader in promoting an awareness of the issues affecting its children and young people, providing them with an opportunity to be listened to, and protecting their rights.

As social commentator Hugh Mackay says:

Our children are like signposts to the future of our society; they tell us what we are becoming. But they are also our most precious resource for shaping the future, so we had better make sure we are nurturing them and support[ing] them to the limit of our capacity³

³ <http://www.chatabox.com.au/cfc/camp.htm>, 23.04.99