

Submission by the Children in Care Collective

Statutory review of the *Advocate for Children and Young People Act 2014*

The Children in Care Collective was formed in 2016 by a number of out-of-home care service providers, senior practitioners and academics in order to share information and work collaboratively and proactively on a range of issues for children and young people with complex needs living in out-of-home care. The voice of the young person is paramount in this forum. More information about the Collective can be found on its website at <http://childrenincarecollective.com.au/>

The Children in Care Collective (CCC) is supportive of the work of the Advocate for Children and Young People in New South Wales (the Advocate) and welcomes the opportunity to provide feedback on the review of the *Advocate for Children and Young People Act 2014* focusing on the ongoing validity of the policy objectives of the Act and whether the terms of the Act remain appropriate for securing these objectives.

Functions of the Advocate

The CCC submits that the role and functions of the Advocate are consistent with Article 12 of the United Nations Convention on the Rights of the Child and are an important element of compliance with this convention in New South Wales:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The Advocate provides an opportunity for children and young people in New South Wales to be consulted on matters affecting them, with their views being given due weight.

As a member of Australian and New Zealand Children's Commissioners and Guardians (ANZCCG), the Advocate is part of a broad regulatory and monitoring framework in Australia focused on promoting the rights of children and young people and ensuring their best interests are considered in the development of policies and programs. The CCC submits that it is useful and important to have separate offices in New South Wales, with the Advocate focusing on consultation with and participation by children and young people and the Children's Guardian ensuring the structural elements of safety and wellbeing of children and young people in organisations.

Essential to maintaining the independence of the Advocate in consulting with and presenting the views of children and young people is its status as an independent statutory office reporting to the NSW Parliament through the Parliamentary Joint Committee on Children and Young People.

The CCC believes the Youth Advisory Council plays an important role not only in advising the Advocate and government ministers on the planning and development of government policies and programs, but in providing children and young people with opportunities to develop skills suitable for advocacy and participation.

Policy objectives of the Act

The CCC considers the policy objectives of the Advocate remain valid and important, particularly the focus on systemic issues and giving priority to the interests and needs of vulnerable and disadvantaged children and young people.

It is clear that the Advocate consults widely on a range of matters of direct relevance to children and young people, makes recommendations to government where appropriate and reports on concerns raised by children and young people in its reports to government. The special inquiry function has been well used and the resulting reports provide valuable insights into children's views and concerns.

The CCC also notes the high-quality resources available on the Advocate's website aimed at informing children and young people about their rights and advising on ways to increase engagement and participation.

Of some concern to the CCC is the very limited information published on the response of government and non-government agencies to the insights and recommendations of the Advocate. The Advocate's annual reports include excellent information about the work that has been done, including the methodology of consultations and the range of young people consulted, but there is no information provided about the extent to which agencies have taken into account the views and concerns of those young people. It is noted that s32(2)(b) of the Act provides for the inclusion of 'an evaluation of the response of relevant authorities to the recommendations of the Advocate'. The absence of this information limits the opportunity to review whether the Advocate is achieving its policy goals.

In this context, the CCC looks forward to the tabling of the review of the *NSW Strategic Plan for Children and Young People 2016-2019* and the plan for the next five years. While it is clear that the Advocate was instrumental in the development of the current plan, it is not clear how the Advocate could be involved in its evaluation as the key indicators are way beyond the remit of that office, except perhaps consulting with children and young people about customer satisfaction with key government services.

Conclusion

The CCC considers the role and work of the Advocate for Children and Young People in New South Wales to be very important in giving voice to the views and concerns of children and young people. We submit that the *Advocate for Children and Young People Act 2014* is appropriate and relevant to the functions and policy objective of the Advocate. We would seek only additional reporting on the response of other agencies in order to demonstrate the value of the office and validate the purpose of consulting with children and young people.



Roderick Best
Chair, Children in Care Collective
11 March 2021

On behalf of the Children in Care Collective:

Allambi Care, Anglicare NSW South, NSW West and ACT, Anglicare Sydney, CareSouth, Key Assets, Life Without Barriers, Mackillop Family Services, Marist180, Settlement Services International, Australian Catholic University - Institute of Child Protection Studies, University of South Australia - Australian Centre for Child Protection