

No kids' commissioner better than "toothless tiger"

CANDICE KELLER | 26 NOVEMBER 2014



Minister Jennifer Rankine: the peak parents' body is concerned her Children's Commission legislation will create a "toothless tiger".

ADELAIDE | South Australia's peak parents' body is urging MPs not to create a "toothless tiger" by voting in favour of a Children's Commissioner without comprehensive investigative powers.

The South Australian Association of State Schools Organisations has written to every member of the Legislative Council arguing that no Children's Commissioner is better than the wrong model.

SAASSO, the body that represents state school governing councils and parents, says the introduction of an independent commissioner is long overdue yet it is critical the position is completely independent, has investigative powers and, in particular, can intervene in individual cases.

"A commissioner with limited powers, hamstrung from investigating individual cases - would have been relegated to author of yet another report, after the fact," president Gino Amato said in the letter.

"We understand the issue of the power of the Commissioner to investigate individual cases is a contentious one. But it is also a vital one.

"It would actually be preferable for there to be no Commissioner for Children in 2014, than the wrong commissioner - for at least then, the debate would continue.

"For the sake of our children, please do not create a 'toothless tiger'. Our children need a fierce advocate, empowered to stand up for any child in need."

Minister for Education and Child Development Jennifer Rankine tabled the Bill in September last year to introduce a Commissioner for Children.

However, it has been met with resistance from the Opposition which has fought for greater investigative powers for the commissioner, including the ability to step in in specific cases and penalise anyone who doesn't cooperate with investigations.

Rankine's office said it was open to discussion with any stakeholder about the scope of a future commissioner however it was steadfast on the issue of endorsing systemic investigations rather than individual inquiries.

"The comprehensive model we have put forward has the support of the National Children's Commissioner and allows the Commissioner to consider individual matters within a systemic review," Rankine said.

She said the Opposition's proposed amendments were "all about penalties" and would duplicate the role of existing authorities such as the Health and Community Services Complaints Commissioner and the Ombudsman.

A Children's Commissioner would be an independent body to handle complaints about children's welfare across all departments including education and families and communities. South Australia is the only Australian state yet to introduce a commissioner, though one was recommended by Dr Robyn Layton QC in her 2003 review of child protection.

"The State Government's model is in line with Justice Layton's recommendation and consistent with all other jurisdictions that either have wound back or are winding back the power to investigate individual complaints," Rankine said.

Opposition spokesman Stephen Wade said he was hopeful the parties would come to an agreement before Parliament finishes for the year - there are three sitting days remaining in December. He said the powers sought by the Liberal party were not over the top but rather "typical".

"(We want) the power to take evidence on oath ... and there is no penalty for misleading the Commissioner," he said.

Wade cited the case of the DeBelle Inquiry - a review about the reporting and management of a sexual assault at a western suburbs school conducted by former Supreme Court Justice Bruce DeBelle - in which Royal Commission powers were granted part-way through the investigation to compel parties to comply with questioning. Royal Commission powers include restricting government from stopping an investigation though it must adhere to strict terms of reference determined by government.

"(The Commissioner) needs to be able to look at more detail on individual cases," Wade said.

SAASSO is among several stakeholders calling for a strongly empowered commissioner, with support from the SA Law Society and the Australian Medical Association (SA).

Child protection expert, University of South Australia Emeritus Professor Freda Briggs, said the best possible outcome would be a combination of both Labor and Liberal proposals.

She said it was "outrageous" this issue had lingered for more than a decade.

"Obviously the commissioner has to have investigative powers and independence from governments to be effective," she said.

"It was reported that the commissioner would have to refer to police and the Ombudsman but that would render him/her helpless in cases that involve police; for example in inappropriate interviewing of child abuse victims."

Image: Nat Rogers/InDaily