



Child Commissioner

The concept of a Child Commissioner to coordinate state authorities in respect to children, and to keep under review our state's policies as they relate to children, is a respectable idea. There is, however, the risk that in practical terms all that will result is another layer of bureaucracy.

The other purported role of the Commissioner is to be an advocate for children. In this respect, the Commissioner may well be a "toothless tiger". The bill conveys no formal powers to investigate - the key to performing as an advocate. The Commissioner can 'inquire' and 'report', but they cannot act.

The president of South Australia's Law Society said of the Commissioner, "There is a fundamental difference between investigating issues for the purposes of providing a report ... and a direct, independent role of intervening, and influencing individual issues...."

The Commissioner will have no power to intervene. They may request information and make a report, and that is the limit of their authority.

The Commissioner can request information from a government department, but if that department refuses to hand over documents, all the Commissioner can do is tell on them - by reporting them to the Minister and Premier, or put it in their report. There are no consequences for failing to supply documents.

The bill fails to establish independence of the Commissioner. An advocate must be completely, inarguably independent of the government. This is particularly so for a child advocate, in light of the DeBelle Inquiry, which revealed "failure at every level of the education department".

The process for appointing the Commissioner is vague. There is no specified selection process and no performance review process. Ultimately, it is all up to the Minister to select, by whatever process they choose, review and reappoint.

The bill states that the Commissioner is independent from the Minister's direction ... unless the Minister consults with them first and then chooses to give them directions. The only part of the Commissioner's role that is truly independent of Ministerial control, is the content of reports the Commissioner writes.

Finally, there is the consequence of any inquiry by the Commissioner. All the Commissioner can do is send a report to the Minister. The Commissioner has no power to intervene in any child's case; they can only make recommendations to the Minister - who is not required to do anything. Provided the Minister eventually writes back and states why, they can ignore every recommendation and the case is closed.

This bill does not require anybody but the Commissioner and the Minister to know any details of the report, that a report exists, or that an incident has been 'investigated'.

Given the cover-up uncovered by the DeBelle Inquiry, a more transparent process is needed. Again, as the Law Society President, John White concluded, "The Act should provide true autonomy for the role, with the commission free to set and pursue its own agenda, and to publish its own reports with recommendations that are not subject to change by the government". This bill does not accomplish this.



Child Development Council

A Council to complement a Child Commissioner by developing an Outcomes Framework for Children and Young people and foster a coordinated approach to children and young people is laudable.

Unfortunately, this bill continues the practice of the Minister retaining complete control over the composition of boards. In the past, membership was stipulated in Acts; ensuring broad community involvement. This bill, gives the Minister of the day the power to stack the board with anyone they wish.

In the fallout from the DeBelle Inquiry, the Premier acknowledged that parents 'want to be part of designing measures' to protect their children. The Minister acknowledged the government 'needs to change the way it relates to parents'. Guaranteeing representation on councils such as these and requiring broad community involvement would be a good and appropriate start.

- The bill alludes to possible representatives from non-government organisations, but guarantees nothing.
- The process by which the Minister chooses members, is completely up to the Minister.
- In addition to choosing every member of the Council, the Minister also chooses the presiding member of the Council.

It is possible that this Council will completely exclude parents and members of the South Australian community and become another 'in-house' committee. A Council which supports a Commissioner with the role of advocating for children, could end up comprised of nothing but officers from the government the Commissioner should be independent of.

Like the Commissioner, the Council has no actual authority - and can only 'ask' for cooperation from state agencies.

Child Development Alliances

Community based alliances, to address children and young people's development issues at the local level is an excellent idea. They have the potential to better implement action plans and provide invaluable advice to the Child Development Council.

Again however, the decision to establish an alliance, the number of alliances established and all membership of such alliances is totally at the discretion of the Minister.

Summary

The proposed purpose of this bill is to create a framework to protect children in relation to government policies that affect them. It is also supposed to create an advocate for children. Given the DeBelle Report, the need for this is undeniable. However, all power is vested in the Minister of the day, who is under no obligation to open up any aspect of the Commissioner's, Council's or Alliance's operations to the community. All authority and influence could remain solely with government officers.