



Commissioner for Children and Young People
Western Australia

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Attention: Juliet Clapham
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Dear Ms Clapham

Review of the National Disability Advocacy Framework

As Acting Commissioner for Children and Young People in Western Australia I am pleased to provide a submission to the Review of the National Disability Advocacy Framework (the Framework).

Under the *Commissioner for Children and Young People Act 2006* (the Act) it is my role to advocate for the best interests of all children and young people under the age of 18 years in Western Australia and to promote and monitor their wellbeing. It is also a function of my office to promote the participation of children and young people in the making of decisions that affect their lives; monitor the way in which a government agency investigates or otherwise deals with a complaint made by a child or young person and promote public awareness and understanding of matters relating to the wellbeing of children and young people.

In undertaking my functions I must also give priority to Aboriginal and Torres Strait Islander children and young people and children and young people who are vulnerable or disadvantaged for any reason. In addition, I must have regard for the United Nations Convention on the Rights of the Child.

It is within the context of my role as an independent, statutory office and the functions outlined above that I provide the following comments, specifically with regard to how the review of the National Disability Advocacy Framework impacts on the wellbeing of children and young people.

United Nations Convention on the Rights of the Child

I note section (6) of the Framework, which states that the "implementation of the National Disability Advocacy Framework will be guided by the principles...of the *United Nations Convention on the Rights of Persons with Disabilities*". All people with disability, including children and young people, have the right to receive special care and support in order to achieve their full potential. These rights are enshrined not only in the

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United Nations Convention on the Rights of Persons with Disabilities but also the United Nations Convention on the Rights of the Child.

Children and young people have unique developmental needs as distinct from adults and should be recognised in a way that acknowledges this.

I note that the Convention on the Rights of the Child is listed in Attachment A (*Glossary, United Nations Treaties*) of the Framework, however I believe that in addition to the Convention on the Rights of Persons with Disabilities, the Framework should be guided by the Convention on the Rights of the Child. Where relevant, this should be articulated clearly throughout the Framework to ensure that the unique needs of children and young people are identified.

Participation of children and young people

Like all children and young people, those with disability have the right to be heard and participate meaningfully in their community and society more broadly. Advocacy is a crucial component of this; the importance of involving children and young people in decisions that affect their lives and supporting them to achieve their full potential cannot be underestimated.

In undertaking all my work I advocate strongly for the participation of children and young people and promote the engagement of decision makers with children and young people to hear their views and ideas about matters that concern them. This principle is also underpinned by the United Nations Convention on the Rights of the Child.¹

Children and young people with disability should be afforded this opportunity and are capable of forming views about decisions that impact their lives. While some face challenges specifically attributable to their disability, many barriers that prevent them achieving their full potential are imposed at a societal and environmental level, for example in community attitudes, government practices and policies, and health and education systems.² Addressing these barriers is fundamental to ensuring children and young people with disability are supported to participate equally in society.

In 2013 my office undertook a consultation with more than 200 children and young people with disability from a broad range of backgrounds. The report³ of that consultation highlights that overwhelmingly, children and young people with disability want the same things as those without disability. In many ways, their concerns, hopes and aspirations are the same as any young person navigating the transition from childhood, to adolescence and then into adulthood. Like most children and young people, they rely on the love and support of their family and friends, and want to feel safe in their communities. They want to be understood and accepted, and want adults to listen to them and take their views seriously.

¹ United Nations Convention on the Rights of the Child, accessed 30 June 2015, available <http://www.unicef.org.au/our-work/what-we-do>

² UNICEF (2013), *Take Us Seriously! Engaging Children with Disabilities in Decisions Affecting Their Lives*, p. 4.

³ Commissioner for Children and Young People (2013) *Speaking Out About Disability: The views of Western Australian children and young people with disability*, available www.ccp.wa.gov.au

I strongly encourage the consultation team to create meaningful opportunities to speak with children and young people with disability specifically about their health and wellbeing; their issues and concerns, and what plays a part in them receiving high-quality care.

My office has produced guidelines to assist organisations to undertake activities that encourage the participation of children and young people. The *Involving children and young people: Participation guidelines* are available to download from my website at www.ccp.wa.gov.au

Child and family-centred practice

I also note section (7), which states that “the Framework is underpinned by a person-centred approach whereby policies and programs are designed to respond to individual needs”. I note also that families and carers are taken into account in this regard.

To some extent a person-centred approach acknowledges that, as with adults, a child or young person’s needs are central to the services they receive. It is therefore similar to a child-centred approach. However a child-centred approach additionally emphasises that the developmental needs of children and young people should be taken into account in all programs and services for them.⁴

A family-centred approach to services for children and young people is more than ensuring their families are involved, but rather that the child or young person’s needs are considered in the context of their family and that issues affecting the family are considered and responded to. Services for the child or young person cannot be considered in isolation from their family.⁵ There is also a developmental component to this. As a young person matures and develops over time, the nature of family involvement will change.⁶

With this in mind, I urge the consultation team to consider articulating more clearly child and family-centred practice as a guiding principle in the framework. I believe this will translate to advocacy programs and services being tailored to better meet the needs of children and young people and their families. I believe also that this will strengthen section (8) of the Framework, which acknowledges that age is one of the contributing factors to experiencing additional disadvantage for people with disability.

Child-safe principles

Child-safe principles promote a culture where the safety, wellbeing and participation of children and young people are reflected in policies and day-to-day practices across all levels of an organisation. The principles of child-safety are particularly relevant for children and young people with disability, with evidence suggesting that they experience abuse and neglect at rates higher than their peers without disability. Evidence also suggests that children with communication impairments, behaviour

⁴ Institute of Child Protection Studies [nd], *Principles for Child Centred Practice – Summary*, Community Services Directorate, Australian Capital Territory Government, Canberra.

⁵ Child Wellbeing & Child Protection-NSW Interagency Guidelines, Principles of engagement, available <http://www.community.nsw.gov.au/kts/guidelines/engaging/principles.htm#being>

⁶ *ibid*

difficulties, intellectual disability and sensory disability may experience higher rates of abuse and neglect.⁷

My office has recently completed a project to support the development of child-friendly and child-safe organisations. In my consultation with children and young people about child-safety, those with disability highlighted in particular their concerns about the capacity of organisations to understand their special requirements and take their needs seriously. They were also concerned about their own capacity to participate in activities with their peers. Additional research findings and information about this project can be accessed via my website.

I believe some of the key understandings and developments in supporting child-safe organisations would be helpful to consider in the development of this Framework.

In broad terms, a child-safe organisation adopts a range of strategies to:

- promote a culture of prevention and reduce the likelihood of abuse or harm occurring (for example, through recruitment practices and screening)
- create environments where children and young people can speak up about things that make them uncomfortable (children know their rights and know who and how to report concerns)
- have policies and procedures that ensure staff respond appropriately to complaints or disclosures about abuse and neglect (staff training, clear reporting procedures).

According to the Australian Children's Commissioners and Guardians 2013 publication 'Principles for Child Safety in Organisations', child-safe organisations:

- take a preventative, proactive and participatory approach to child safety
- implement child safety policies and procedures which support ongoing assessment and management of risks
- value and empower children to participate in decisions which affect their lives
- foster a culture of openness that supports all people to safely disclose risks of harm to children
- respect diversity in cultures and child rearing practices while keeping child safety paramount
- provide written guidance on appropriate conduct and behaviour towards children
- engage only the most suitable people to work with children and have high quality staff and volunteer supervision, and professional development
- ensure children know who to talk with if they are worried or are feeling unsafe, and that they are comfortable to do so
- report suspected abuse, neglect or mistreatment promptly to the appropriate authorities
- share information appropriately and lawfully with other organisations where the safety and wellbeing of children is at risk
- value and communicate with families and carers.⁸

⁷ Children with Disability Australia (2012) *Enabling and Protecting: Issues Paper*, p. 10.

Applying child-safe principles to the Framework will promote a culture where the safety, wellbeing and participation of children and young people are reflected in policies and day-to-day practices at all levels within an organisation, articulating the importance of involving children and young people at all levels of practice and service delivery.

The Framework represents a valuable opportunity to articulate how disability advocacy promotes the principles of child-safety and I urge the consultation team to consider their inclusion in section (10) of the Framework, underpinning the way in which care and support is provided to children and young people with disability. It may also be useful to consider articulating these principles in section (12).

Complaints

Complaints are an important part of any system which provides advocacy, care and support to or otherwise deals with children and young people. An accessible and responsive complaints system is also central to a child-safe and friendly organisation. Given the increased vulnerability of children and young people, (particularly those with disability) within these systems, and the fact that children and young people themselves seldom make official complaints, it is crucial that complaints mechanisms are as child-friendly as possible.

Most complaints received by government agencies in relation to children are made on behalf of the child or young person by a parent or another adult. The reasons why children and young people may not report concerns about their treatment include:

- not believing their problem is big enough to warrant an 'official' complaint
- not understanding they are allowed to make a complaint or how to go about it
- concern about not being believed
- fear of getting into trouble or getting others into trouble
- embarrassment or shame
- worry about confidentiality and privacy
- fear of repercussions and that things will get worse (especially about bullying).

Promoting child-friendly complaints systems, in line with my statutory functions, is a priority area of work for my office. One of the ways in which I ensure complaints mechanisms are as child-friendly and accessible as possible is by working with agencies to improve their own systems, helping to address some the barriers that exist for children and young people. This includes providing seminars to promote child-friendly complaints systems and publishing good practice examples of complaints systems within other organisations. I have also produced guidelines on making complaints systems child friendly. *Are You Listening? - Guidelines for making complaints systems accessible and responsive to children and young people* is available for download on my website www.cyp.wa.gov.au.

A child-friendly complaints mechanism should be embedded within all systems providing advocacy, care and support to children and young people, and should also demonstrate a clear commitment to the principles of child-safety. Child friendly complaints mechanisms should be considered a priority output (section 13) that the Framework will contribute to.

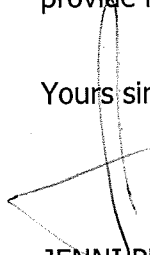
⁸ The Commissioner for Children and Young People (WA), accessed 22 April 2015 at www.cyp.wa.gov.au

In summary I provide the following key points for consideration by the consultation team:

- The implementation of the Framework should be guided not only by the Convention on the Rights of Persons with Disabilities but also the Convention on the Rights of the Child, as well as the National Disability Strategy and other relevant United Nations treaties as noted. This would duly acknowledge children and young people as a priority cohort in their own right.
- That, as part of this consultation process and on an on-going basis, children and young people with disability are given the opportunity to talk about their needs; their issues and concerns, and what plays a part in them receiving high-quality advocacy in order to overcome barriers to participation
- That the Framework is underpinned by a child and family-centred approach (section 7)
- That the principles of child-safety are acknowledged and prioritised as an outcome of advocacy that is provided under the Framework (section 12)
- Child friendly complaints mechanisms should be considered a priority output (section 13) that the Framework will contribute to.

I appreciate the opportunity to provide these comments and would be happy to provide further information as required.

Yours sincerely



JENNI PERKINS

A/Commissioner for Children and Young People WA

21 July 2015