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NAPCAN
PREVENTING CHILD ABUSE

**Submission to the Senate Inquiry on the Commonwealth Commissioner for
Children and Young People Bill 2010**

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Submitted by

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NAPCAN welcomes the opportunity to provide a Submission to the Senate's Legal and Constitutional Affairs Committee Inquiry into the Commonwealth Commissioner for Children and Young People Bill 2010. NAPCAN believes that the appointment of a national independent advocate for the needs, rights and views of children is long overdue.

About NAPCAN

NAPCAN is Australia's leading advocate for the prevention of child abuse and neglect. Founded in 1987, it is a national, independent, charitable organisation. Its mission is to prevent child abuse and neglect and to ensure the safety and wellbeing of every Australian child.

NAPCAN seeks to motivate and empower all adults to bring about the changes that will prevent child maltreatment by promoting the conduct and dissemination of sound research, informing public awareness and attitudes to children, advocating for changes in legislation and public policy that put the needs and rights of children first, and promoting programs and services which are effective in supporting vulnerable children and families, developing resilience in children and young people, and facilitating social inclusion and child friendly communities.

The United Nations Convention on the Rights of the Child, which Australia ratified in 1990, underpins NAPCAN's commitment to action.¹ The treaty requires the Australian Government to:

... take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.²

There are around 33,000 children annually who are the subject of confirmed child abuse. The out-of-home care statistics are just as shocking: 34,000 children are currently in care because home is not safe for them. NAPCAN believes that the only way to tackle the enormity of the problem is by investing in prevention. NAPCAN advocates for a National Child Abuse Prevention Strategy.

NAPCAN recommendation

NAPCAN supports the position of the Australian Human Rights Commission³ and Defence for Children International (DCI) on the role of a national Commissioner for Children and Young People ("Commissioner"), and makes a single recommendation:

¹ See <http://www2.ohchr.org/english/law/crc.htm>

² Article 19(1), Convention on the Rights of the Child

³ AHRC, *An Australian Children's Commissioner: discussion paper* (October 2010), available at http://www.hreoc.gov.au/human_rights/children/2010_commissioner_children.html

NAPCAN recommends that the functions of a Commissioner include educating the public about how to help prevent child abuse and neglect.

Commentary:

Australia needs a national Commissioner because:

While there are Children's Commissioners and Guardians set up in each of the states and territories, there is no-one dedicated to ensuring a comprehensive approach to protecting children's rights across Australia, or to advocating for the rights of children who fall through the gaps, such as children in immigration detention.⁴

While not advocating any winding back or removing of the state/territory children's commissioners' functions, NAPCAN sees merit in a national commissioner overseeing issues common to children across all jurisdictions, like mental health and homelessness. In addition, there are policy areas which fall under a Commonwealth head of power under s51 of the Constitution, such as immigration detention, the provision of family benefits and allowances⁵, family law⁶ and online child abuse images⁷.

NAPCAN concurs with Defence for Children International on what the functions and powers of a Commissioner should be⁸:

1. an exclusive focus on children under 18 years of age;
2. the ability to influence law, policy and practice proactively and reactively;
3. the ability to review children's access to, and the effectiveness of, all forms of advocacy and complaints systems (including the courts), and the power to initiate or support legal actions on behalf of children; and
4. the ability to conduct investigations and undertake or encourage research and promote awareness of rights among children and adults.

Under point 4 above, NAPCAN would like a Commissioner to have a human rights education function, which would include promoting awareness of how to prevent child abuse and neglect.⁹

The Bill includes the following functions of a Commissioner:

⁴ AHRC media release, "Anniversary calls for new national Children's Commissioner", 20 November 2009, available at

http://www.hreoc.gov.au/about/media/media_releases/2009/114_09.html

⁵ A NAPCAN position statement on the NTER is available here:

<http://www.napcan.org.au/images/uploads/pdf/5q5ql8c7a1gckw.pdf>

⁶ NAPCAN's position statement is available here:

<http://www.napcan.org.au/images/uploads/pdf/2c85ikqd6x96.pdf>

⁷ NAPCAN's position statement is available here:

<http://www.napcan.org.au/images/uploads/pdf/11kicue649jkcgs.pdf>

⁸ See <http://www.dci-au.org/html/section6.html>

⁹ Article 19 of the Convention on the Rights of the Child enshrines the child's right to protection "from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

“promoting the rights of all children and young people nationally, to meet Australia’s international obligations”¹⁰

and

“promoting public education programs about, and ensuring strong investment in, early childhood development”¹¹

NAPCAN believes that these functions must include public education about child abuse and neglect and how to prevent it. The COAG’s *Protecting Children is Everyone’s Business: National Framework for Protecting Australia’s Children 2009–2020*¹² includes the following outcome:

Educate and engage community about child abuse and neglect and strategies for protecting children

This an ongoing task that requires a sustained public awareness campaign over several years, targeted at the general adult public. Australians need to hear a simple message that everyone can understand, like the ‘slip, slop, slap’ sun protection campaign and the ‘click, clack, front’n’back’ seat belt advertisements we all remember so well.

A public education campaign is needed, not only to show people a range of things they can do if they suspect child abuse or neglect, but also how they can support families who are struggling - to stop abuse and neglect *before* it occurs. Parenting is hard and all parents will need help sometimes. To protect Australia’s children, we need to educate the entire community to make it okay to ask for - and offer - parenting assistance.¹³

Conclusion

NAPCAN thanks the Committee for the opportunity to contribute to the Inquiry.

NAPCAN also welcomes the opportunity to continue its engagement with the Committee to ensure the best interests of children remain at the forefront of policy.

¹⁰ s9(1)(b)

¹¹ s9(1)(f)

¹² Available at http://www.coag.gov.au/coag_meeting_outcomes/2009-04-30/docs/child_protection_framework.pdf

¹³ NAPCAN has made a start here, with tips for various sections of society on how they can help prevent child abuse: <http://www.napcan.org.au/campaigns/child-protection-week/what-can-i-do->