

The Hon John Rau MP



15/0985

12 October 2016

Mr Ross Womersley  
Chief Executive Officer  
South Australian Council of Social Service  
Marjorie Black House  
47 King William Road  
UNLEY SA 5061

Dear Mr <sup>Ross</sup> Womersley

**Government  
of South Australia**

Deputy Premier  
Attorney-General  
Minister for Justice Reform  
Minister for Planning  
Minister for Industrial Relations  
Minister for Child Protection  
Reform  
Minister for the Public Sector  
Minister for Consumer and  
Business Services  
Minister for the City of  
Adelaide

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Thank you for your letter of 10 October 2016, outlining the comments of the South Australian Council of Social Service, the Youth Affairs Coalition of SA, the Council for the Care of Children, the Child and Family Welfare association of SA, the Aboriginal Legal Rights Movement and the Guardian for Children and Young People on the Children and Young People (Oversight and Advocacy Bodies) Bill 2016.

As you are aware, the Children and Young People (Oversight and Advocacy Bodies) Bill 2016 (the Bill) establishes a Commissioner for Children and Young People and a Child Development Council, as well as continuing the important roles of the Guardian for Children and Young People, the Child Death and Serious Injury Review Committee and the Youth Advisory Committee

The government has accepted the recommendation of the Child Protection Systems Royal Commission to establish a Commissioner for Children and Young People. In this context, the Bill is forming part of the government's response to the Royal Commission. However, this is not this government's first attempt to improve development and wellbeing outcomes for all South Australian children and young people by means of appointing a Commissioner. We continue to advocate for the Commissioner's establishment, because we understand the difference it will make for all South Australian children.

The Government shares your concerns about the disproportionate representation of Aboriginal and Torres Strait Island children in the child protection system, and poorer outcomes these children experience across the board. At this stage, the Government does not intend to establish a second Children's Commissioner. However, we expect that the Commissioner for Children and Young People will be a tireless advocate for all South Australian children and in doing so will engage, consult, and plan with Aboriginal children, families and community.

The government is committed to ensuring that children and young people are involved in the appointment of a new Commissioner. Pending the passage of the legislation through the Parliament, the Premier has announced our intention to involve children and young people in the recruitment of the new Commissioner. This will be done in a manner consistent to the Council for the Care of Children's proposal in their submission to the Child Protection Systems Royal Commission<sup>1</sup>.

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<sup>1</sup> Council for the Care of Children. 'Step by Step... Involving children and young people in the recruitment of a Commissioner for Children and Young People in South Australia'. 20 May 2016

While the new Commissioner will be an advocate for all children and young people in South Australia, this government recognises that children and young people under the guardianship of the Minister have specific needs that require a targeted response. I strongly agree with the point you have made about the importance of the Guardian's independent role, and assure you that this government has no intention to change or water down any existing functions of the Guardian for Children and Young People.

The removal of the resourcing provisions in the legislation for the Office of the Guardian was absent from the initial Bill as it did not accord with modern drafting practices. However, in response to your feedback we will make amendments to carry over section 52b from the *Children's Protection Act 1993* into the Bill.

The Government will also consider recognising the Guardian as an inquiry agency in the Bill.

However, it is the view of the government that the Bill rightly establishes governance and oversight mechanisms for the work of the Guardian. The Guardian's important job involves working with and for our most vulnerable children – it is important that those functions are able to be reviewed if there is an issue. Far from undermining the Guardian's independence, the legislation provides the Commissioner with appropriate powers to allow for public confidence in the integrity of the Guardian's work in the occasion that it should ever be undermined.

As noted in your submission, clause 11(1)(e) of the Bill lists a function of the Commissioner to be assisting in ensuring that the State, as part of the Commonwealth, satisfies its international obligations in respect of children and young people. In response to your feedback we will further consider a more explicit reference to our international obligations in the Bill, in a manner more consistent with the previous Child Development and Wellbeing Bill 2014.

The Government will also consider the comments made regarding the potential for duplication between the role of the Commissioner and that of the Child Development Council, and legislating for a review of the Bill in two years' time.

This is a significant moment. Now more than ever child protection is everyone's business. The Government recognises that any systemic reform of child protection will only be successful if it is done in true partnership with the non-government sector.

Thank you for the tireless work you and your colleagues do to support South Australia's most vulnerable families and children, and for your invaluable feedback on this Bill.

Yours sincerely



**John Rau**  
Deputy Premier  
Minister for Child Protection Reform

cc Anne Bainbridge  
Executive Director  
Youth Affairs Coalition of SA

Amanda Shaw  
Guardian for Children and Young People  
Office of the Guardian for Children and Young People

Cheryl Axleby  
Chief Executive Officer  
Aboriginal Legal Rights Movement

Rob Martin  
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Child and Family Welfare Association SA

Simon Schrapel  
Chair  
Council for the Care of Children