



Queensland
Branch

*Submission to the Health and
Community Services Committee
Queensland Parliament*

*Re: Child Protection Reform Amendment Bill; the
Public Guardian Bill; and the Family and Child
Commission Bill*

Submission – April 2014

© Australian Association of Social Workers
National Office – Canberra
Level 4, 33-35 Ainslie Place
CANBERRA CITY ACT 2600

PO Box 4956
KINGSTON ACT 2604

T 02 6232 3900

F 02 6230 4399

E advocacy@asw.asn.au www.asw.asn.au

Queensland Branch Office details are available
on the back page of this submission

Enquiries regarding this submission can be directed to:

Karen Healy

AASW National President:

Email: K.Healy@uq.edu.au or

aaswqld@asw.asn.au

Table of Contents

Introduction.....	3
Background	3
Submissions regarding the Child Protection Reform Amendment Bill.....	3
• Section 13 E.....	3
• Section 13 F.....	3
• Section 13 H	3
• Section 246HA and 2466	3
Submissions regarding the Public Guardian Bill	4
• Chapter 3, Part 73	4
• Chapter 4, Section 108	4
Submissions the Family and Child Commission Bill	5
• Division 2, Part 9	5
• Subdivision 2, Section 18(b) and Section 22	5
Conclusion	5

Introduction

The Australian Association of Social Workers (AASW) welcomes the opportunity to make submissions regarding the Bills referred to above. Our responses in this written submission will be supplemented by oral submissions to the Committee in April 2014.

Background

The Australian Association of Social Workers (AASW) is the key professional body representing more than 7500 social workers throughout Australia. Social work is the profession committed to the pursuit of social justice, the enhancement of the quality of life, and the development of the full potential of each individual, group and community in society. Concern for the wellbeing of children, young people and families has been a core element of social work practice internationally since the development of social work as a distinct profession. Significant numbers of social workers work in the child and family wellbeing and protection field in a range of roles including direct case work, management and policy associated with out-of-home care. We are, therefore, pleased to provide the following submission to the Health and Community Services Committee regarding the three Bills currently before the Queensland Parliament.

Submissions regarding the Child Protection Reform Amendment Bill

- **Section 13 E**

The AASW is concerned that the reporting requirements outlined in section 13E(2) are insufficient to protect vulnerable children. The proposed amendments require that a potential notifier has *both* formed a view that a child is at risk of significant harm *and* also that the child “may not have a parent able and willing to protect the child from the harm.” We consider that a notifier may not be in a position to make a credible assessment of the care-giver’s capacity to protect a child and, therefore, that suspicion that a child is at risk of significant harm should be sufficient to require notification.

- **Section 13 F**

The AASW shares the concern raised by the Aboriginal and Torres Strait Islander Legal Service (ATSILS) in their submission regarding the importance of including foster and kinship carers as mandatory reporters under section 13F. We consider that foster and kinship carers have unique insights into circumstances where children are at risk and should be required to report any reasonable suspicions of risk of harm to children in their care.

- **Section 13 H**

The AASW is concerned also that section 13G(b) provides insufficient protection for children at risk of significant harm by requiring only that a person with mandatory notifying responsibilities “reasonably supposes” that the chief executive is aware of these concerns. We support the ATSILS position that the term “reasonably supposes” should be removed from this section of the Bill.

- **Section 246HA and 2466**

With respect to the appointment of Child Death Case Review Panels, we endorse the establishment of a pool of suitably qualified persons and the requirement that every review panel includes an Aboriginal and Torres Strait Islander person. In addition, the AASW considers that every child review panel should be multi-disciplinary and, in particular, that the social and organisational

contexts that have contributed to the adverse events are recognised and addressed. Our position is consistent with the findings of Commissioner Carmody who emphasised the need for the child protection authority to:

- a) *recognise and address the social circumstances of families who come to the attention of the child safety services, and*
- b) *to address failures in child protection services at both individual and organisational levels.*

Accordingly, we request that the section 246HH be amended to require that each review panel is multi-disciplinary and includes experts in the child's social circumstances and the organisational contexts relevant to a comprehensive review of individual and systems failures that may have contributed to adverse outcomes.

Submissions regarding the Public Guardian Bill

The AASW remains concerned about the incorporation of child support and child advocacy functions within the Office of the Public Guardian. In addition, we are concerned about the potential conflicts arising for the Public Guardian in exercising his/ her duties to advocate for vulnerable children and young people while the Office is located within the Department of the Attorney General.

- **Chapter 3, Part 73**

We are concerned about the capacity of the Office of the Public Guardian to manage the complex and different needs of vulnerable adults and vulnerable children. Given that the Family and Child Commission Bill proposes that the Commission will not be able to engage in individual advocacy, the capacity for the Public Guardian to engage in strong and independent advocacy for individual children and young people will become more important to safeguarding the human rights of vulnerable children and young people in Queensland. In particular, we are concerned about Chapter 3, 73 of the Public Guardian Bill with respect to the Public Guardian's ability to enact his/ her advocacy function in relation to other agencies housed within the Department of the Attorney General. In particular, we are concerned about the extent to which the Public Guardian will be able to fully exercise his/ her advocacy functions in relation to youth detention centres which share the same reporting lines to the Attorney General as the Public Guardian.

We ask that the legislation be amended to clarify reporting lines for the Public Guardian when exercising child support and advocacy functions in relation to departments and agencies which share its reporting lines. We ask that the Bill be amended so that independent reporting lines outside the Department of the Attorney General are required in circumstances where the Public Guardian's advocacy work involves children and young people receiving services that are provided through the Department of the Attorney General.

- **Chapter 4, Section 108**

We endorse the position of ATSILS regarding the need to amend the Bill to require the appointment of Aboriginal and Torres Strait Islander staff to community visitor and advocate roles. This requirement should be mandated to ensure that Aboriginal and Torres Strait Islander children who are over-represented in the child protection and youth justice systems have access to practitioners from their cultural communities.

Submissions the Family and Child Commission Bill

- **Division 2, Part 9**

The AASW expresses concern at the broad range of functions proposed to be exercised by the Family and Child Commission. These responsibilities include systemic advocacy, workforce planning, information and education, increasing sectoral collaboration and to develop and co-ordinate a multidisciplinary research program. The Commission will require high levels of resources to achieve these functions. Given the fiscal constraints facing government, the AASW raises concerns about how these different functions will be co-ordinated and prioritised within one body, and we seek clarification about what accountability mechanisms exist in the event that the Commission is not provided with the resources required to meet these functions.

- **Subdivision 2, Section 18(b) and Section 22**

The reporting requirements of the Family and Child Commission are unclear. The sections to which we refer (sections 18b and 22) identify that that the Commission will have certain responsibilities to the Minister including the responsibility to act under Ministerial Direction. The specific portfolio of the Minister is not specified. The AASW is concerned about potential conflicts of interests and lack of independence should the Commissioners be required to report to the Minister of any Departments for which the Commissioners hold monitoring responsibilities. Given the Commissioners have a clear mandate to engage in systemic analysis and monitoring, it is vital that they have reporting lines that enable them to exercise these functions independently.

We recommend that the Commissioners report to the Office of Premier, rather than to Ministers, to achieve the level of independence required for the Commission to function as an effective agency of review for the Child Protection Service System.

Conclusion

The AASW thanks the Health and Community Services Committee for this opportunity to provide a submission regarding three Bills that will greatly impact on the well-being and protection of vulnerable Queensland children, young people and their families. We look forward to the opportunity to further discuss our position on the Bills and to continuing to work towards improving our systems so that every child, young person and their family receives services they need to promote their protection and well-being.

Submitted for and on behalf of the Australian Association of Social workers Ltd



Professor Karen Healy
National President AASW



Dr Fotina Hardy
Queensland Branch President AASW



**Queensland
Branch**

T 07 3369 9818
F 07 3217 6938
E aaswqld@aasw.asn.au

Queensland Branch Office
17 Ross Street, Paddington QLD 4064

Postal Address
PO Box 1015, Milton QLD 2064

Incorporated in the ACT
ACN 008 576 010 / ABN 93 008 576 010