

Ms Joanne Howski  
Legislative Services  
Attorney General's Department  
[LLPSubmissions@agd.sa.gov.au](mailto:LLPSubmissions@agd.sa.gov.au)



25 January 2017

Marjorie Black House  
47 King William Road  
Unley SA 5061

P. 08 8305 4222  
F. 08 8272 9500  
E. [sacoss@sacoss.org.au](mailto:sacoss@sacoss.org.au)  
[www.sacoss.org.au](http://www.sacoss.org.au)

ABN 93 197 662 296

**RE: Children and Young People (Safety) Bill 2016**

Dear Ms Howski,

The South Australian Council of Social Service (SACOSS) is the peak body for the social and community services sector in SA. We provide a strong voice representing the interests of South Australians who face poverty and disadvantage. SACOSS has maintained a deep interest in issues of child safety and wellbeing for many years and has long advocated for an effective child protection system in South Australia.

SACOSS accepts that children, as vulnerable members of our society, must be supported to develop their full potential as contributing adults of the future. This is a social compact that most would share: that all South Australians have responsibility and we all hold a stake in children being safe. The problem with failures in our ability to provide opportunity and protection to our children, beyond individual suffering, is the significant flow on effects feeding other areas of social breakdown and disadvantage. This includes drug and alcohol abuse, domestic violence, criminality and poor engagement with the very systems that provide opportunity to escape generational poverty for example, education and employment.

An effective child welfare system should support families to thrive through measures that react meaningfully, flexibly and considerately to at-risk families and children and should seek to diminish the wider societal drivers of abuse and neglect. Where statutory intervention is necessary our child protection system should act swiftly to safeguard children from future harm.

SACOSS has many members engaged in delivering services to South Australians involved in the child protection system. We are aware of a number of submissions being made from relevant peak bodies, services and child and youth advocates. We consulted with a number of member groups and non-members who have an interest or stake in the field of child protection and family services and we have drawn upon this thinking in the development of this submission.

We have structured our submission around three key areas of concern raised in consultation with members and stakeholders. They are: child wellbeing and harm prevention, appropriate responses for Aboriginal children and young people and support for young people beyond the age of 18.

### **Prevention and early intervention**

SACOSS has been hopeful about the government's response to the Nyland Royal Commission and the tragic failure of our current system to prevent horrific cases of child abuse and neglect even where children were known by authorities. After the Royal Commission, Premier Weatherill said 'our response will continue a strong focus on early intervention and prevention'. However, despite the government's early comments regarding its reform agenda being focused on prevention and early intervention, this draft Bill is limited to focusing on the government's responsibility and actions once harm to a child has taken place. While we note that the Bill is but one in a suite of new legislation, we believe this Bill should provide a legislative underpinning for a broader responsibility in harm prevention.

Chapter 2 Guiding principles for the purposes of this Act, section 3(2) refers to the State's desire for all children 'to be safe from harm' and in section 4(a), 'it is the duty of every person in the State to safeguard the outcomes set out in section 3(2)'. However, there is very little in the Bill that provides for how we might achieve this. Without adding provisions for prevention, it might be more accurate to outline the duty of every person in the state as being to minimise harm, once harm occurs.

It is critical that child protection reform is focused on prevention. We must get better at strengthening the capacity of families who are struggling to care for children. This is the only way in which we can be sure to stem the flow of children into the system. We must make early investments so families can do better and so their family situations won't deteriorate to the point where children must be removed. Appropriate services should engage early with families. One trigger would be if a child is reported to the Child Abuse Report Line but where the risk is deemed low level. Under current conditions these low level notifications would not receive a response by tertiary child protection services. However this would be an appropriate time for support services to reach out to families.

- Include a Ministerial requirement to allocate, at a minimum, one quarter of all child protection expenditure for targeted child wellbeing and harm prevention measures.

### *Child and Family Assessment and Referral Networks*

SACOSS welcomed the November 2016 announcement of the Child and Family Assessment and Referral Networks (CFARNs) by the state government. We agree that in order for the trial to do well, the CFARNs must be a collaborative effort between the government and NGOs. We look forward to working with the government to make this key early intervention initiative a success.

The twelve month trial of the CFARNs will begin this year in three pilot sites with the networks providing referral for families who do not meet a statutory threshold for intervention to relevant services, for example: drug and alcohol treatment programs, mental health support, children's services, housing, health and education.

With the capacity to direct resources where they are needed, we believe the CFARNs have the potential to become an important frontline in ensuring appropriate early intervention for children and families whose needs are currently not met by our child protection system. Given the CFARNs primary function is to refer children and families to relevant services it would be necessary that part of the assessment relate to service availability and accessibility. Extra resourcing may be needed to ensure children and families are provided adequate supports as a priority. However it remains uncertain whether CFARNs will have the capacity to direct resources.

SACOSS questions the necessity of its inclusion in the Bill when the provisions are so weak. We are also concerned that including the CFARNs could limit other multi-agency responses that may be developed to address the harm of children.

- Chapter 4, Part 1, Ministerial discretion regarding the trialing of CFARNs should be removed from the Bill.
- Chapter 4, Part 1 should be explicit about the inclusion of NGOs as partners in the CFARNs.

### **Protecting Aboriginal children**

SACOSS notes the presence of the Aboriginal Placement Principle within the Bill and supports its inclusion. However, we believe the provisions within the current Children's Protection Act 1993 are stronger and we are concerned to see this weakened within the new Bill. We would in fact hope that references to the importance of cultural and kin connection should be strengthened within the Bill and not only at the time of placement assessment. The legislation is also silent on the role of the Aboriginal Family Support Service as a gazetted organisation.

- At a minimum, Chapter 2, Part 3, Section 10 of the Bill should be replaced with wording similar to and with the same strength as in section 5, Part One of the Preliminary statements in the Children's Protection Act 1993.
- Add to Chapter 2, Part 3, Section 10 reference to the role of a gazetted Aboriginal organisation to make culturally appropriate decisions for Aboriginal children and young people in care as was provided for in the Children's Protection Act 1993.

### **Support for young people leaving care**

Young people in out of home care (OOHC) are often ill-equipped to cope with an abrupt transition to independence at age 18, because of their individual experiences with biological families and then within the care system. They are at greater risk of poor outcomes for example, in housing, education, employment, criminal justice and in areas of physical and mental health.

Comparatively, their peers outside of the care system typically have better outcomes and have access to parental support and resources well into their mid-20s, usually during post-school education and training and their first experiences of employment. It is now typical for young adults to leave and return to the family home several times while they navigate study, employment and housing independence. But the state, as the effective parent, does not provide this important supportive environment for young people who have been removed from biological families because of inadequate parenting.

We believe that the Children and Young People (Safety) Bill 2016 is insufficient in its provisions included in Chapter 7, Part 8, 'Minister to arrange assistance to eligible care leavers'. We are however, supportive of the Bill's reference to the provision of support for individuals up to 26 years of age at section 5 (a).

SACOSS supports advocates, such as the Child and Family Welfare Association (CAFWA), who are calling for young people in care to be entitled to the same level of support up until the age of 21, that they would have received before turning 18. This would bolster the care for young people in the OOHC system in their preparation for independence, which could include supporting them while engaged in employment, education or training and would allow them to return to care after a period of independence where desired by the young person.

SACOSS believes support for this group in early adulthood is essential to align our standards of support with those provided for the general population through biological families and to ensure that this group of young people, who have already been subject to disadvantage, are provided with the same opportunities as other young people to study, train and work towards independence and wellbeing.

SACOSS does not think it is appropriate for young people to need to request assistance as written in the Bill and for this assistance to be discretionary. The legislation should set out a more clear entitlement for support and a responsibility for the state to offer such assistance. Young people approaching adulthood should be made aware of their entitlements and the forms of support that they can access.

- Redraft Chapter 7, Part 8 to direct the Minister to offer a minimum level of support after a young person in out of home care turns 18, creating a clear set of entitlements. Remove discretion and the necessity for a young person to request support.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ross Womersley', with a large, sweeping flourish at the end.

Ross Womersley  
Chief Executive Officer  
South Australian Council of Social Service