

child protection a fresh start.

The Children and Young People (Oversight and Advocacy Bodies) Bill 2016 aims to strengthen the oversight of child protection matters in South Australia, and ensure greater advocacy for the rights and wellbeing of children.

In accordance with recommendations from the Child Protection Systems Royal Commission, the Bill establishes the independent Commissioner for Children and Young People, in addition to the Child Development Council.

The Bill, which has been released for community and sector consultation, also consolidates the work of the Guardian for Children and Young People and the Child Death and Serious Injury Committee into a single Act of Parliament.

Why are we making changes?

This Bill is part of the State Government's ongoing commitment to child protection reform, where the welfare of the child comes first.

The proposed laws will address gaps in the oversight of child protection in South Australia and improve advocacy for the interests of children and young people. The Bill aims to ensure that the voices of children and young people are heard, and that their wellbeing and safety are comprehensively protected. The changes also address issues surrounding the monitoring, referral and review of child protection matters and system-level issues.

The reforms seek to implement recommendations 245-248 and 250-253 of the Child Protection Systems Royal Commission report, *The Life They Deserve*.

Commissioner for Children and Young People

Under the Bill, this new position will be responsible for promoting and advocating for the rights and interests of all children and young people in South Australia.

With the powers of a Royal Commission, the Commissioner for Children and Young People's role will

not be to investigate individual case complaints, but rather to inquire into systemic issues that impact child protection, and to publish reports on these issues. The Commissioner will have the discretion to choose which complaints will become the subject of an inquiry.

After completing an inquiry, the Commissioner will have, in certain cases, the capacity to recommend that State authorities change policies, procedures or practices, conduct educational programs or take other actions. If the State authority agrees with the recommendation, but does not take action to progress it, the Commissioner will be able to hold them to account through a report submitted to Parliament.

The Bill also requires the Commissioner to promote the participation of children and young people in the making of decisions that affect their lives. This will give children and young people more influence in matters that affect them.

Guardian for Children and Young People

The Bill proposes that the Guardian for Children and Young People will retain all of their current powers and functions. Their primary role will be to advocate for the interests of children who are under the guardianship of the Minister, particularly those with disability, a history of sexual abuse and those in residential or foster and kinship care.

The Guardian has responsibilities relating to individual cases, and will respond to concerns raised by children and young people in care, or by their advocates. They also have the power to launch inquiries into individual cases.



The Guardian will continue to monitor the circumstances of children in care, both at an individual and system level, and provide advice to the Minister on whether children's needs are being met.

An important part of the Guardian's role will be valuing the voice of young people and encouraging children who are affected by issues to express their own views. The Guardian will establish and maintain a Youth Advisory Committee, which will include children who have experience living in care. This Committee will ensure that the Guardian is aware of the experiences of children, and receives their advice.

Child Death and Serious Injury Review Committee

The Child Death and Serious Injury Review Committee, which has existed for over 20 years, will continue under the Bill. Up to 20 members may sit on the Review Committee, which will meet at least five times each year to review cases in which children die or are seriously injured.

The Review Committee will recommend legislative or administrative changes that may help prevent similar cases from occurring in the future, and will monitor the implementation of these recommendations. It will also maintain a database of cases, and will review cases that are suspected to be due to abuse or neglect, may have been prevented by a system-level change, or if the child was in care at the time.

Referral mechanisms

The Bill details a number of referral mechanisms, ensuring a thorough and transparent process. Under the Bill, the Guardian and the Review Committee can both refer matters to the Commissioner on a case-by-case basis. Furthermore, the Commissioner and Guardian may make a complaint to any relevant Ombudsman or to the Health and Community Services Complaints Commissioner on behalf of a child or group.

The Commissioner, the Guardian and the Review Committee will be required to escalate matters relating to professional misconduct, corruption or maladministration to the Office for Public Integrity or to the relevant regulator. They can also make a report to Parliament on matters of high importance to the safety and wellbeing of children.

Child Development Council

The Bill proposes the establishment of a new 12-person Child Development Council, which will replace the current Council for the Care of Children. The Council's role will be to prepare and maintain the Outcomes Framework for Children and Young People and advise Government on policy issues relating to the health, safety and development of children and young people, including:

- creating child safe environments
- ensuring that children and young people can realise their potential
- improving participation in sporting, creative, recreational and cultural activities
- improving participation in educational and vocational training
- maintaining cultural identity.

The draft bill includes penalties of up to \$10,000 for people who make false allegations to the Commissioner, the Guardian, the Review Committee or the Council, or to anyone who obstructs them in their duties.

A fresh start for child protection

Since the release of the Nyland Royal Commission Report, the State Government has committed \$200 million towards responding to the recommendations, many of which are already underway.

A full and detailed response to the Royal Commission's 260 recommendations will be presented before the end of the year.

Have your say

We are asking for your views on the Bill and the proposed changes to the oversight and advocacy of child protection in South Australia.

The consultation will remain open until 5pm Thursday 15 September 2016.

Provide your feedback via www.yourSAy.sa.gov.au

If you do not want the public to read your answer, please write 'confidential' on your submission. If someone asks for your answers through the Freedom of Information Act process, and if you have told us your answers are confidential, we will contact you and explain what is happening. However, even if your answers are confidential, we may still have to let someone read them if they ask for them through the Freedom of Information Act process.