



# USING OUR INFLUENCE EFFECTIVELY

## 1. INTRODUCTION

By virtue of its legislation, its name and reputation, and the activities of its staff, the NSW Commission for Children and Young People holds a position of influence in a field which is at the core of our common humanity – the support of our children during the most vital and vulnerable years of their lives. The nature of this influence, like the field itself, is not easily defined. Yet the Commission must act through influence: it has virtually no coercive powers, and would in any case see these as largely unsympathetic to its work.

There are 1.6 million people under 18 years of age in NSW whose experiences of life, and whose interests and aspirations, vary greatly. The lives of these children and young people are shaped by their relationships with family and peers, their experiences of child care services and schools, and their encounters with many other institutions and forces. No single body could hope to address all the issues that are of concern to so many. It is therefore imperative that the Commission uses its resources strategically. And most importantly, it must multiply its effect through the use of influence.

The legislation itself gives the Commission several functions in relation to influencing others. These are as follows:

- making recommendations about laws, practices and services
- conducting inquiries
- promoting and monitoring kids' safety, welfare and well-being
- promoting, monitoring and conducting
  - participation activities
  - dissemination of information
  - training
  - public awareness activities
  - research

The emphasis of the Commission is on sharing information, educating, supporting and modelling, and listening. It is a persuasive approach.

This paper has been prepared to stimulate thinking and discussion on how people can use their influence on behalf of children, using the Commission and similar children's advocates as examples.

## 2. ORGANISATIONAL PERSPECTIVES

A key part of the work of the NSW Commission for Children and Young People involves influencing other organisations. To do this, it must have a good understanding of those bodies and of their approach to children's issues.

Focussing on the different ways that organisations support children can provide useful insights. The next section gives a number of such examples from overseas organisations, and from the Commission itself and other Australian bodies. We've used examples that are broadly comparable with the Commission.

Organisations which address children's issues often emerge in response to apparent needs, and their structure and operations reflect the organisation's conception or "construct" of those needs. The basic constructs can be listed as follows:

- Category 1: Kids are dependent and therefore vulnerable to harm, so they need special protection
- Category 2: Kids have limited life experience, so they need specialist consumer protection services
- Category 3: Kids are particularly vulnerable to abuses of their rights, so they need specialist advocacy services
- Category 4: Kids as a class of people do not have status as "citizens", so they need advocates. Most parents are excellent advocates for their children as individuals, but are not skilled in dealing with issues common to children as a whole. So there's a need for institutional advocates concerned with children and young people's place in society

These four categories are not mutually exclusive: a given organisation can be active in relation to each perspective – the NSW Commission is one that is. Neither should one approach be put forward as the only 'correct' one. Each has a role to play in promoting and protecting the well-being of children. In the next section we look at organisations from throughout the world which fall into these four categories.

### Organisational Examples

The earliest children's commissions and similar bodies were established in Norway and Costa Rica by the mid-1980s. These were followed by others in northern Europe and in English-speaking industrialised nations. Over the past few years similar organisations have been set up in Southern and Eastern Europe, Central America, South America and Southern Asia. Children's ombudsmen are also widespread in some countries<sup>1</sup>. In Australia, commissions or commissioners exist in NSW, Queensland, Tasmania, Victoria, the ACT,

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<sup>1</sup> The number, type and location and of commissions and ombudsmen given in this paper were correct when it was written in 2003.

Western Australia and the Northern Territory.

### ***Children's ombudsmen – categories 1 and 2***

In some parts of the world the most common type of agency for children is the traditional ombudsman's office. These organisations operate on the assumptions of children that are outlined in category 1 and 2 above.

Ombudsmen investigate complaints made by or, more usually, on behalf of children and young people. Their scope varies: some, particularly in the USA, are restricted to helping kids in the Out of Home Care system; some extend beyond Out of Home Care services to other child welfare services; and some handle complaints about agencies of the relevant level of government. A few can investigate complaints about any services received by kids, whether from a government agency or not.

Ombudsmen are common in the USA and Canada, where about half the states or provinces have such a body. British Columbia, Oklahoma and Tennessee have organisations with both complaints and advocacy functions. Connecticut has two separate agencies: a complaints-handling ombudsman and an advocacy-oriented commission.

There are national-level children's ombudsmen in nine Central and South American countries, most located within a general ombudsman's office.

Where children's ombudsmen exist, they are found typically in jurisdictions whose network of complaints and 'watchdog' bodies is smaller in scope or size than in NSW.

### ***Children's rights advocates – category 3***

Europe is notable for a wide number of organisations which advocate on behalf of children and young people who are vulnerable to human rights' abuses. These bodies were in many cases set up as a formal part of the implementation of the United Nations Convention on the Rights of the Child. While there is usually one national commission, there are some differences on the continent. Austria has established a body in each state. Belgium has separate commissions for the French-speaking and Flemish-speaking communities. In Russia and Spain, commissions have been set up in ten and three states respectively. Spain also has a national Children's Ombudsman. Wales, Northern Ireland and the Republic of Ireland have offices of this type.

India has established a National Commission for The Protection of Child Rights and Pakistan has changed the role of its National Commission for Child Welfare and Development to include a children's rights advocacy function.

The European Network of Ombudspersons for Children has adopted a set of standards for independent human rights institutions for children (see appendix 1), including an optional set of standards for institutions that have a complaints-handling function. These standards, which are limited to human rights' issues, have a narrower range than the NSW Commission's brief. The NSW Commission currently meets or exceeds all the European standards, except

where they assume a national, rather than state, mandate. And the European optional complaints' standards are met or exceeded by the relevant complaints' bodies in NSW.

In 2002 the European Network convened a global meeting of independent human rights institutions for children, at which a list was compiled of the institutions' achievements (see appendix 2). These are achievements of national organisations with a narrower brief than the NSW Commission, but the list is a useful guide to the types of issues on which such bodies have exercised their influence.

Non-government organisations have established similar activities in China, Israel, Finland and parts of the city of Bangalore in India. They all appear to be effective in their advocacy work and to have achieved good results for kids, but without a legislative mandate for their role and independence they do not meet the European Network's standards. A similar non-government Commission operated in Greater London in the UK for three years until April, 2003 (which was before the establishment of the English Commission).

#### ***Children's citizenship promoters- category 4***

Organisations in this category have a relatively wide role. While in world terms they are less common than bodies belonging to the preceding categories, they are growing in number. Their wider role may include ombudsman and rights' advocate functions, and they are able to set their own agendas - a mandate which allows them to exercise influence on any issue of concern to children and young people and which is not restricted to services for any one governmental jurisdiction.

The earliest known example of this type of agency is the Tennessee Commission on Children and Youth, set up by that state's legislature in 1994. This Commission has a legislative mandate to:

- advocate for legislation, policies and programs to promote and protect the health, well-being and development of children and youth
- provide . . . for the exchange of information among those concerned about the needs and problems of children and to encourage mutual support and co-operation
- educate the community about the needs and problems of children by compiling information . . . and speaking at conferences and meetings
- make recommendations on the needs and problems of children and youth

The Tennessee Commission also employs the state's Ombudsman for Children and Families, reviews outcomes for children in care and co-ordinates regional efforts to enhance services. It recently assumed responsibility for administering funding programs for non-government juvenile justice services. It is not yet known whether or how the latter task will impact on the Commission's independence.

In Scotland, Northern Ireland and England, the Commissions are able to set their own agendas and to work on any matters of concern to kids. The Scottish

Commission, for example, has a mandate to work on rights and interests. All three, like the Commissions in NSW, Queensland, Western Australia, the ACT and New Zealand, are required to seek the views of kids on significant questions.

Following reviews of their legislation in recent years, the Queensland and New Zealand Commissions have had their roles expanded, allowing them to influence outcomes across a wider range of issues, notably the rights, interests and well-being of children.

### ***Other Models***

A few other organisations called commissions have been established in the US. The California Children and Families Commission and the Children's Commission in Jacksonville County, Florida, are planning and service-delivery agencies. The Oregon Commission for Children and Families and the Oklahoma Commission on Children and Youth oversee local interagency planning systems and promote best practice in service delivery through information and funding. The Oklahoma Commission also monitors that state's child protection system.

### **Performance Evaluations**

Surprisingly for agencies that are about monitoring, review and generating new knowledge, there appear to have been few formal evaluations of the performance of children's commissions and other such bodies. The only known reports available in English are those of the Norwegian and Swedish children's ombudsmen in 1993 and 1999 respectively. They are available at:

[www.barneombudet.no/html/english/modern\\_society.html](http://www.barneombudet.no/html/english/modern_society.html)  
[www.ombudsnet.org/Ombudsmen/Sweden/SwedenOmb.htm](http://www.ombudsnet.org/Ombudsmen/Sweden/SwedenOmb.htm)

The longest-established commission, in Norway, did not see its legislation amended as a result of that evaluation. But it is now listing its objectives in terms of promoting a higher priority for children and a higher visibility of children, improving public attitudes towards children and finding new solutions, in addition to its earlier aim of promoting full implementation of the Convention on the Rights of the Child. The Norwegian Ombudsman's Office is the subject of a further review in 2008.

The Swedish Children's Ombudsman's Office had been set up in 1993 as a children's rights advocate (as in category 3 above). The evaluation of the body recommended that:

- the role be broadened
- the Office's independence be strengthened
- the agenda be much more directed by children
- the Ombudsman consult more with children and work co-operatively with them
- the influencing role be enshrined in legislation

- the child safety co-ordination role be taken from the Ombudsman and moved to a government agency

Legislation to implement these proposals came into effect in Sweden in 2002. The Swedish Ombudsman's goals are now defined in terms such as increasing kids' opportunities to exercise influence in society, safeguarding their rights, promoting their welfare and ensuring their right to equal treatment. The legislation gives the Ombudsman power to require public organisations to provide documents and attend meetings about their implementation of the Convention on the Rights of the Child.

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It is important to emphasise that there is no right or wrong model for a commission or similar body. The appropriate form and modus operandi will depend on the social and organisational context of each jurisdiction. But one consideration should be central to all: the choice of model should reflect the needs and wishes of local children and young people. It is not clear, when we look around the world, that this is always the case. Nonetheless, many jurisdictions increasingly see kids as important participants in society. Their agendas encompass kids' priorities and they work to give children and young people more opportunity to exert their own influence on community life.

### 3. INFLUENCE

In thinking about how to use our influence with others, children's advocates need to know what sort of organisation is most influential and also how to maintain and extend influence. In this section we consider both these questions.

#### **Influential Organisations**

The literature indicates that organisations that influence others effectively (i) have a good reputation among people who know of them, and (ii) can quickly establish a credible image among those encountering them for the first time.

Reputation is developed and nurtured largely through the relationships an organisation has with others. For an organisation to have a good reputation, it should display, among other things:

- Understanding of itself and honesty about its agenda and its strengths and weaknesses
- Understanding of the context in which it works and the external forces operating on it
- Clarity about its goals and of the purpose of joint work
- Respect for the people and organisations with which it works, and for their agendas and constraints, and a willingness to listen to their stories
- Ability to deliver on commitments
- Capacity to admit mistakes, forgive others' mistakes and learn from both

- Consistency of approach, but with flexibility to work with others in new ways, and to share or relinquish control as appropriate
- Willingness to ask for help

The aspect of reputation that we call credibility can be enhanced by:

- Keeping in touch with stakeholders
- Having a sound and up to date knowledge base
- Being constructive and solution-oriented
- Being committed to evidence, and willing to change as new knowledge comes to hand
- Remaining independent from political, commercial, professional, industrial or sectoral interests, yet willing to work with these domains
- Maintaining good communication skills
- Having an appropriate corporate image and premises

### **Influencing Behaviour**

The literature tells us that influential people in our general field behave in similar ways in exerting influence. These ways include:

#### ***Being responsive and helpful***

- initiating, or replying promptly to, correspondence
- referring people to, or helping them access, other services or information
- “opening doors” or connecting people who don’t know each other

#### ***Being child-oriented***

- helping children and young people to develop knowledge and skills to create change, and supporting them through the process
- modelling good behaviour or practice
- using language carefully and sensitively
- using layout, colour and other design elements in publications carefully and sensitively

#### ***Shaping or changing other people’s agendas or priorities***

- through publications or public statements, helping people to replicate the behaviour or practice of other organisations
- preparing submissions
- joining or setting up committees – or leaving them or closing them down
- talking to the right people
- reporting positively or negatively about organisations, in parliament or elsewhere
- being prepared to make negative public statements about organisations where required
- providing comments or suggestions to other people or organisations
- helping adults to develop knowledge and skills to create change and provide opportunities to allow change

- negotiating consensus on issues
- having good networks, so we know when proposals are being developed and we can become involved early

***Developing and disseminating tools***

- developing tools for organisations to use
- providing technical assistance or tools to other people or organisations
- advertising and making accessible tools developed by other people

***Changing people's opinions and giving them new knowledge***

- producing and/or disseminating publications
- initiating, responding to or ignoring news/media items
- running media or other awareness campaigns
- undertaking research or inquiries, and disseminating results
- starting messages that will spread by word of mouth
- giving presentations/speeches at conferences etc.
- amplifying or dampening public debate on an issue
- providing opportunities for specific kids, parents or workers to develop particular knowledge or skills, or letting them know about opportunities provided by other people

## **4. RESOURCES**

The following websites provide some useful resources about using influence for children:

- <http://www.childadvocacy.com/> - providing news and resources to advocates for children who have been abused or neglected children.
- <http://www.ombudsnet.org/enoc/> - the European Network of Ombudspersons for Children
- <http://www.crin.org/> - the international Child Rights Information Network
- <http://www.unicef-irc.org/> - UNICEF's Innocenti Research Centre

## **European Network of Ombudspersons for Children**

### **Standards for independent human rights institutions for children**

These Standards are aspirational; not all ENOC member-institutions meet all of the Standards. But its members agree that parliaments and governments should be encouraged to review the status of existing institutions in the light of the Standards and to ensure that the design of new institutions conforms to the Standards and to the Convention on the Rights of the Child.

ENOC believes that in order to be effective in monitoring, promoting and protecting the human rights of children, a human rights institution must conform with the Paris Principles, the Convention on the Rights of the Child and the European Convention on Human Rights . . . The following is an unofficial summary of the key implications of the Principles, relating them, where appropriate, to children's human rights in particular.

### **Competence and responsibilities**

An independent institution set up to monitor, promote and protect the human rights of children must:

- be established by legislation
- have as broad a mandate as possible in relation to the monitoring, promotion and protection of children's human rights, based on the Convention on the Rights of the Child.
- have the right to provide and to publicise opinions, recommendations, proposals and reports on its own initiative or at the request of other authorities on any matter concerned with the promotion and protection of children's human rights, including:
  - legislative or administrative provisions and provisions relating to judicial organisation, intended to preserve and extend the protection of human rights. The institution will consider legislation etc. in force and proposed and when necessary recommend adoption of new legislation etc. or amendment
  - any violation of children's human rights which it decides to take up
  - preparation of reports on human rights in general, or on more specific matters
  - drawing the attention of the Government/Parliament to violations, making proposals for remedies and when necessary commenting on the position and reaction of Government/Parliament
- promote and ensure harmonisation of national legislation with the Convention on the Rights of the Child and all other international human rights instruments relevant to children's rights to which the state is a party, and promote their effective implementation
- encourage ratification of or accession to any such instruments
- contribute independently to the monitoring and reporting process under the Convention on the Rights of the Child.
- and other relevant instruments

- co-operate with the United Nations and with UN and other agencies, regional institutions and national institutions of other states competent in the promotion and protection of children's rights
- assist in formulating and executing programmes for the teaching of and research into human rights
- publicise human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, through information, education and making use of the media.

### **Composition, independence**

The institution must have adequate funding to enable it to have its own staff and premises in order to be independent of Government. It must not be subject to financial control which might affect its independence.

Arrangements for appointment of ombudspersons, commissioners and members of a commission must be established by an official act, setting out the duration of the mandate and any arrangements for renewal. The composition and methods of appointment of the institution must be appropriate to enable effective co-operation with, for example, appropriate non government organisations and professional organisations, universities, Parliament and Government departments.

### **Methods of operation**

The institution must be able to:

- freely consider any questions falling within its competence, whether submitted by Government or taken up on its own initiative
- hear any person and obtain any information and any documents necessary for assessing situations falling within its competence
- speak freely to the public, directly or through any media
- meet regularly and whenever necessary in the presence of all its members duly convened
- establish working groups and set up local or regional sections to assist it in discharging its functions
- maintain relationships with other bodies responsible for the promotion and protection of human rights including with a broad range of non-governmental organisations.

### **Hearing and considering complaints**

Some institutions will be authorised to hear and consider complaints from individuals or groups. If this is the case, additional principles are proposed to base such functions on. Without prejudice to the other principles, the institution may:

- seek an amicable settlement through conciliation, or through binding decision within limits prescribed by law; or, where necessary, on the basis of confidentiality
- inform the complainant of his rights and of available remedies and promote access to them

- hear complaints or transmit them to any other competent authority within the limits prescribed by the law
- make recommendations, in particular for changes in law, regulations and administrative practice which might have remedied the situation complained of.

## **Achievements Identified by Independent Human Rights Institutions for Children**

In a questionnaire circulated before the first global meeting, institutions were asked to identify examples of positive changes for children that would not have occurred or would have been less likely to have occurred without their involvement. This is a summary of the categories of changes identified:

- Initiating or proposing inquiries into particular policy areas or rights of particular groups of children
- Promoting child-sensitive legal reform, compliant with the Convention on the Rights of the Child. Institutions have proposed changes to improve laws in many sectors including tax and social security, health, education, welfare, accident prevention, sports, juvenile justice, family law, the media, etc.
- Acting as a channel to ensure children's views are heard by government at all levels; proposing structures for involvement of children in local government and promoting respect for children's views
- Increasing involvement of children in developing school policies and rules and upholding rights to freedom of expression in schools
- In conflict areas, ensuring that all authorities understand and respect children's rights
- Developing materials and programmes to increase awareness of children's rights among adults and children
- Training for key workers with/for children and for lawyers working on children's human rights
- Initiating "State of Children" reports for Parliament and Government
- Challenging violence to children – promoting prohibition of corporal punishment; developing anti-bullying policies and laws to challenge commercial sexual exploitation without victimising children
- Special focus on rights of minority groups of children and on challenging discrimination –refugee children, children in detention, children living or working on the streets, children with disabilities
- Challenging media violations of children's rights to privacy and to protection from harmful material
- Promotion of and support for child-led organisations
- Increasing child safety by promoting monitoring of accidents and accident prevention in the home, on the streets, etc.
- Promoting juvenile justice systems which comply with the Convention and UN rules and guidelines – challenging placement of children in prisons; intervening to prevent executions of juveniles for crimes committed before the age of 18
- Resisting public and political pressure to lower age of criminal responsibility
- Separating children from adults in mental health institutions
- Encouraging banks and other financial institutions to develop appropriate rules and policies for their relationships with children
- Improving provision and standards of school meals.