

26th June 2018

PO Box 1146
Adelaide, SA 5001
(08) 8226 3355

CommissionerCYP@sa.gov.au

Hon John Gardner
Minister for Education
Level 9
31 Flinders Street
Adelaide, SA 5000

Re: Education and Children Services Bill 2018

Dear Minister

As the Commissioner for Children and Young People my mandate is to listen to children in South Australia, protect their rights and interests and be an advocate on all issues affecting them.

Your introduction of The Education and Children Services Bill 2018 is timely, as the existing Education Act and The Children Services Act seems out of step with the broader expectations of society, with regard to the role of education in laying the foundations for future opportunities and positive life courses. I commend the efforts you are making to do this, particularly in respect to the attempt to incorporate early intervention processes to ensure children are given the supports to stay at school.

Through my work I continually engage with children and young people who tell me that learning and education is one of the most important things in their lives. It is clear that education helps them acquire skills and get a job. They believe there needs to be more investment in schools, to make "better schools" with more activities, music, fitness, school pets, etc.

Children and young people also have views, opinions and concerns regarding their schooling, particularly with how they are viewed within the education system. Children and young people have identified a number of areas that they believe schools and education could be improved, including their relationships with teachers, their engagement as co-deliverers of content, their active involvement in developing school rules around behaviour and their input into teachers' performance development. Some of the sentiments children and young people have conveyed to me include the following:

"I also think that our current education system needs some services up dating cause there are so many children suffering because of it! Also more support for teenagers with mental disorders such as anxiety, depression as a result of school and home life".

"Don't learn anything (about Australian Culture) from school, they teach you whatever you can write in a book, don't teach you what pathway is for you, or if depressed how to get up in life."

Children and young people want early interventions and want teachers to look at different teaching methods to ensure inclusivity. Our young people are very interested in contributing into the work of the Education Department, and a contemporary system should be seriously investigating and promoting ways to ensure children and young people are given more of a say in relation to their education.

This Bill currently before government provides a perfect opportunity to do so.

In light of this I would like to make a couple of suggestions to bring this Bill in-line with contemporary rights based practices.

Principals of the Act to include the Convention on the Rights of the Child (CRC) under s 7 of the Bill

I note that s7(4) of the Bill covers some rights contained in the CRC, but not the important Articles 12 and 13 which support children's right to be heard, including the right to be heard in any administrative proceedings and the right to an advocate. Including this provision will ensure that children's rights at schools are protected, that they have the right to have an education, are safe, will be heard and have the supports they need to get the best education. Sections 7(e) and (f) of the Bill should also specify involving children, as well as parents and stakeholders, as children are users and recipients of education under this Act.

Early intervention supports

I note that although you mentioned early intervention in your speech in Parliament it is not contained anywhere in the Bill. At the moment it is not clear what these supports are and whether any funding will be provided for these supports.

It would be helpful to clarify what types of early intervention supports are going to be included before anything goes to a family conference. This includes information on:

- the funding the government is committing to implement these supports
- whether they are new services or currently existing
- if they are existing services whether there is a change to their focus or methodology.

Family Conferencing is just one element of a complete package of support, and to be effective these conferences should be 'offered' as a problem solving exercise or as a restorative practice. Given the often strained and difficult relationships between families and schools, family conferences have the potential to drive a bigger wedge between family and education. For many families who are struggling day to day, they need to feel supported, encouraged and motivated to support their children to attend school.

I am aware of a fantastic example of early intervention in England where there is an organisation that actively supports children to get back to school if parents are unable to fully support them. [School Home Support](#) has a programme that supports "troubled families", both emotionally and financially, so that they get their child to school. So far they have worked with 10,000 children and families and have had some startling [results](#). Results include 73% of persistent absentees improving their attendance and 75% of parents becoming more engaged with their children's learning.

Advocates for children going through Family Conferencing (section 71)

I note that when children are required to undertake a family conference that they are allowed a support person, but this person can only be included if **in the opinion of the coordinator, [they] would be of assistance in that role**. Potentially, this could mean that the coordinator could disallow any support person for that child.

This appears to be contrary to the principals of procedural fairness and appears to discriminate this cohort on the grounds of their age. If adults in their education places were required to go to a conference

to address disciplinary measures they would be allowed an advocate. But there appears to be a different measure for children and young people even though they are the most vulnerable in our society and require stronger protections.

Lack of an independent appeal mechanism for children that have been expelled, excluded or suspended

The lack of an independent appeal mechanism for children and families who have been expelled, excluded or suspended from school should be reviewed.

As countless commissions and inquiries into a vast range of institutions, governments and companies has shown, access to independent mechanisms of review and monitoring and access to “thought” diversity in institutions is a critical way of improving governance arrangements, and reduces opportunities for abuse of power. In order for clients/consumers/patients/residents of institutions to be at the centre of decision making and the focus of services, these institutions need to be open and transparent and allow independent oversight. In areas where services are being denied such as in the cases of expulsion, exclusion and suspension from education, parents and children should be able to access independent support, and appeal decisions to an independent advocacy body.

In the UK many schools have started to incorporate a child rights based approach to how the school operates; this includes children and educators knowing their rights, active participation by children on boards and feedback to educators. This has resulted in children not only knowing their rights, but taking responsibility and supporting other children to enjoy those rights. This is seen as both an empowerment approach and an anti-bullying strategy. These approaches are innovative ways the South Australian government could include so that our children and young people are partners in education.

This would more accurately reflect contemporary practices.

I am happy to support you in working on increased independent monitoring of the education system and would welcome future conversations with you.

Yours sincerely



Helen Connolly

Commissioner for Children and Young People

