



PeakCare  
Queensland Inc.

Submission to the

National Children's Commissioner  
Australian Human Rights Commission

*Australia's progress in implementing  
obligations to children under international law*

23 May 2018

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## Part One: INTRODUCTION

The Australian Government reports on its progress to the United Nations Committee on the Rights of the Child every five years. In March 2018, the National Children's Commissioner, Ms Megan Mitchell, invited individuals and organisations to make submissions about how Australia is progressing or not progressing in terms of meeting obligations to children under international law.

Ms Mitchell has stated that the submissions will be used to inform her Children's Rights Report to the Australian Parliament by 1 November 2018 and in the Australian Human Rights Commission's (AHRC) report to the United Nations Committee on the Rights of the Child.

Submissions were welcomed in relation to the Convention on the Rights of the Child (CROC) and its optional protocols on the sale of children, child prostitution and child pornography, and the involvement of children in armed conflict.

PeakCare Qld Incorporated (PeakCare) welcomes the opportunity to make a submission.

## Part Two: ABOUT PEAKCARE AND THIS SUBMISSION

PeakCare is a peak body for child and family services in Queensland. Across Queensland, PeakCare has 54 members. These organisations are a mix of small, medium and large, local and statewide non-government organisations that provide prevention and early intervention, and generic, targeted and intensive family support to children, young people, adults and families. Members also provide child protection and out-of-home care services (e.g. foster care, kinship care, residential care) to children and young people who are at risk of entry to or who are in Queensland's statutory child protection system, and their families. PeakCare's membership also includes a network of 25 individual members and other entities supportive of PeakCare's vision of 'Safe and well children. Safe and well families.'

PeakCare was established in 1999 having evolved from the Child and Family Welfare Association of Queensland and prior to that, the Board of Governing Authorities for residential care.



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### Part Three:

## FEEDBACK ABOUT AUSTRALIA'S PROGRESS IN IMPLEMENTING OBLIGATIONS TO CHILDREN UNDER INTERNATIONAL LAW

Our interest in Australia's report on progress in implementing child rights in Australia crosses the clusters of rights, notwithstanding the centrality of the cluster 'Family environment and alternative care'. Children subject to statutory child protection intervention have broad ranging rights under state and territory laws, based on the CROC, yet these rights are often not met because of under-resourcing of government and non-government agencies, inadequate monitoring and review, and poor practice. The number and nature of public inquiries conducted by governments and other statutory agencies into the 'child protection system' or aspects of the child protection system (eg. sexual abuse of children in care, foster care, residential care) and reviews into the deaths of children known to a child protection system are clear indication of systemic concerns about the daily care of and poorer life outcomes for children and young people while in care and after care.

Three examples are given below to illustrate that Australian governments have not fully committed to calls for change that *would* enable children's rights for some of the most marginalised and disadvantaged children in Australia. These are the national Family Matters campaign, the *National Framework for Protecting Australia's Children 2009 - 2020*, and the announcement by the Queensland Government to introduce a human rights act.

### Family Matters

As the AHRC knows, Aboriginal and Torres Strait Islander children and families are over-represented in statutory child protection systems and under-represented in services and systems that support child and family wellbeing, improve family functioning through intervening early before concerns escalate, and prevent unnecessary entry to more intensive service systems. [Family Matters. Strong Communities. Strong Culture. Stronger Children](#) is a national campaign focused on addressing the over-representation of Aboriginal and Torres Strait Islander children in child protection systems across Australia by 2040. May 26<sup>th</sup> 2017 marked the 20<sup>th</sup> anniversary of the release of *Bringing Them Home*, the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families. The anniversary was another reminder that the recommendations from that landmark Inquiry (and others such as the AHRC Royal Commission into Aboriginal Deaths in Custody) have not been fully implemented, contributing to the ongoing over-representation of Aboriginal and Torres Strait Islander children in child protection and youth justice systems.

PeakCare is an active campaign partner and a Gold-level Sponsor of the Family Matters campaign. A commitment in the third action plan under the *National Framework for Protecting Australia's Children* is for states and territories to implement all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle: prevention, participation, partnership, placement and connection. As the Family Matters Report 2017 stated, this has not fully eventuated in states and territories. Every element of the principle is fundamental to enabling Aboriginal and Torres Strait Islander children's rights. Family Matters also calls for the appointment of a national Aboriginal and



Torres Strait Islander children's commissioner, which has not occurred, and Aboriginal and Torres Strait Islander children's commissioners in each state and territory. Only two jurisdictions – Queensland and Victoria – have appointed Aboriginal and Torres Strait Islander children's commissioners.

### ***National Framework for Protecting Australia's Children 2009 - 2020***

PeakCare is a member of the National Coalition on Child Safety and Wellbeing established in 2007. The Coalition comprises of over 200 non-government agencies. It advocated for and now works to support the implementation of the *National Framework for Protecting Australia's Children*.

The National Framework and related *National Standards for Out-of-Home Care* have sets of indicators, many of which are still not reported on or not reported on by all states and territories. Examples include indicators about the participation of age-eligible children in early childhood education and care, an initial health check within a specified time of entering care, and completion of year 10 and year 12 or equivalent. These and other indicators are a nationally agreed means of measuring whether children receive the quality of care to which they are entitled and can access their rights, consistent with the CROC.

In relation to the fourth and final action plan under the National Framework, the recent Australian budget did not announce funding for the action plan, a core mechanism in the development of nationally consistent approaches to protecting children.

### **Queensland government's announcement about a human rights act**

Following a parliamentary inquiry into the possibility of human rights legislation, the Queensland government announced in early 2018 that it would work with stakeholders and across government to finalise the development of a bill for consideration in the term of the current parliament. The act is expected to be modelled on the 2006 Victorian Charter of Human Rights and Responsibilities Act. In submissions to the 2016 parliamentary inquiry, many, including PeakCare, argued in support of the benefits that a human rights act would bring to further enshrining and protecting children's rights in Queensland.

## **Part Four: CONCLUSION**

The rights of all children in Australia should be protected and advanced. This submission has focused on three core mechanisms that could or are expected to demonstrate that Australia is meeting its international obligations to children. Through our participation in campaigns, awareness raising and advocacy, we urge the Australian government to do more about the state of children's rights in Australia.

PeakCare appreciates the opportunity to make this submission.



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