

## Background

Under current legislation the Children's Commissioner can only investigate complaints relating to the care of protected children (children in the care of the CEO) or the implementation of recommendations arising from the Protection of Aboriginal Children from Sexual Abuse Report.

The Children's Commissioner does not have any 'own motion' investigation powers under the current Act.

The Country Liberals will amend the Care and Protection of Children Act to give the Children's Commissioner the independence and powers needed to protect Territory Children.

A Country Liberals Government will:

- Enact a Children's Commissioner Act to give the Commissioner independence and powers necessary to protect the interests of Territory Children;
- Appoint the Children's Commissioner on the same terms as that of the Ombudsman;
- Expand the scope of the Children's Commissioner's functions to enable the Commissioner to investigate matters on 'own motion' and be provided with coercive powers of investigation;
- Give the Commissioner the power to make recommendations about changes to the Territory's child protection system. The Government will be required to consider all recommendations and respond to them within a specified timeframe; and
- Expand the scope of the Children's Commissioner's functions to include children who have been reported as victims of child abuse to either FaCS or the NT Police and the handling of those complaints by these agencies without the pre-requisite of that child having 'protected' status. The purpose of these expanded powers is to allow a complainant recourse in the event they are not satisfied with the handling of a complaint that has been made to FaCS (the CEO for the purpose of the Act) or the NT Police. As part of this function the Commissioner is to have the power to investigate the circumstances of alleged child abuse that was reported to FaCS or the NT Police as well as the handling of the complaint.

The purpose of these expanded powers is to strengthen the co-operation between these two bodies to better carry out their roles and the objects of the Act.

The budget of the Children's Commissioner will be increased commensurate with the increase in powers.

### **Expanding the Role for disclosure in Child Protection**

Too often Child Protection workers are denied a voice to speak out about the problems and obstacles to improving the welfare of children in state care.

There have been a number of cases brought to light recently regarding the state of operation of child protection services in the Northern Territory. Unfortunately these cases only came to light when a small group of brave child protection and social workers decided to highlight deep systemic failures within the child protection system.

In response to the glaring deficiencies, the Labor Government undertook a witchhunt of child protection and social workers who dared to raise their concerns in the media about the systemic failures of the system.

The Country Liberals believe that the days of witchhunts and 'cover ups' must end. Workers on the front line of child protection must be empowered to speak out when Government or senior management fail to listen.

It is with this in mind that the Country Liberals propose a revision of the avenues available to whistleblowers under the Public Interest Disclosure Act. This subsequently includes greater and mirroring roles for the Auditor General, the Ombudsman, the Children's Commissioner, the Health and Community Services Complaints Commissioner and the Commissioner for Public Interest Disclosures.

We will expand the *Public Interest Disclosure Act* to incorporate protections for persons who report maladministration to the Ombudsman and also specifically in the two areas of the Children's Commissioner and the Health and Community Services Complaints Commissioner.

We believe that real action in regard to child protection can only come from enshrining the ability for concerned workers and service providers (eg Non-Government organisations) to go public with cases of maladministration in the child protection area.

We will implement a reporting structure that allows a person to be protected from any adverse consequence if they inform the media, police or a member of Parliament of any situation where a child is in immediate danger of physical harm or where the level of care and protection, both in the family situation and by administering public servants, is in breach of the policies of the Department.

It is important that to be covered by this provision that any person (within or attached to the child protection system) who may chose to use this path must have already advised the responsible child protection agency and the Children's Commissioner of a child in danger. If no action is forthcoming, the protections of the Public Disclosure Act will apply.

In developing the above investigative structure, and specifically to address the issue of Child Protection, we expect that the new reference and disclosure powers would be available to public servants and contractors or employees in the Child Protection and, where a situation is advised, the Children's Commissioners would be able to call on expanded self initiating investigation powers which are currently before Parliament.

It is important to note that this special provision is being put in place because the normal processes for Whistleblowers can take months if not years and with kids in danger, such special provisions we believe are warranted.

## **Addressing Transparency and Public Accountability**

Accountability of the child protection system is critical to public confidence that children in care are being properly cared for and protected from harm. It also ensures that the Government of the day is complying with its statutory obligations.

The Coroner's report into the death of a 12 year old girl in Palmerston identified that the Department of Families and Children had not been meeting their statutory obligations. That is, the Henderson Labor Government had been breaching the laws of the Northern Territory in relation to the protection of children in care. Sadly there is no legal penalty and it will be up to the voting public at the next Territory election to hold the Government to account.

It is not good enough that systemic acts of non-compliance with Child Protection laws by the Government only comes to light on an ad-hoc basis.

It also isn't good enough that the public's capacity to judge whether Territory children are receiving the care and protection they deserve is limited to a very small number of performance indicators released once a year in the Department of Health and Families Annual Report. In a recent Victorian Ombudsman report into the Victorian Child Protection system, the Victorian Ombudsman noted the need for "informative measures of the department's capacity to provide an appropriate and expected level of service to vulnerable children and young people.

A Country Liberals Government will increase the accountability and transparency of the Department by:

- Requiring the Department to report in relation to its compliance with statutory obligations and internal practice standards;
- Extend performance indicators to include case worker loads, processing and assessment of carer and kinship carer applications and other appropriate measures; and.
- Provide more detail about the performance on a region by region basis.

The Country Liberals believe that annual reporting of performance in the Annual Report of the Department is insufficient. The public wants and deserves more regular reports about the care and protection of children. We will therefore require the Minister to table six monthly service and performance reports to the Parliament.

## **Ministerial accountability**

There is no ministerial accountability for the care and protection of children in the Northern Territory. For 9 years and across five Ministers, we have seen successive crises within the Child Protection system.

No Ministerial accountability means no adequate and effective voice for our most vulnerable. Our children deserve better.

The Country Liberals will increase ministerial accountability to the Territory public by:

- Establish a separate Department of Child Protection.
- Appoint a Minister for Children whose portfolios will solely relate to children's issues
- Reversing changes to the Care and Protection Act and reinstating the Minister as responsible for children taken into care;
- Require the Minister for Children to provide the CEO of the Department with an annual Charter letter setting out the Government's agenda for Child protection for the year including specific issues that must be addressed. The Minister will be required to table the letter in Parliament within 5 sitting days.
- Require the Minister to report to the Parliament on his performance in meeting his statutory obligations on a six monthly basis. The Minister will also be required to make a Ministerial Statement following the release of the six monthly reports and specifically address any areas where he is failing meet his statutory obligations.

## **Resourcing**

The Coroner identified significant deficiencies in the child protection system as a result of lack of resourcing.

The Country Liberals commit to an immediate additional injection of \$9 million into the new Department of Child Protection. More funds will be made available in line with what is recommended out of the two current inquiries, the previous Bath inquiry and changes brought about due to our own substantive review of the Act. Monies for the Children's Commissioner are separate to these monies.