Dear Director-General

I write in response to your letter of 13 July 2011, inviting the Commission for Children and Young People (the CCYP) to participate in a process of formal government consultation to inform the establishment of a Mental Health Commission in NSW.

The CCYP appreciates the opportunity to be involved in this process, and notes that a representative from our agency attended the Sydney consultation forum referred to in this correspondence. The Commission also wishes to take up the option of providing formal advice in the areas requested, as set out below.

1. Programs and services provided by CCYP

The Department requests a description of the programs and services the CCYP provides in relation to mental health. The Commission does not provide direct mental health programs or services to children.

The agency’s main areas of work involve increasing the participation of children and young people in decision-making that affects their lives, strengthening the important relationships in the lives of children and young people and improving their well-being by promoting their safety and welfare. The Commission does this in a range of ways, including having input into laws and policies that affect children and young people, undertaking and publishing research and producing publications and resources on issues of relevance to children and young people. The Commission also works to build child-safe child-friendly organisations, monitors the Working with Children Check and administers the Child Sex Offender Counsellor Accreditation Scheme.

As part of this portfolio of work the health and mental needs of children and young people continues to be a prevalent theme. Current examples of our work that relates to the mental health of children include:

- Leading work in NSW on the middle years of childhood. As part of this, the CCYP is producing a seminar series on the middle years of childhood. Seminar 2 in the series taking place on 23 August will focus on the social and emotional development of children in the middle years. As part of this Seminar, the CCYP is working with a small number of children who are keeping a 5-day audio diary on what they think, feel and hope and will share some of these experiences with the audience.
- Leading work in NSW to support the development of built environments that support the health and well-being of children and young people.
- Producing the data book *A Picture of NSW Children* for policy makers that includes a focus on the health and mental health of children and young people in NSW.
- Developing a Consultation Toolkit to assistance government agencies to seek the views of children and young people for the purposes of policy making.
- Working in partnership with Education to implement recommendations from the Bullying Inquiry.
- Participating as a member of the Child Death Review Team.

In addition, as part of a research approach entitled *Ask the Children*, the CCYP and the University of Western Sydney asked 126 children and young people across New South Wales about what well-being means to them. The results were published on the Commission’s website in 2007 and represent an assessment of the positive elements of well-being from the perspective of children and young people.

2. Ways in which a NSW Mental Health Commission could enhance mental health outcomes

The CCYP has also been invited to provide comment on how a Mental Health Commission could make a difference and enhance mental health outcomes. Historically, per capita expenditure on mental health in Australia has not been commensurate with the significance of mental health in terms of its contribution to the burden of disease. This may be related to the traditional focus of the health system on treatment of physical disease, rather than prevention, early intervention, and coordination of appropriate cross-agency responses to support people with mental health issues in the community. The Mental Health Council of Australia argues that spending on mental health in Australia is below the Organisation for Economic Cooperation and Development (OECD) average. A key role of a NSW Mental Health Commission should be to ensure that spending on mental health in NSW is matched to its significance as a health issue, and that it is appropriately targeted, including to children and young people.

The CCYP would like to see a new NSW Mental Health Commission have a strong focus on the mental health of children and young people. A focus on children and young people is important to address the trend of early onset of mental illnesses in adolescence, with up to half of lifetime mental health problems commencing by the age of 14 years. The promotion of universal and targeted positive mental health initiatives and appropriate responses to emerging mental health problems in childhood and adolescence can help to prevent ongoing mental illness and the socioeconomic disadvantage and social isolation that often accompanies it.

The CCYP is of the view that the approach taken to the mental health of children and young people should be holistic, and promote the well-being of the whole child within his/her social context, rather than based on a narrow, medical model. Such an approach should be informed by the World Health Organisation's definition of health as a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.
The CCYP also considers it important that the Commission operates from an evidence base that identifies the extent of the mental health needs of children and young people in NSW and the availability of existing supports and services. Included in this is the need for direct consultation with children and young people as their perspectives, attitudes and lived experiences are critical to the development of an evidence base.

It is also important that the Commission seek to achieve its objectives in partnership with government and non-government agencies, including the CCYP, in recognition that many agencies come into contact with children and young people and that experiences in a range of settings, such as the school and juvenile justice systems, impact on their mental health.

The legislation that governs CCYP contains powers to hold Special Inquiries into issues affecting children. The CCYP is currently considering a range of initiatives to support the mental health of children and young people, including the possibility of holding an Inquiry and is well placed to partner with the Commission in order to assist in building the evidence base around children and mental health. The CCYP is keen to discuss this and other partnership opportunities with the Commission and the Taskforce.

In addition it is important that the Commission recognise that children and young people are not a homogenous group and that attention is paid to the mental health of specific populations of young people who may be at higher risk of developing mental health problems. These groups include children who have a parent with a mental health problem, Aboriginal children and young people, those from refugee backgrounds, young people in out of home care and young people in rural and remote areas. Additionally, a NSW Mental Health Commission has a role in ensuring that children and young people are provided with mental health services that are appropriate to them, rather than services designed for adults.

The Western Australian Commissioner for Children and Young People has recently recommended in the Report of the Inquiry into the mental health and wellbeing of children and young people in Western Australia, that the WA Mental Health Commission give increased priority to the mental health and wellbeing of children and young people and develop a comprehensive strategic plan for their mental health. The NSW Commission for Children and Young People strongly supports the adoption of such a focus from the outset by the NSW Mental Health Commission.

One of the first activities of the new Commission should be to review the achievements of existing NSW Mental Health Plans, including the 2001 report, Getting in Early- A Framework for early intervention and prevention in mental health for young people in NSW. Development of a new strategic plan for both children and young people with clearly measurable performance indicators and funding for implementation should then be a key priority. Consultation with children and young people should form part of plan development and the CCYP is willing to assist with this process. The plan should provide for the consistent state-wide implementation and funding of promotion, prevention, early intervention and treatment services and programs specifically targeting children and young people from a recovery paradigm. The CCYP is of the view that this plan should have strong links to the NSW Department of Education and consider children’s experiences in the school environment.
It is important that the structure of the Commission and any legislation that is established to govern its operation encourages a focus on children and young people. One way to achieve this would be to establish a position within the organisation with a specific focus on the mental health of children and young people. This could be done by appointing a Commissioner with such a focus, and/or establishing a unit with a specialist focus within the organisation. An additional strategy to ensure the NSW Mental Health Commission has an appropriate focus on the mental health of children would be to identify children and young people as a target of the Commission’s activities in any legislation that will govern its operation. Allocation of an adequate proportion of the NSW Mental Health Commission’s budget to children and young people is critical. Given the poorer mental health of Aboriginal children, the CCYP also believes that consideration should be given to appointing a office holder for the mental health of Aboriginal people.

3. Powers, functions and form of a Mental Health Commission and location within or outside government

It is understood that the Taskforce reporting to the NSW Government will provide recommendations on an appropriate model and functions for a NSW Mental Health Commission. This will necessitate consideration of whether the Commission should have a broad focus or be based on a narrow, regulatory, inspectorial model. It also needs to be considered whether the Commission will primarily play an advocacy and monitoring role and be more at arms length from government, as under the New Zealand model, or be established as a government agency that sets policy direction and makes funding decisions, as under the Western Australian model.

The CCYP sees merits and disadvantages in both approaches. If an approach on the New Zealand model is adopted, the Commission is likely to play a more effective advocacy and monitoring role but would lack direct influence over mental health budgets and spending. If the Western Australian model is adopted, the Commission would have more influence over mental health budgets and spending, but would be more constrained in its advocacy role. There is a potential conflict between being a contractor of mental health services and being the body that monitors and reports on service performance and on expenditure, and advocates for any changes required. There is also potential that the adoption of the Western Australian model may lead to a duplication of the health bureaucracy and increase costs due to need for greater coordination between mental health funding and services and other health funding and services.

Whichever model is adopted, it is considered critical for the success of any Commission of this kind that it have the capacity to understand and critique both policy and service systems at a sophisticated and detailed level in order to play a constructive role in achieving reform that actually translates into better outcomes for people. There are also a number of core functions that the Commission should have:

- Developing and providing mental health policy advice, including policy recommendations, to the state government.
- Developing and leading implementation of a NSW Mental Health Strategic Plan.

\[1\] The WA Mental Health Commission was established as a separate department of state, headed by a Commissioner, under the Public Sector Management Act (1994), while the New Zealand Commission was established as an Crown Entity, the Ireland Commission as an independent statutory agency and the Canadian Commission a non-profit corporation (Rosen et al: 2010).
- Determining the mental health services required by populations across the state, including the resourcing required.
- Monitoring of implementation of any strategic plan, performance, expenditure and evaluation of key mental health programs.
- Promoting social inclusion, public awareness and understanding of matters related to the well-being of people with a mental illness to address stigma and discrimination.
- A requirement to consult regularly with consumers, carers and families, including children and young people.
- Capacity to commission and undertake relevant research, maintain a comprehensive data collection on mental health, (including that of children and young people), monitor trends in mental health and operate as a knowledge exchange centre, like the Canadian model.
- A role coordinating cross-government involvement in this area and facilitating a whole of government response.
- A role addressing fragmentation and lack of coordination in the provision of mental health services.

The CCYP has operated as an independent statutory agency under the Commission for Children and Young People Act 1998 for 12-13 years. The strengths in this approach that we believe would also strengthen the operation of a NSW Mental Health Commission include,

- Having a broad advocacy role. For example the CCYP is empowered to promote and monitor the overall safety, welfare and well-being of children in the community and to make recommendations to government on legislation, policies, practices and services affecting children,
- The capacity to hold special inquiries,
- Reporting to a bi-partisan Parliamentary Committee with the power to table reports in the Parliament. This Committee has two important roles. It can monitor and review the work of the Commission and report its findings and recommendations to the Parliament. It also has a broader responsibility to examine trends and changes in services and issues affecting children and young people and to make recommendations that guide the work of the CCYP,
- A legislated requirement to consult with children and to develop advice on this basis,
- A legislated capacity to undertake research.

4. Role for consumers and carers

The CCYP considers it essential that a NSW Mental Health Commission be given a legislative mandate to consult with consumers of mental health services, carers, the families of consumers and the non-government organisations that represent them, including children and young people. Consultation should be conducted on an ongoing, rather than a one-off basis, and be regarded as a part of core-business. To ensure an adequate focus on consumers and carers, consideration could be given to appointing a consumer as a Commissioner, and/ or establishing a Commissioner with a specific focus on consumers/ carers.

A goal which recognises that mental health services must be provided within a human rights framework, having regard to the existing Charter for Mental Health Care in NSW and the United Nations Convention on the Rights of the Child, is also recommended.
5. Reporting arrangements

A similar reporting arrangement to the WA Mental Health Commission is recommended for a NSW Mental Health Commission, which requires the agency to report to the Minister for Mental Health. The CCYP is of the view that this agency should also report to the Minister for Health, and that its reports should be tabled in the NSW Parliament to ensure full transparency and accountability. Based on the CCYP model discussed above, consideration should also be given to requiring a Mental Health Commission to report to a Parliamentary Committee constituted for this purpose, with similar roles to those described above.

The Commission should be required to report annually on its activities, annual expenditure on mental health programs by Local Health District, type of program and target group (including children and young people), consumer satisfaction with services and complaints, the achievement of performance benchmarks by these programs and progress in the fulfilment of objectives of any mental health strategic plan. In order for it to be able to report on the implementation and effectiveness of mental health programs, the NSW Commission would need access to data from District Health Boards and non-government organisations on the programs implemented annually, expenditure and measures of effectiveness. These organisations could be required to report this information to the Commission.

Thank you again for the opportunity to comment on this important development. I trust that the information provided is of assistance. The CCYP would be interested in providing further input into the work of the Taskforce and the Commission in meeting the mental health needs of children and young people, including seeking their views.

For further communications on this matter, the contact person is Mr Gregor Macfie, Director Policy and Research on (02) 9286 7243 or at Gregor.Macfie@kids.nsw.gov.au. A copy of this correspondence has been provided to Ms Nikki Maloney, Mental Health and Drug and Alcohol Office, NSW Health.

Yours sincerely

Megan Mitchell
Commissioner
11 August 2011