



AUSTRALIAN GOVERNMENT RESPONSE

CALL FOR SUBMISSIONS: REPORT ON THE RIGHTS OF THE CHILD AND INCLUSIVE SOCIAL PROTECTION

Australia thanks the Office of the High Commissioner for Human Rights for their invitation to provide a submission to inform the Report on the rights of the child and inclusive social protection.

1) What social protection systems are in place for children in your country? Please provide examples of specific laws and regulations, measures, policies, and programmes directed at ensuring children's access to inclusive social protection.

Social security

The Australian Government is strongly committed to supporting families with children and ensuring they have a strong social safety net. Family Tax Benefit supports the right of the child to an adequate level of financial support and is essential for an inclusive social protection system. It assists families with the costs of raising children and means testing helps target the payment to low and middle income families to support those most in need. The payment also indirectly supports better health and education outcomes for children through the associated health check, immunisation, and senior secondary school participation requirements.

The Australian Government's Paid Parental Leave scheme provides Parental Leave Pay for up to 18 weeks at a rate based on the national minimum wage to eligible working mothers and other primary carers, and up to two weeks of Dad and Partner Pay to eligible working fathers and partners. The scheme ensures working families are able to access paid parental leave support following the birth or adoption of a child. The objectives of the scheme include enhancing the health and development of birth mothers and children, and creating further opportunities for fathers and partners to bond with their children.

Universal access to Preschool in the year before fulltime school

Since 2008, all Australian governments have worked in partnership to provide universal access to quality early learning for children in the year before fulltime school (YBFS). During this time, the Government has contributed AUD4.6 billion to state and territory governments, who deliver preschool. This investment in preschool has seen national enrolment rates for children enrolled for 600 hours in the YBFS rise from 12 per cent in 2008, to 96 per cent in 2021.

Under the 2022-2025 Preschool Reform Agreement, the Government is investing a further AUD1.9 billion through state and territory governments, to continue to support universal access and drive improvements in enrolment and participation, and help understand the benefits of preschool. There is a particular focus on increasing participation by vulnerable and disadvantaged children and First Nations children.

National Agreement on Closing the Gap

The National Agreement on Closing the Gap (the National Agreement) outlines a commitment from all Australian governments and First Nations representatives to overcome the inequality experienced by First Nations people so that their life outcomes are equal to all Australians. The National Agreement sets out priority areas for reform and 19 socio-economic targets, which include specific actions relevant to support the rights of children and to provide inclusive social protection.

Safe and Supported: the National Framework for Protecting Australia's Children 2021-2031

While state and territory governments manage child protection systems in Australia, the federal government is providing national leadership through *Safe and Supported: the National Framework for Protecting Australia's Children 2021-2031* (Safe and Supported) and its first set of Action Plans. Safe and Supported sets out how all Australian governments will work in partnership with First Nations representatives, and in close collaboration with the non-government sector, to help children, young people and families experiencing disadvantage or vulnerability.



Australian Government

Department of Foreign Affairs and Trade

Safe and Supported and the Aboriginal and Torres Strait Islander First Action Plan will support achieving Target 12 under the National Agreement on Closing the Gap (the National Agreement), which aims to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031. The National Agreement outlines a commitment from all Australian governments and First Nations representatives to overcome the inequality experienced by First Nations people so that their life outcomes are equal to all Australians. While Safe and Supported will focus on Target 12, all 17 of the socio-economic targets in Closing the Gap are interconnected and contribute to creating safe environments for First Nations children and young people.

Ambassador for First Nations People

The Ambassador for First Nations People will lead the Australian Government's efforts to embed Indigenous perspectives, experiences and interests across its international, foreign affairs and trade interests and develop a First Nations Foreign Policy Strategy. The Ambassador will head an Office of First Nations Engagement within the Department of Foreign Affairs and Trade, and work in partnership across government agencies and departments, especially working closely with the National Indigenous Australians Agency. A key role of the Ambassador will be to undertake consultation with First Nations communities, leaders and advocates to listen and engage directly on how Australia's international engagement contributes to Indigenous community and economic development, builds connections across the Indo-Pacific region, and supports Indigenous rights around the world, including those of children.

National Action Plan for the Health of Children and Young People 2020-2030

The *National Action Plan for the Health of Children and Young People 2020-2030* outlines Australia's national approach to improving health outcomes for all children and young people, particularly those at greatest risk of poor health. The Action Plan aims to drive improvement in the health of all children and young people in Australia across the life course, noting challenges of disparity and inequity in health outcomes between individuals, areas, and different sections of the population.

Child Safeguarding

The Department of Home Affairs is committed to child safety and promoting children's rights and wellbeing. This is reflected in the Department of Home Affairs' Child Safeguarding Framework and its associated policies and procedures which ensures staff and contracted service providers act consistently with Australia's international and domestic legal obligations in relation to children and apply best practice approaches when dealing with children.

More broadly, the Australian Government works through the National Children's Commissioner to safeguard the rights of children locally and to work collectively with international counterparts on a range of matters, including child protection issues, online child sexual abuse material, child trafficking and slavery, and upholding the UN Children's Rights.

Support for migrants and humanitarian entrants

The Humanitarian Settlement Program (HSP) provides assistance to humanitarian entrants including children during their initial settlement. Under the HSP, families and children receive individualised case management support to integrate into Australian life. Orientation sessions provide families with information on how to build strong relationships as they settle into a new life.

In recognition of their particular vulnerability to encounter difficulties during the initial settlement period, the best interests of children and young people are a priority under the HSP. Clients are assisted to enrol in school, participate in community groups, and link with child and youth welfare services on a needs-basis. The Australian Government also co-funds Community Hubs in schools, focussed on Humanitarian and other migrant women with young children to provide support for them to learn English, develop new skills, find employment and access Government support services.



In certain circumstances, mainstream schooling may not be able to meet the educational needs of migrants and humanitarian entrants aged 15 to 17 years on arrival in Australia. Such persons may be eligible to access the Adult Migrant English Program classes tailored to youth if they meet other eligibility requirements. The Youth Transition Support program also provides a range of activities to help young humanitarian entrants and other eligible migrants aged 15 to 25 years to build capability and resilience to remain engaged in education and successfully transition to employment.

The Unaccompanied Humanitarian Minors (UHM) Program seeks to ensure that vulnerable unaccompanied minors are provided with safe and stable care arrangements that meets their basic needs such as food, accommodation, education, access to health care and emotional support. The UHM Program also seeks to ensure minors are supported to build on their strengths and to enhance their ability to transition to adulthood and integrate with the Australian community.

Family law system and Family Law Services

The Australian Government is committed to a family law system that is accessible, simple to use, safe and delivers justice and fairness for all Australian families, including children. A 'children first' approach ensures that children's best interests are always the paramount consideration in resolving parenting disputes, and that young people's voices are heard in the family law system on matters that affect them.

Family Law Services are an integral part of Australia's family law system, and provide alternatives to formal legal processes for families who are separated, separating or in dispute, to make arrangements in the best interests of the children involved. The Government provides over AUD250 million annually for Family Law Services to deliver initiatives including family dispute resolution, counselling, and children's contact services.

The Australian Government has amended the *Family Law (Child Abduction Convention) Regulations 1986* to make it clear that family violence is a relevant consideration for the 'grave risk' defence in Convention matters and a court does not need to be satisfied that such violence has occurred or will occur before it is taken into account and to clarify the use of conditions to protect against family violence risks. The Government also provides funding to the Federal Circuit and Family Court of Australia for the Lighthouse Project, which prioritises the hearing of matters with high risk of family violence, delivering better support to vulnerable parties and children to resolve family law matters in a safe, child-centred, accessible and timely way.

Modern slavery

The Australian Government is committed to tackling modern slavery and addressing the unique needs of women and children who are disproportionately affected. This includes supporting victims and survivors through the Support for Trafficked People Program, and developing a model to enhance civil protections and remedies for individuals in, or at risk of, forced marriage.

2) What are the main gaps and challenges to children's enjoyment of social protection in law, policy, and practice in your country and the impacts on children's rights? Please provide any relevant statistical or disaggregated data based on age, gender, disability, ethnicity, religion, sexual orientation and gender identity, migration status, or other categories. Please consider the specific situation of marginalized children and those in vulnerable situations in your response.

Some of the challenges for Australia in child protection systems are detailed in the Australian Institute of Health and Welfare's report *Child Protection Australia 2020-21*.

Children and young people in out-of-home care are overrepresented in Australia's juvenile justice systems, and further evidence shows that care leavers are at an increased risk of experiencing homelessness and poor mental health.^{1 2}

¹ AIHW (2022) Young people under youth justice supervision and their interaction with the child protection system 2020-21, AIHW, accessed 4 January 2023.

² S Muir, K Hand & M Carrol (2019) Beyond 18: The Longitudinal Study on Leaving Care, Wave 3 Research Report, Australian Institute of Family Studies, Melbourne, accessed 4 January 2023.



Data on Australian children and young people with disability who are engaged with child protection systems is limited, but available evidence suggests this cohort is overrepresented in out-of-home care.³ For example, data on disability status was available for 63% of children aged 0-17 in out-of-home care nationally in 2020-21. Of these children, 30% were reported as having a disability.⁴

In 2018, Aboriginal and Torres Strait Islander children made up 5.9% (an estimated 278,000) of the total child population in Australia. Although Indigenous children comprise a relatively small proportion of the Australian child population, they represent more than one-third of the Indigenous population (34%)⁵. As stated above, Safe and Supported sets out how all Australian governments will work in partnership with First Nations representatives, and in close collaboration with the non-government sector, to help children, young people and families experiencing disadvantage or vulnerability.

First Nations children, young people and families continue to be overrepresented in Australian child protection systems. At 30 June 2021, around 58 per 1,000 (or 19,500) First Nations children aged 0-17 were in out-of-home care nationally. This was over 11 times the rate for non-Indigenous children (5 per 1,000) in the same period.⁶ First Nations young people are also 18 times as likely as non-Indigenous young people to be in detention – while First Nations young people represent 5.8 per cent of those aged 10-17 years in Australia, they make up 53 per cent of young people in detention on an average day (2020-21).⁷

One factor that contributes to incarceration rates is the minimum age of criminal responsibility (MACR), which is currently 10 years old in all Australian jurisdictions. Changing the MACR will require change to state, territory and Commonwealth legislation, with at least three jurisdictions (the ACT, NT and Tasmania) already indicating or commencing action to enact change. The Australian Government is working closely with state and territory governments to develop a proposal to raise the minimum age of criminal responsibility in Australia, in line with the UN Convention on the Rights of the Child.

3) What are the good practices initiated by the Government to ensure that social protection benefits the rights of children in your country?

Child protection and out-of-home care

The Australian Government is committed to the ongoing implementation of the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP). The ATSICPP is designed to reduce the overrepresentation of First Nations children in child protection and out-of-home care systems. It also aims to keep First Nations children connected to their family, community, culture and Country, by ensuring they are protected from harm, and able to participate in decisions that impact them.

Responses to child sexual abuse

The Australian Government has established the National Centre for Action on Child Sexual Abuse (National Centre), an independent organisation funded to lead a national response to child sexual abuse. The National Centre promotes a shared vision of a community in which children are safe, and victims and survivors of child sexual abuse across the lifespan are supported to heal and recover.

The National Centre will commission research projects that drive partnerships for change, and build practitioner knowledge through capacity building, to contribute to the national response around child sexual abuse. It aims to increase understanding of the impacts of child sexual abuse on victim and survivors, promote effective ways for protecting children, and reduce the harm it causes.

The National Office for Child Safety (National Office) was established in 2018. The National Office provides national leadership for reforms which enhance children's safety and prevent future harm, with a particular

³ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2020), Interim report, Commonwealth of Australia, Canberra, accessed 3 January 2023.

⁴ AIHW (2022) Child Protection Australia 2020-21, AIHW, accessed 3 January 2023.

⁵ Australian Bureau of Statistics (ABS) 2018 Census

⁶ AIHW (2022) Child Protection Australia 2020-21, AIHW, accessed 3 January 2023.

⁷ Australian Institute of Health and Wellbeing (AIHW) 2022, Youth Justice in Australia 2020-21.



focus on child sexual abuse. This includes leading the implementation of the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030*.

4) Are there examples of how measures and responses to alleviate poverty through social protection systems in emergency situations or, for example, in response to the COVID-19 pandemic, have positively affected children's rights, particularly to social security?

The Australian Social Security System has shown capacity to respond to emergencies and to support vulnerable people, families and children. Between 25 March 2020 and 1 April 2021, the Government temporarily bolstered the social security safety net to assist Australians who lost their jobs or had their work hours negatively impacted.

During the initial outbreak of the pandemic, a Coronavirus Supplement was payable to recipients of JobSeeker Payment, Youth Allowance (other), Parenting Payment and other eligible working-age payments as people on these payments were generally expected to participate in the labour market. The initial rate of the Coronavirus Supplement was set at AUD550 per fortnight until 24 September 2020. Due to the gradually improving economic and labour market conditions, the supplement was reduced to AUD250 from 25 September 2020 to 31 December 2020, and to AUD150 from 1 January 2021 to 31 March 2021. Between 25 March 2020 and 31 March 2021, access to JobSeeker Payment and Youth Allowance (other) was expanded. A greater number of people were able to claim these payments, including sole traders and the self-employed who meet the income tests as a result of the economic downturn due to the coronavirus. People required to care for someone who is affected by the coronavirus may also have been eligible, subject to meeting other eligibility criteria. The Government also extended access to Crisis Payment for income support recipients who, in order to prevent the possible transmission of COVID-19, are required to self-isolate or care for another person who is required to self-isolate.

Two Economic Support Payments of AUD750 were paid in March and July 2020. The first was available to most income support payments and the second was payable to people who did not qualify for the Coronavirus Supplement on 10 July 2020. Two more payments of AUD250 were paid to recipients of the second payment in November 2020 and March 2021.

Since 1 April 2021, the Government has permanently increased the rate of working age payments by AUD50 per fortnight. This was in addition to the usual indexation of payments that occurred on 20 March 2021. Depending on their circumstances, recipients may also be eligible for supplementary payments, such as Commonwealth Rent Assistance. Additional payments, including the COVID-19 Disaster Payment and the Pandemic Leave Disaster Payment were introduced in 2021 and provided additional payments to recipients who were adversely affected by a state public health order or who were forced to stay at home because of self-isolation or quarantine rules.

5) How can States deliver more effectively to ensure the effective implementation of universal social protection for children, including through international cooperation?

The well-being of children is important to all Australians and essential for the future of the nation. It is therefore important for governments to support parents with young children unable to work due to their caring responsibilities. Income support for parents provides a safety net for those who would otherwise be at risk of hardship and ensures that children have access to at least a basic and acceptable standard of living. The Australian Government notes the importance of providing individuals with the social protection benefits to which they are entitled. The issues of quality information, digital literacy, and access to support are essential factors for policymakers to consider when designing and implementing the government services that make up the social security system.