

2022 Child Rights Progress Reports

South Australia's progress on recommendations made
by the UN Committee on the Rights of the Child



Child Health



Child Justice



Child Protection



Disability



Education



Environment



Physical Punishment



No evidence



Some evidence



Clear evidence

2022 Child Rights Progress Report on Child Health

South Australia's progress on recommendations made
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About the CCYP

The [South Australian Commissioner for Children and Young People](#) is an independent position, established under the [Children and Young People \(Oversight and Advocacy Bodies\) Act 2016](#) (OAB Act). This legislation was introduced to the South Australian Parliament in response to the [Child Protection Systems Royal Commission 2014](#).

The Commission promotes and advocates for the rights, development and wellbeing of all children and young people in South Australia and seeks to change laws, policies, systems and practice to uphold children's rights.

The work of the Commissioner for Children and Young People is guided by the [United Nations Convention on the Rights of the Child](#) (UNCRC); the core international treaty established in 1989 to which Australia is a signatory. This important agreement sets out the civil, political, economic, social, and cultural rights of children around the world.

The Commissioner aims to ensure that as a part of the Australian Commonwealth, South Australia enacts its international obligations under this Convention.

Each year the Commissioner produces a series of Child Rights Progress reports measuring South Australia's progress against recommendations made by the UN Committee on the Rights of the Child (the Committee).

This year's progress reports include:

- Child Health
- Child Justice
- Child Protection
- Disability
- Education
- Environment
- Physical Punishment



2022 Child Rights Progress Report on Child Health



South Australia's progress on recommendations made by the UN Committee on the Rights of the Child

What the data says

Measure	Year (%)	Trend	Assessment
Proportion of children (5–15 years) reported as having a mental health condition ¹	2021 (17.2%)	Remaining steady (Year on year)	No change
	2020 (19.4%)		
	2019 (19.1%)		
	2018 (16.2%)		
Proportion male/female	2021 (63%/37%)		
	2020 (64%/36%)		
	2019 (55.8%/44.2%)		
	2018 (70.3%/29.7%)		
Proportion of teenagers (16–17 years) who reported having a mental health condition. ²	2021 (35.3%)	Increasing (four years)	- Unfavourable
	2020 (35.8%)		
	2019 (25.1%)		
	2018 (22.7%)		
Proportion of children (5–17 years) who reported accessing a mental health service in the past 12 months ³	2021 (14.6%)	Remaining steady (Year on year)	No change
	2020 (15%)		
	2019 (17.9%)		
	2018 (14.4%)		
Proportion male/female	2020 (57%/43%)		
	2019 (59.8%/40.2%)		
	2018 (59.6%/40.4%)		
Number of mental health beds per 100,000 SA children ⁴	2018–2019 / 3.3	No change	- Unfavourable
	2017–2018 / 3.2		
The proportion of South Australian children fully immunised at 12 months ⁵	2021 (95%)	Remaining steady	+ Favourable
	2020 (95%)		
	2019 (95%)		
	2017 (94.3%)		
Percentage of South Australian children and young people who are considered overweight or obese ⁶	2021 (29.7%)	Remaining steady	+ Favourable
	2020 (32.7%)		
	2019 (28.5%)		
	2018 (30.9%)		

Background

The UNCRC was the first international Convention to acknowledge that children have rights and that these rights should be protected. Australia ratified the UNCRC in 1990 and South Australia's OAB Act states that all governmental authorities must seek to give effect to the UNCRC. The Convention sets minimum standards and

obligations for the protection of children and young people's rights, including their rights to have access to justice, education, health care and social services. All children have the right to have a say on all matters that affect them and for their views to be taken seriously. In making decisions about children their best interests should be the primary concern, as well as the right to be safe, to be free from discrimination.

Every five years, the Australian Government reports to the Committee to explain how Australia is faring in relation to child's rights. This means that the State must provide feedback on how they have fulfilled their obligations under the Convention in the areas over which they have responsibility such as crime, child protection, and health.

In response to Australia's fifth and sixth periodic reports, the Committee highlighted key areas of concern and made recommendations to ensure our governments at both the Federal and State levels, fulfil their obligations under the Convention. One of the Committee's main areas of concern requiring urgent attention is child health.

A Child's Right to Health

Article 24 of the UNCRC states that all children are entitled to "the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health."

State parties should ensure that every child has the right to access health care services, with emphasis on the development of primary and preventative health care.

Australia has a public/private health care system. The Commonwealth, State, and Territory governments broadly share responsibility for funding (around 68% of total funding) as well as the operation, management, and regulation of the health care system. The remainder of the funding comes from the private not-for-profit and for-profit sectors.^{7 8}

The Health Care System in South Australia

The Department for Health and Wellbeing is responsible for the overall management and strategic direction of South Australia's health system, while local health networks are responsible for the provision of health services in line with the *Health Care Act 2008* and performance agreements.

South Australia has multiple plans that cover children and young people's health and wellbeing, including the State Public Health Plan and Regional Health Plans. There is also the State's Health and Wellbeing Strategy, which will soon have an aligned version for women, children and young people, and the South Australian Mental Health Services Plan.

During 2021, SA Health undertook extensive consultation to inform the development of South Australia's Women's, Child and Youth Health Plan 2021–2031. The Summary Framework for Consultation

was released in March 2021, and the final plan was expected to be launched in 2022, but is not yet publicly available.

The Mental Health Strategic Plan 2017–2022 and the Mental Health Services Plan 2020–2025 promote and provide access to mental health services in South Australia.

Wellbeing SA was established in 2020 as an independent state government agency that leads cross-government and cross-sector strategies to 'rebalance the health and wellbeing system' in South Australia and ensure a greater focus on prevention across the life course.

The Wellbeing SA Strategic Plan 2020–2025 outlines the three key priority areas for the agency for the duration of the Plan: the early years; chronic disease and injury prevention; and mental health and wellbeing.

In June 2022, Wellbeing SA launched a Wellbeing Index for South Australia to monitor indicators of the physical, mental, social, community and cultural wellbeing of South Australians over time.

Some welcome initiatives in 2022 include:

- Development of a draft Gender Diversity Model of Care, which aims to provide timely access and clear pathways to appropriate and evidence-based gender health care and support for trans, gender-diverse, gender non-binary (TGDNB) children, young people and adults across the state.
- Development of a Youth Mental Health Services Model of Care, which 'seeks to provide direction for local delivery of a consistent approach to care for all young people who enter SA Health mental health services across each stage of the young person's journey'.
- Launch of the *South Australian Aboriginal Health Promotion Strategy 2022–2030: Strengthening and promoting the cultural determinants of health and wellbeing*, with a separate Action Plan to be developed.

Ongoing areas of concern include:

- high rates of mental health presentations to emergency departments among children and young people aged 12–17 years
- barriers to safely accessing mental health and sexual health services and information, particularly for LGBTQIA+ children and young people, and children and young people living outside of metropolitan areas; and
- a lack of therapeutic services to respond to the needs of children displaying problematic or harmful sexual behaviour.

South Australia's progress on the latest recommendations made by the UN Committee in relation to child health



No evidence that the UN Committee's recommendation is being addressed



Some evidence that the UN Committee's recommendation is being addressed



Clear evidence that the UN Committee's recommendation is being addressed

Current Status

The government should expand and fund the delivery of child targeted mental health and other necessary support services.

Of the South Australian children and young people aged 5 to 15 diagnosed with a mental health condition, nearly two thirds (64.4%) reported receiving treatment in 2021.⁹ This is similar to 2020 (62.6%) and an increase from 2018 (50.4%) and 2019 (55.6%).

Children and young people aged 12–17 years had the highest rate of mental health presentations to emergency departments in 2020–21, a 63% increase from 2016–17.¹⁰ The length of stay for children and adolescents accessing mental health services in acute units within public hospitals in South Australia has increased from 3.3 days per 1,000 population in 2016–17 to 4.7 days in 2018–19 and 4.8 days in 2019–20.¹¹ There continues to be inadequate places available in South Australian hospitals for children who present with sub-acute mental health conditions.

A 2022 report by South Australia's Auditor-General regarding access to mental health services concluded that 'SA Health is not able to demonstrate how well it is performing in providing the public with access to the right mental health services at the right time' due to significant gaps in planning, monitoring and reporting processes.¹²

In 2022, the Office of the Chief Psychiatrist (OCP) reviewed the assessment, treatment, management and follow up plans of children and youth presenting to the Women's and Children's Hospital Emergency Department for mental health presentation.¹³ This was in response to concerns raised by Parents for Change, a community-based campaign of parents advocating for better mental health care and services for children and adolescents, particularly crisis support. The OCP has also developed a draft youth mental health services model of care, which is open for consultation until January 2023.¹⁴

The most recent publicly available Progress Report on the implementation of the Mental Health Services Plan was released in October 2021 and outlined OCP's other commitments to:

- continue working on refreshing specific training in youth mental health
- continue to investigate a single-entry point for youth mental health; and
- commence planning on the development of a sub-acute youth mental health facility (if approved).

The South Australian *Suicide Prevention Act 2021* commenced in September 2022.

The South Australian Law Reform Institute led the statutory review of South Australia's *Mental Health Act 2009* (SA) throughout 2022. Although the provision and delivery of mental health services was outside the scope of the review, the Review will consider whether changes to the legislation could improve access to mental health services.



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The final report of this independent review is expected to be released by the end of February 2023.

The Commissioner will monitor the government's response to the above reviews in future progress reports.

The 2022–23 State budget provides funding for several election commitments related to mental health, including:

- funding over two years from 2025–26 for 50 additional beds at the Women's and Children's Hospital, including 10 mental health beds
- \$1.5 million per annum from 2022–23 to ensure adequate nursing support for children with cancer or mental health needs at the Women's and Children's Hospital; and
- \$6.9 million in 2022–23 and \$14 million per annum from 2023–24 to employ 100 new mental health and learning support specialists in government primary and secondary schools; and
- funding for community mental health crisis teams.

Further positive developments in 2022 that may improve access to services for children with chronic illness include:

- for the first time the 2021 Census collected information about long-term health conditions. Data is now available and disaggregated by age. This is promising in terms of informing the planning and management of health services and capacity for targeting support for those living with long-term health conditions; and
- development of the Integrated Care Strategy, with Wellbeing SA's reported 'next steps' including to 'explore opportunities to improve transitions between adolescent and adult health services, particularly for priority populations'.¹⁵

The government should ensure health systems and services meet the specific sexual and reproductive health needs of adolescents, including access to prescribed medical forms of contraception, safe abortion services and sexual health information.

Young people experience a range of structural and social barriers to accessing sexual health services and information. Trans, gender diverse, and sexually diverse children and young people, as well as children and young people living outside of metropolitan areas, face particular barriers to safe, inclusive sexual health services and information.

In July 2022, SA Health released the draft state-wide Gender Diversity Model of Care.¹⁶ The model aims to provide timely access to appropriate and evidence-based gender health care and support for trans, gender-diverse, gender non-binary (TGDNB) children, young people and adults, across South Australia and across three health service streams: mainstream health and gender support services; specialised gender diversity health services (separate child/adolescent and adult services); and specialised gender surgical services.

The Commissioner welcomes the draft model of care. Funding and resourcing for the model of care are yet to be determined and the Commissioner will continue to monitor the resourcing and implementation of the finalised model in future reports.



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The South Australia Mental Health Services Plan commits to addressing discrimination of gender and sexually diverse people by 'providing staff training in the delivery of safe and effective services to the LGBTQIA+ community'. However, this commitment is not specific to children and young people, nor has there been any publicly reported update on the State's progress against this commitment.

Released in August 2022, the most recent data regarding teenage pregnancy and abortion rates in South Australia relates to the year 2020. The teenage pregnancy rate has been declining steadily since 2008 and remained consistent between 2019 and 2020. While teenage termination rates decreased in the five-year period from 8.6 in 2015 to 6.1 per 1,000 women in 2019, there was a slight increase to 6.8 per 1,000 women aged 15–19 years in 2020.¹⁷

The rate of sexually transmissible infections (STIs) has risen over the last decade in South Australia, with young people disproportionately impacted. According to the most recent STI surveillance report from the Communicable Disease Control Branch of SA Health:

- Chlamydia notifications continue to be most common in people aged 15–29 years (75%), with 54% of all notifications in young people aged 24 years and under.
- 74 per cent of chlamydia notifications among 15–19 year olds in 2019 were in females (793 in females compared to 278 males).
- Rates of gonorrhoea among 15–19 year olds in South Australia has increased from 140 per 100,000 in 2017 to 189.8 per 100,000 females in 2019, and from 121 to 169 per 100,000 males aged 15–19.¹⁸

Young people are a priority population in the Fourth National Sexually Transmissible Infections Strategy 2018–2022. In January 2022, the Department for Health and Wellbeing commissioned a review of sexual health services in South Australia.

There continues to be a lack of specialist therapeutic services for children displaying problematic or harmful sexual behaviours. As reported in the Commissioner's 2020 and 2021 child rights progress reports, eligibility for existing services is largely restricted to those whose behaviour is classified as 'serious'. There needs to be greater investment in protective services that reduce harm and de-escalate behaviours at the earliest possible stage of intervention.

According to the 2021 South Australian Population Health Survey the:

- proportion of children considered to be obese is 12.6%, which is a slight reduction from 13.5% in 2019
- proportion of children considered to be overweight is 17.1%, compared to 12.8% in 2019
- proportion of children who are either overweight or obese is 29.7% in 2021, which is similar to 2018 (28.6%), 2019 (26.3%) and 2020 (30.8%); and the
- proportion of children considered to be overweight or obese continues to be higher among males living in metropolitan areas and in areas of lower socio-economic advantage.

Address the increasing rate of child obesity



The State Public Health Plan sets targets related to addressing obesity and the South Australian Health and Wellbeing Strategy 2020–2025 commits to developing a ‘comprehensive, fully integrated response designed to address overweight and obesity at both the population and individual level’. However, there appears to be no publicly reported updates regarding South Australia’s progress towards these goals during 2022.

The Australian Physical Activity and Sedentary Behaviour Guidelines recommend that children aged 5–17 years should accumulate at least 60 minutes of moderate to vigorous intense physical activity every day.¹⁹ In 2021, a quarter (25%) of children aged 5–17 years reported meeting this level; a slight increase from 22.2% in 2019.²⁰

At the national level, the National Obesity Strategy 2022–2032 was launched in 2022. The National Strategy recognises food insecurity as ‘one of the main drivers of unhealthy weight’.²¹ As such, it is significant that one third (32%) of households with children in Australia experienced severe levels of food insecurity in 2022; 1.5 times greater than the national average (21%).²²

The Commissioner will continue to monitor the development and implementation of initiatives related to obesity prevention that align with these state and federal commitments.

Governments should introduce legal protections to prevent sterilisation of children with disability without consent.

As noted in previous reports, there is limited data available about the sterilisation of children in Australia. While available data suggests sterilisations have become less common over recent years, the practice is still permitted by legislation in South Australia. In 2021, there was one case of sterilisation of an adult with cognitive impairment being approved by the South Australian Civil and Administrative Tribunal.²³

While sterilisation is a ‘prescribed treatment’ under Section 61 of the *Guardianship and Administration Act (SA) 1993*, there is no specific criteria or consistent standard that prescribes the circumstances in which children may or may not be sterilised.

In light of concerns about how a child’s best interests are determined and the potential for a child’s wishes to be overlooked, governments must put in place policies and procedures that allow support for children and their families, including access to the least invasive non-surgical alternatives available to sterilisation.

Endnotes

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2022 Child Rights Progress Report on Child Justice

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2022 Child Rights Progress Report on Child Justice



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What the data says

Measure	2021–22	2020–21	2019–20	5 Year Trend	Assessment
Average daily number of children in SA's Child Justice System in detention / under community based supervision ¹	Figures not yet released	24/139	26/181	Decreasing	+ Favourable
Number (%) of children and young people detained at SA's Kurlana Tapa Youth Justice Centre (KTYJC)*	292 (100%)	256 (100%)	328 (100%)	Decreasing (-)	No change
Number (%) of Aboriginal and Torres Strait Islander children and young people admitted to KTYJC*	138 (47.3%)	111 (43.3%)	159 (48.4%)	Increasing (% increasing)	- Unfavourable
Number (%) of children under a guardianship order at the time of their admission to KTYJC*	83 (28.4%)	78 (30.4%)	93 (28.3%)	Decreasing/ % increasing	+ Favourable
Number (%) of females admitted to KTYJC*	70 (24.0%)	56 (21.8%)	75 (22.8%)	Increasing/ % increasing	- Unfavourable
Number of individuals aged 10–13 years (inclusive) at the time of their admission to KTYJC*	52 (17.8%)	43 (16.7%)	35 (10.6%)**	Increasing/ % increasing	- Unfavourable

*2 **Impacted by COVID-19

Background

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Children's rights in relation to Child Justice

According to the UNCRC, children who come into contact with the criminal justice system have the same rights as all other children. This includes the right to be kept safe, to be heard, and to be treated in a way that promotes their dignity and worth.

The UNCRC also provides extra protections for children who enter the child justice system. These include:

- placing an emphasis on prevention, rehabilitation and reintegration of young offenders, over punishment;
- using detention as a measure of last resort and for the shortest possible period; and
- setting a minimum age of criminal responsibility at the recommended 14 years.



2022 Child Rights Progress Report on Child Justice



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Brief Overview of SA Child Justice

The State Department for Human Services (DHS) oversees and manages child justice issues, including the Youth Justice State Plan. Children who come into contact with South Australia's legal system are required to be treated differently from adults, with diversion from the system a key goal. There is a separate criminal court for children, as well as a separate facility for children who are detained.

The Young People Connected, Communities Protected: South Australia's Youth Justice State Plan 2020–2023 (the Plan) details how government will work with young people, communities, other government agencies and non-government organisations to deliver youth justice services. The Plan focuses on six domains of improvement by DHS working with partners, including:

1. Young people's wellbeing
2. Workforce stability and investment
3. Connected services
4. Aboriginal cultural connection
5. Reconnection with community
6. Business intelligence

The last publicly reported update on South Australia's progress against the Plan's outcomes was in May 2021.

The Kurlana Tapa Youth Justice Centre (KTYJC) is the main place of detention for South Australian children. Since 2017, an independent Training Centre Visitor (TCV) whose role is legislated under the *Youth Justice Administration Act 2016*, has also been in place. The TCV's main function is to promote the safety and wellbeing of all children detained in the KTYJC by talking to children who have been detained about their rights, inspecting the centre, promoting the child's best interests, advocating for children to be involved in resolving issues at the centre, investigating systemic reform, and investigating any other matter referred to the TCV by the Minister.

Over the past year, the Centre has faced considerable challenges that have impeded its normal operation including restrictions due to COVID-19 and staff shortages that have resulted in many programs and activities having to be cancelled. This has in turn resulted in children in the Centre being restricted to their rooms

with limited access to visits, health care and other activities, including education. It has also resulted in limited opportunity for movement and exercise and has created inconsistent routines for children and young people.³ These isolation practices and restrictions in routine are a direct violation of the Optional Protocol to the Convention against Torture as it amounts to cruel, inhuman and degrading treatment. This increases trauma for children who are already some of the most vulnerable in the state. It is the duty of the State under s7 of the *Children and Young People (Safety) Act 2017* to ensure that children and young people are protected from harm. There are alternatives to centre-based detention, including home detention and community orders. These should be used instead of detention, and if appropriately supported can result in better outcomes for the child, their family, and the community as a whole.

In South Australia, the number of children entering the child justice system, both across the community and those in detention, has seen a slight rise, although over the long-term there has been a decline.

Some welcome initiatives that are part of the plan include:

1. Commencing phase 2 of the Child Diversion Project which includes an expansion of the premises, the team and broadening the eligibility criteria to work with more children.
2. In 2021, the South Australian government made an \$18.7 million commitment over three years to consolidate provision of youth custodial services into a single site at the KTYJC. The build will include sensory rooms, a general learning area, and a counselling space for education programs. It will also include a new education building, an extended visiting space to improve outcomes for children and young people, and will increase opportunities for children and young people and their families to access rehabilitation services and therapeutic supports.
3. A reduction in the use of restrictive-type practices.⁴

Areas of concern across Child Justice include:

1. Over representation of children who identify as Aboriginal, who are under the protection of the Chief Executive of Child Protection.⁵

2. Over representation of children and young people with high levels of mental health and/or disability related needs in Kurlana Tapa.⁶
3. Over representation of children from African cultural backgrounds in Kurlana Tapa.⁷
4. Minors were arrested and detained in SA police cells (watch houses) at least 2,030 times in 2020–21. Of these 2,030 separate admissions, 890 (43.8%) were Aboriginal children or young people. In some regional/remote locations all, or almost all children arrested and detained were Aboriginal.⁸
5. South Australia's Bill to implement an independent oversight mechanism in line with the ratification of the Optional Protocol on the Convention against Torture for all places of detention, was not passed and the Bill prorogued. It is unclear when it will be reintroduced.⁹
6. Children and young people in KTYJC being isolated and segregated due to staffing shortages that resulted in modified routines.
7. Lack of investment into diversionary programs and health treatments for children and young people to keep them away from detention.

South Australia's progress on the latest recommendations made by the UN Committee in relation to child justice:



No evidence that the UN Committee's recommendation is being addressed



Some evidence that the UN Committee's recommendation is being addressed



Clear evidence that the UN Committee's recommendation is being addressed

Current Status

Explicitly prohibit the use of isolation and force, including physical restraints, as a means of coercion/discipline of children under supervision.

The Centre's behaviour management scheme is based on a model where incentives are available as a child progresses (or regresses) through 'phase' levels. The rewards are based on staff assessments of the child's personal interactions, hygiene, respect shown to staff, and compliance with rules. Low scores result in fewer privileges and more restrictions. Without continual professional education in trauma informed practice and disability, negative behaviour arising out of a child's trauma, mental health or disability may be misrepresented as 'deliberate' rather than symptomatic resulting in regression. Children should not be 'punished' through reducing incentives because of this trauma related behaviour.

The Plan outlines the commitment to the reduction in the use of isolation, segregation and force at the Centre, in line with Ombudsman SA and Training Centre Visitor recommendations including:

- ceasing the use of resident-worn spit protection at Kurlana Tapa Youth Justice Centre
- reviewing the use of isolation, segregation, and force (including mechanical restraint)
- implementing alternatives to partially clothed searches, so that these are only ever used as a last resort
- improving incident review and client feedback processes; and
- ensuring supports for children and young people are inclusive.

According to the DHS Annual Report and Training Centre Visitor Report, although there has been some progress in relation to some of these goals, COVID-19 has stalled others.

Gains made over the past year include:

1. No partially-clothed searches of children and young people being undertaken due to the use of appropriate technology.
2. Training the trainer “reframing training” recently undertaken with all staff at the Centre. This retraining educates frontline professionals to recognise and understand neurodisability in children and young people, reframe their behaviour, and respond appropriately to their needs.

Concerns that still need to be addressed include the following:

1. Feedback by young people in the Centre in relation to their view that physical restraint is too rough and that ‘phase’ levels are unfair.¹⁰
2. The lack of cultural supports after a culturally or linguistically diverse child is placed in the safe room.
3. The use of mechanical restraints such as handcuffs and leg-wraps.
4. Physical restraint applied by staff and the use of “canvas” – where clothing and bedding are replaced with tougher fabrics to prevent ligatures being made.

Promptly investigate all cases of abuse and maltreatment of children in detention, and adequately sanction the perpetrators.

In the 2021–22 year the Training Centre Visitor (TCV) dealt with 63 issues as “inquiries” which resulted in eight formal investigations. This is a decline from the previous year, largely seen as being due to the constrained visiting program. However, the TCV has found an improved complaints system in the Centre, which has resulted in resolutions to complaints being achieved in shorter timeframes.

Gains made over the past year include:

1. TCV observing staff at the centre “attempting to respond to problematic behaviour with compassion, including as first responders to incidents involving mental health episodes or behavioural issues.”¹¹ However, there are concerns that Centre staff do not have adequate medical expertise to be able to do this.
2. The TCV noting a “a respectful and sensitive approach by KTYJC management and staff to complex issues affecting individual detainees”.
3. Progress in improving the identification, assessment and support of detainees with complex and challenging behaviours, particularly those related to disabilities.

There have been no specific reports of cases of abuse and maltreatment of children in detention throughout the year. However, there are a number of concerns that have been raised by the TCV which don’t appear to have moved much from the previous year.

■ **No evidence** that the UN Committee’s recommendation is being addressed

■ **Some evidence** that the UN Committee’s recommendation is being addressed

■ **Clear evidence** that the UN Committee’s recommendation is being addressed

These include:

1. Children being detained in the Adelaide City Watch House and other Watch Houses throughout South Australia. Alleged offenders are being held in custody pending court or bail. Article 37(c) of the UNCRC states that children and young people should only be detained for the shortest possible time, separately from adults, and only as a last resort.¹²
2. A perception of differential treatment or racism by peers/staff, a lack of cultural support, minimal Aboriginal staff within KTYJC, and limited or no cultural programs being in place.
3. Young people from African, Central Asian, and Middle Eastern backgrounds have mentioned experiences of racism involving some peers and KTYJC staff, as well as concern about food (including issues associated with Ramadan participation), limited cultural or religious support, concerns about co-residents, and worries about returning to their community.
4. Lack of access to responsive medical care (24 hours, seven days of the week).
5. Inadequate treatment and options for children with major mental health issues, including the necessity for separation, and the use of canvas coverings when children and young people are considered to be 'at risk'.
6. The level and type of care, treatment, and control of children and young people with disabilities.
7. Incidents of bullying between detainees not adequately addressed.¹³

Require decision-makers operating within child justice to consider what is in the best interests of the child.

We are concerned that in 2022 children in KTYJC have been detained in their cells for extended periods. This is not in children's best interests and adds trauma and more harm to children. There have been restrictions to their right to an education, their right to stay in contact with their family and friends, and to thrive. If children's basic rights are unable to be met, sentences should be immediately transferred to community orders.

South Australia's youth justice system does not place the best interests of the child as its primary consideration; neither in policy nor in legislation including the following:

1. The objects of South Australia's *Young Offenders Act (1993)* do not refer to the 'best interests of the child'. The objects and statutory policies of the Act states that government needs 'to secure for youth who offend against the criminal law, the care, correction and guidance necessary for their development into responsible and useful members of the community, and proper realisation of their potential'.
2. The *Youth Administration Act (2016)*, which sets up and administers training centres requires those administering the Act to "at all times be given to promoting the wellbeing and best interests" of the children. Further, the Training Centre Visitor who oversees the centre is tasked with promoting the child's best interests.

■ **No evidence** that the UN Committee's recommendation is being addressed

■ **Some evidence** that the UN Committee's recommendation is being addressed

■ **Clear evidence** that the UN Committee's recommendation is being addressed

3. The Youth Justice State Plan 2020–2023 mentions a child's 'best interests' in the introduction but no-where else in the plan. One pillar of the plan includes: "Young people's safety and wellbeing is at the heart of our services" which is a step in the right direction. However, the best interest principle would take into consideration safety and wellbeing, and ensure this is used as the primary consideration.

The Training Centre Visitor, in her 2021–22 report notes the following concerns:

- continued use of safe rooms with no cultural back up
- a lack of appropriate child mental health facilities at KTYJC or elsewhere in the child justice system
- a lack of diagnostic and treatment services for children with a disability
- a lack of appropriate support for children from culturally diverse backgrounds; and
- a lack of support for trans and gender diverse children.

Raise the minimum age of criminal responsibility to an internationally accepted level and make it conform with the recommended minimum age of 14 years.

Although no 10 year old entered Kurlana Tapa there still has been little movement in South Australia in relation to raising the age of criminal responsibility. Doli incapax – the assumption that children are incapable of forming the intent to commit a crime – can be used as a defence for children between the ages of 10 and 14 years, placing the onus on the prosecutor to prove the child has the capacity. However, this common law presumption has been curtailed through the latest [Joint Criminal Rules 2022](#). Instead of the presumption that a child is automatically incapable of committing a criminal offence, under the rules it is now incumbent upon the lawyer or guardian to inquire into the capacity of the child or young person and inform the court that there may be an issue in relation to their capacity.

On 15 November 2021, the State Attorneys-General supported the development of a proposal to increase the minimum age of responsibility from 10 to 12 years of age.¹⁴ On 9 December this year they will be reconvening and will discuss raising the age to 14 years.

The SA Attorney-General, Kyam Maher, has been seeking feedback and undertaking discussions to raise the age of criminal responsibility, looking at other models around the world, and having discussions with ministers in other states to develop a model appropriate to South Australia.

This year's Training Centre Visitor's Annual Report¹⁵ states that 'no 10 year olds were detained for a second year and that there was the lowest proportion of 10–13 year olds in the daily Centre population since TCV has been reporting. However, having any child under 14 years of age subject to detention orders (held in police custody or on remand) contravenes Article 37(b) of the UNCRC.

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

Actively promote non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences, and where possible, the use of non-custodial sentences, such as probation or community service.

Although the number of children entering the child justice system has been steadily declining over the long term, the figures suggest that more could be done to divert children away from the system altogether.

Concerns include:

1. The rate of SA children between the ages of 10 and 17 years who are on community-based supervision is the second lowest in the country at 11.0 per 10,000 children. This is below the national average of 14.3 per 10,000 children. Focus should be on community-based supervision rather than on detention.¹⁶
2. South Australian police have wide powers to divert children away from the child justice system. Although SAPOL figures show that application of these powers have been contributing to a steady decline in the number of children who end up in court or going through family conferencing, the numbers are still far too high. The proportion of police diversions for youth offenders using a non-court proceeding has remained steady over the last 10 years (44.1% in 2011-2012 to 45.4% in 2020-21).¹⁷ However only 22.1% of Aboriginal and Torres Strait Islander children and young people are diverted compared to 34.7%¹⁸ of non-indigenous people.¹⁹

Of concern is that in 2021-2022 as in the previous year, the number of Aboriginal children and young people who were successfully diverted away from the child justice system was at its lowest rate since reporting began. More needs to be done to divert all children away from the child justice system with a particular emphasis needed on diversion of Aboriginal children and young people.²⁰

Provide children who are in conflict with the law with information about their rights and how to report abuses.

The KTYJC has a Charter of Rights for Children, and the Training Centre Visitor and her representatives actively talk to residents about these rights.

Children also have rights when they are arrested and when they interact with the justice system and other authorities. However, it is unclear whether children know about these rights or are being informed of them at the time of their arrest. This was a key recommendation made in *Making Change in Youth Justice* (2020).²¹

In 2021, a Custody Notification Service was legislated. This means that SAPOL must notify the Custody Notification Service if an Aboriginal person is brought into custody, including any Aboriginal children or young people. This service is led by an Aboriginal Legal Rights Movement and ensures that Aboriginal children and young people are made aware of their rights at the time they are arrested.

Currently there is no data available on how many children used this service and this office will be monitoring this.

■ **No evidence** that the UN Committee's recommendation is being addressed

■ **Some evidence** that the UN Committee's recommendation is being addressed

■ **Clear evidence** that the UN Committee's recommendation is being addressed

Endnotes

- 1 Productivity Commission. Report on Government Expenditure. Youth Justice Services 2022. Table 17A1. <https://www.pc.gov.au/research/ongoing/report-on-government-services/2022/community-services/youth-justice#downloads>. Accessed at 8 March 2022.
- 2 All figures from the KTYJC sourced from Training Centre Visitor Annual Report 2021–2022. Accessed at <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2022/11/TCV-Annual-Report-2021-22-Final.pdf>
- 3 Training Center Visitor Annual Report at page 24.
- 4 Training Centre Visitor. Training Centre Visitor Annual Report 2020–2021 at page 6. Available at <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2021/10/TCV-Annual-Report-2020-21.pdf>
- 5 Ibid pg 16.
- 6 Ibid.
- 7 Ibid.
- 8 Training Centre Visitor. Training Centre Visitor Annual Report 2021–2022 at page 28. Available at <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2022/11/TCV-Annual-Report-2021-22-Final.pdf> and UN Rules for the Protection of Juveniles Deprived of their Liberty (r.29) and UN Standard Minimum Rules for the Administration of Juvenile Justice (r.13.4) requires separation of juveniles pending trial and detention in a separate, or separate part of an institution holding adults.
- 9 Australian Human Rights Commission. Road Map to OPCAT Compliance. 17 October 2022. Accessed at https://humanrights.gov.au/sites/default/files/opcat_road_map_0.pdf.
- 10 Ibid. pgs 17 & 18.
- 11 Training Centre Visitor 2021–22 Report.
- 12 Guardian for Children and Young People. Young people report being detained in City Watch House alongside adults. 2 September 2021.
- 13 Ibid.
- 14 Parliament of Australia. The minimum age of criminal responsibility in Australia: a quick guide. Accessed at <https://gcyp.sa.gov.au/2021/09/02/young-people-report-being-detained-in-city-watch-house-alongside-adults/> https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp2122/Quick_Guides/MinimumAgeCriminalResponsibility#:~:text=The%20MAG%20subsequently%20advised%20on,4.
- 15 Training Centre Visitor Report, pages 6 and pages 63–64.
- 16 Australian Institute of Health and Welfare. Youth Justice. Data Tables. Accessed at <https://www.aihw.gov.au/reports-data/health-welfare-services/youth-justice/data>.
- 17 Productivity Commission. Report on Government Services 2022. Police services interpretive material. Accessed at <https://www.pc.gov.au/ongoing/report-on-government-services/2022/justice/police-services/rogs-202206-partc-section6-police-services-interpretive-material.pdf>.
- 18 Ibid.
- 19 In South Australia indigenous status is determined on the basis of a combination of the responses recorded by police to the Standard Indigenous Question (SIQ) and the apprehending officer's interpretation based on the alleged offender's appearance. The decrease in the unknown percentage from 2017–18 reflects a system change resulting in improved ethnicity identification.
- 20 Guardian for Children and Young People. Snapshot of South Australian Aboriginal Children and Young People in Care and/or Detention from the Report on Government Services 2021, pages 18–19, Chart 10.
- 21 Connolly, H. Making Change in Youth Justice 2020. Accessed from <https://www.ccyp.com.au/wp-content/uploads/2022/03/Making-Change-in-Youth-Justice-%E2%80%93-A-Users-Guide-to-building-a-better-South-Australian-youth-justice-system.pdf> (pp 11).

2022 Child Rights Progress Report on Child Protection

South Australia's progress on recommendations made
by the UN Committee on the Rights of the Child



About the CCYP

The [South Australian Commissioner for Children and Young People](#) is an independent position, established under the [Children and Young People \(Oversight and Advocacy Bodies\) Act 2016](#) (OAB Act). This legislation was introduced to the South Australian Parliament in response to the [Child Protection Systems Royal Commission 2014](#).

The Commission promotes and advocates for the rights, development and wellbeing of all children and young people in South Australia and seeks to change laws, policies, systems and practice to uphold children's rights.

The work of the Commissioner for Children and Young People is guided by the [United Nations Convention on the Rights of the Child](#) (UNCRC); the core international treaty established in 1989 to which Australia is a signatory. This important agreement sets out the civil, political, economic, social, and cultural rights of children around the world.

The Commissioner aims to ensure that as a part of the Australian Commonwealth, South Australia enacts its international obligations under this Convention.

Each year the Commissioner produces a series of Child Rights Progress reports measuring South Australia's progress against recommendations made by the UN Committee on the Rights of the Child (the Committee) particularly in areas of relevance to Child Rights.

This year's progress reports include:

- Child Health
- Child Justice
- Child Protection
- Disability
- Education
- Environment
- Physical Punishment



2022 Child Rights Progress Report on Child Protection



South Australia's progress on recommendations made by the UN Committee on the Rights of the Child

What the data says

	2022	2021	5 year trend	Assessment
Number of notifications to the Child Abuse Report Line (CARL) for all children	80,374	80,175	Increasing	No change
Number of notifications to CARL for Aboriginal children	18,600 ¹	18,754 ²	Increasing	- Unfavourable
Proportion of notifications screened-in	43.2%	47.6%	Decreasing	- Unfavourable
Proportion of Aboriginal notifications screened-in	49.7% ³	57.5% ⁴	Decreasing	- Unfavourable
Number of children in Care*	4,740 ⁵	4,647	Increasing	- Unfavourable
Number of children in Residential Care	649 ⁶	604	Increasing	- Unfavourable
Proportion of Aboriginal children in care/ proportion in general population	37.0%/4.8% ^{7,8}	37.7%/5% ⁹	Increasing/ No change	- Unfavourable
Number (%) of children placed in accordance with the Aboriginal Child Placement Principle	1,133 (65.2%) ¹⁰	1,092 (65.2%) ¹¹	Increasing/ No change	+ Favourable
Proportion (%) of children in care requiring a case plan who have one	96.2% ¹²	97.7% ¹³	Decreasing	Steady

*This number includes children in Kinship Care, Family Day Care, and those who are under the Guardianship of the CE (ie children aged 0–17 years placed in care under a court order or administrative authority).

Background

The UNCRC was the first international Convention to acknowledge that children have rights and that these rights should be protected. Australia ratified the UNCRC in 1990 and South Australia's OAB Act states that all governmental authorities must seek to give effect to the UNCRC. The Convention sets minimum standards and obligations for the protection of children and young people's rights, including their rights to have access to justice, education, health care and social services. All children have the right to have a say on all matters that affect them and for their views to be taken seriously. In making decisions about children their best interests should be the primary concern, as well as their right to be safe and to be free from discrimination.

Every five years, the Australian Government reports to the Committee to explain how Australia is faring in relation to child's rights. This means that the State must provide feedback on how they have fulfilled their obligations under the Convention in the areas over which they have responsibility such as crime, child protection, and health.

In response to Australia's fifth and sixth periodic reports, the Committee highlighted key areas of concern and made recommendations to ensure our governments at both the Federal and State levels, fulfil their obligations under the Convention. One of the Committee's main areas of concern requiring urgent attention is child protection.



2022 Child Rights Progress Report on Child Protection



South Australia's progress on recommendations made by the UN Committee on the Rights of the Child

Children's Rights in relation to Child Protection

The UNCRC protects the right of every child to a standard of living that meets their physical and mental needs (Article 27). Although parents have the primary responsibility to raise their children and to consider what is best for them, governments are required to provide services that support parents' efforts (Articles 5 and 18). Governments must also take appropriate measures – legislative, social, administrative, and educational – to protect a child from all forms of physical or mental violence, injury, abuse, neglect, or maltreatment (Article 19).

Where children are placed in alternative care, their situation must be regularly reviewed (Article 25) and authorities must ensure that a child can exercise all their rights, including access to education, healthcare, legal and other services. The child's identity, language, and privacy must be respected at all times (Articles 16, 24, 28, 29).

The child protection system in South Australia

The power and responsibilities of the South Australian Department for Child Protection (DCP) are established under the *SA Children and Young People (Safety) Act 2017*. The paramount consideration in the operation of the Act is to keep children and young people safe¹⁴ with secondary issues including children and young people being heard and their views considered, fulfilling the need for love and attachment, protection of self-esteem, and providing support to enable them to reach their full potential.

The DCP works with vulnerable families, government and non-government organisations, foster carers, and the community to care for and protect at risk children and young people, by addressing incidents of abuse and neglect, and by keeping them safe from further harm.

DHS leads the Early Intervention Directorate and runs early intervention programs aimed at keeping children safe with their families.

The 2022 Progress Report¹⁵ on the Safe and Well Strategy details the implementation of the Child and Family Safety and Support System (CFSS). The Roadmap for Reforming the Child and Family Support System 2021–2023 outlines the governments' plan to support families with complex needs as well as children in care. It has three levels of interventions.

1. Supporting families with multiple, complex needs by providing earlier, intensive, targeted support for families through providing more services for families who come into contact with the child protection system. **Evidence that this is occurring includes an increase in the spending on early intervention services, more services and more families accessing these services.**
2. Protecting children from harm, including when they come into care, and delivering trauma-responsive, development-focused services for children and young people in care that are designed to meet their individual needs, with an emphasis on family based care, reunification and permanency. **Evidence of this includes more children being reunified with families, better health outcomes, more children connecting to culture and able to do everyday things like all other children, more children in family-based care and kinder non-family based care.**

3. Investing in children and young people in care, and their transition from care to help break intergenerational contact with the child protection system. This includes supporting children in care to be independent, providing access to further education, better supports for particularly vulnerable groups and investing in their future. **Evidence of success includes better educational outcomes, less children in care ending up homeless or unemployed or in the justice system.**
4. Building a better system in the future by listening and engaging with children and young people, providing more accountable systems and better partnerships with others.

Over the past year the Department for Child Protection has:

- increased base and respite payment to general foster and kinship carers
- developed a DCP Child and Youth Engagement Strategy 2021–23
- implemented a new model of care for Supported Independent Living Services for young people; and
- undertook consultation to re-design post care services for young people leaving care up to the age of 21 years.

The new government implemented election promises, including:

- an additional \$800,000 to the CREATE Foundation over four years to support transition from care with a focus on pathways for young people to access study, work and housing options.¹⁶
- re-invested \$1.9m (over three years) into the Child and Young Person's Visitor Scheme for children and young people.

There have also been a number of government endorsed and statutory reviews undertaken during the year.

These include:

1. The Independent Inquiry into Foster and Kinship Care in SA. The scope of this inquiry determined under section 169A of the *Children and Young People (Safety) Act 2017* includes (but is not limited to) the following:
 - Existing complaint mechanisms as they relate to foster and kinship care and carers.
 - Existing consultation processes within foster and kinship care.
 - Information sharing and sharing of documentation with foster and kinship carers.

- Ensuring sound partnerships with foster and kinship carers and that the rights of children in foster and kinship care are respected, addressed and realised.
 - Recommendations to improve foster and kinship care in South Australia.
2. A review recommended by the State Coroner and conducted by Kate Alexander to scrutinise the government's progress into implementing recommendations of previous child protection inquiries with the report released in November.¹⁷
 3. An independent inquiry into the deaths of two children and the ongoing safety of siblings via "Task Force Prime" headed by former Police Commissioner Mal Hyde, with the report released in November 2022, but not yet made public.¹⁸
 4. The first statutory review into the *Children and Young People (Safety) Act 2017*, which is expected to be completed next year. This statutory review must occur every five years.

In addition to the above, April Lawrie, the Commissioner for Aboriginal Children and Young People, SA has commenced an inquiry under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* into the removal and placement of Aboriginal children and young people in SA.¹⁹

National and State Plans and Strategies

The new National Framework for Protecting Australia's Children (2021–2031) sets out a national 10-year framework to improve the lives of children, young people and families experiencing disadvantage or who are vulnerable to abuse and neglect. The implementation of this plan will be through two 5-year action plans, with initial focus on Aboriginal children and families.

This is supported by the South Australian Government's Safe and Well Strategy – the framework by which the State government is keeping children safe and well. It recognises the importance of "earlier, targeted, intensive support for families with multiple and complex needs". This strategy is jointly led by Department for Child Protection (DCP) and Department for Human Services (DHS).

South Australia's progress on the latest recommendations made by the UN Committee in relation to Child Protection



No evidence that the UN Committee's recommendation is being addressed



Some evidence that the UN Committee's recommendation is being addressed



Clear evidence that the UN Committee's recommendation is being addressed

Current Status

To ensure adequate human, technical and financial resources are allocated to child protection services and to strongly invest in measures for children and their families aimed at avoiding the removal of children from their families.

Although more early intervention programs were initiated during the past year, more still needs to be done so that the child protection system maintains its strategic and operational focus on keeping children safe with their families.

DCP's Annual Report states that the growth in the number of children and young people who are coming into care decreased, with a growth rate of 2.0% as at 30 June 2022 compared to 6.4% as at 30 June 2021 (using point in time data).

The proportion of expenditure for early intervention services remains steady at around 20% of total services expenditure in 2020–2021. Investing in statewide strategies to support families to care and protect children at home is required to achieve systemic change.

New initiatives that commenced in the 2021–22 year include the following:

1. **Launch of the Adult Supporting Kids (ASK) website** which makes it easier for parents or anyone with concerns about the safety of a child to find help by bringing together information about a range of South Australian specific services in one place. This website was expanded in February 2022 to include a professional profile.
2. **Recommissioning of the Community Services Support Program**, providing case management and programs for children and families with low-level safety concerns. More services will commence in 2023. It aims to improve outcomes for children by intervening early to strengthen families and communities and prevent the need for entry into or escalation within the child protection system. Currently, 13 non-government organisations are providing services in this area including:
 - Anglican Community Care (AC Care)
 - Anglicare: SPRING
 - Australian Refugee Association (ARA)
 - Centacare Catholic Country SA
 - Centacare Catholic Family Services: Sole Parenting Program
 - Fleurieu Families
 - Lutheran Community Care
 - Northern Area Community & Youth Services Inc (NACYS): Family Support Program
 - Survivors of Torture and Trauma Assistance and Rehabilitation Service (STAARS): Intensive Family Support Counselling Service
 - UnitingSA
 - UnitingCare Wesley Bowden
 - Uniting Country SA
 - WestCoast Youth Services.²⁰

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

3. Development of the **Trauma Responsive Framework and the Aboriginal Cultural Practice Framework** as well as **culturally responsive, trauma informed training** in the Department for Human Services.²¹
4. Expansion of **Safe Start** (formally CFARNS) **support for family preservation in high risk families with young children**. These services seek to intervene early in the first 1,000 days of life by providing intensive family support to strengthen parenting capacity. During the year it was extended to Whyalla, Port Augusta, with additional support provided to Northern Adelaide.
5. Expansion of **Family Group Conferencing** to include a program for pregnant Aboriginal mothers and their unborn children, who are subject to a child protection concern. To further extend access to the family group conference services to Aboriginal families, DCP contracted Aboriginal Family Support Services to deliver an Aboriginal specific family group conferencing service in the northern suburbs and a culturally appropriate program for Aboriginal and Torres Strait Islanders.

Program/Services	Outcomes
1. Child Wellbeing Practitioners – supporting children and families in public schools who are identified as being vulnerable.	There were 479 families with 1,256 associated children supported during 2021–22 in the metropolitan area.
2. CSSP Family Support and Early Intervention services aiming to improve child development outcomes in vulnerable families, and to prevent crises or problems escalating in ways that can lead to family conflict and family breakdown.	2,448 individuals were provided with family support and early intervention between 1 July 2021 and 30 June 2022.
3. Family by Family is delivered by a non-government organisation to children and families who are assessed as being vulnerable to child abuse and neglect and who are at risk of becoming involved in the statutory child protection system.	There were 206 families with 406 associated children supported during 2021–22.
4. Family Practitioners deliver a statewide service to children and families where child protection risks have been identified, to support children's overall safety and wellbeing within the State's Childrens Centres.	There were 376 families with 820 associated children supported during 2021–22 (metropolitan area only)
5. Intensive Family Services provides intensive and targeted support to families with children aged 0–18 years who have multiple and complex needs and who have been identified as having a high to very high risk of entering the statutory child protection system.	There were 823 families with 2,032 associated children supported during 2021–22.

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

Program/Services	Outcomes
6. Taikurtirna Tirra-apinthe Intensive Family Support Services for Aboriginal and Torres Strait Islander families whose children have been assessed by DCP as being at imminent risk of having a child placed in care. This is a culturally responsive, trauma-informed, family focussed approach. It is funded to 30 June 2023.	There were 19 families with 53 children supported during 2021–22
7. Strong Start is a government led service operating in Northern and Southern Adelaide to support first time mothers who are experiencing multiple complexities in their lives, supporting them to create a safe and nurturing environment for their new baby.	There were 125 families with 156 associated children supported during 2021–22.
8. Tiraapendi Wodli (Justice Reinvestment Port Adelaide) is an Aboriginal community led approach aimed at increasing the strength and resilience of Aboriginal families living in the City of Port Adelaide Enfield. The Initiative is currently led by the Australian Red Cross in collaboration with Justice Reinvestment SA. A new iteration of the Tiraapendi Wodli Priority Action Plan 2022–2023 identifies actions to strengthen local community capacity and deliver improvements across a range of indicators in education, child protection, justice and family safety.	In 2021–22, 210 individuals and their families were provided with support.
9. The Western Adelaide Intensive Support Pilot is delivered by a non-government organisation to provide services to Aboriginal and Torres Strait Islander families whose children have been assessed by DCP as being at imminent risk of having their child or children placed in out-of-home care.	The service is being extended by 15 months from 1 April 2022 to 30 June 2023. There were 19 families consisting of 53 associated children supported during 2021–22.
10. Commencing on 1 July 2021, Grandparents for Grandchildren (GFGSA) Village mutual support program assists grandparent and kinship carers and the children in their care through a network of local 'Village' support groups across South Australia.	151 individuals were supported between 1 July 2021 and 30 June 2022.
11. Commencing on 1 July 2021, the prisoner kids family care team service is delivered by a non-government organisation to support the families and children of people who have been incarcerated.	78 individuals received support between 1 July 2021 and 30 June 2022.

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

Program/Services	Outcomes
12. Safe Start teams work with children and families to provide a coordinated, targeted and culturally appropriate earlier intervention approach to improve the safety, health, development and education outcomes where risk factors exist. Safe Start is led by DHS in Northern Adelaide, Southern	Figures unknown.

To strongly invest in measures developed and implemented by Aboriginal and Torres Strait Islander children and communities to prevent their placement in out-of-home care, provide them with adequate support while in alternative care, and facilitate their reintegration into their families and communities.

South Australia has committed to Closing the Gap Target 12: To reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031.

More than one-third of all children in out-of-home care in South Australia are Aboriginal children. In South Australia, the rate of Aboriginal children aged 0–17 in care at 30 June 2021 was 37.0%.²²

The Department for Child Protection (DCP) has reported that, as at 30 June 2021, the number of Aboriginal children and young people in care with a current and approved Aboriginal Cultural Identity Support Tool or Cultural Plan is 92.9% (as at 30 June 2022), which is a slight increase from the previous year.²³

More systems and services have been implemented during the year, including:

1. The Family Led Decision Making Framework, with a focus on Aboriginal families. This framework aims to address the power imbalance between DCP and Aboriginal families. The framework provides strategies for DCP case workers to enable family led decision-making across all levels of child protection interventions for significant decisions about Aboriginal children and young people.
2. The DCP Practice Manual has been updated to include Aboriginal Child Placement Principle (ACPP) active effort prompts, alongside key practice activities. These prompts support staff to implement the ACPP elements into their work with Aboriginal children, young people and families.²⁴
3. Commencing Aboriginal specific family group conferencing services through Relationships South Australia (RASA) and Aboriginal Family Support Services (AFSS) to provide an opportunity to engage with and empower family and community to make informed decisions about what is best for Aboriginal children and young people. This includes a new family group conference program for Unborn Child Concerns.
4. Establishing a new program in the APY Lands to deliver culturally responsive services for kinship carer families of Aboriginal children and young people. This office will be monitoring this in the future.



- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

For Aboriginal Children in Care the following actions occurred in 2022:

1. A model for a South Australian peak body for Aboriginal children and young people is being designed. The peak body is expected to be established in 2022–23 following Aboriginal-led engagement, and agreement on a model that has the support of the Aboriginal community.²⁵
2. The DCP's Youth Adventure and Recreational Services ran its first cultural camp, Ringbalin, supported by Ngarrindjeri Elder, Major Sumner. Since that time a number of other day and overnight camps have occurred along with other cultural activities.
3. In August 2021 an Aboriginal led organisation commenced operation of an Aboriginal specific Family Group Conferencing service.

To ensure that children in alternative care have access to the mental health and therapeutic services necessary for healing and rehabilitation and to enhance preventive measures to avoid children drifting from care into crime.

Local and world-wide evidence all points to children in care having more adverse, health, economic, educational and wellbeing outcomes than children who remain with their families. Children in care are also more likely to come into contact with the child justice system and be known to police, especially those in residential care.

The Guardian for Children and Young People's *Final Report of the South Australian Dual Involved Project* reports on the criminalisation of children in care, and the systemic issues that occur. The report also provides feedback from children who are dual involved between 1 February and 31 December 2021.

Key findings include:

- 71 individual dual involved children and young people were detained at Kurlana Tapa on 240 separate occasions.

Of these children and young people:

- 64 lived in non-family-based care (mostly residential care placements) (90.1 per cent); 5 were female (35.2 per cent), 46 were male (64.8 per cent);
- 30 were Aboriginal (42.3 per cent).

The introduction of The Sanctuary Model has been a welcome initiative, but its successful implementation will be dependent upon a robust residential care system characterised by:

- trained and supported staff
- access to sufficient and adequate metropolitan and regional properties
- alignment with the Aboriginal and Torres Strait Islander Placement Principle; and
- appropriate care and opportunities for residents with disabilities.

Recent evaluations found that for this to be successful “organisations need to commit to organisational and behavioural change by providing resources, hands on support, and ongoing practice-based and refresher training for staff, all of which consistently promote incorporating The Sanctuary Model into practice.”²⁶



- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

It is recommended that DCP monitors the number and rate of children in care who come into contact with the child justice system to address systemic issues in this area.

Over the past year the State government:

- has been in the process of finalising a Model of Mental Health Care and Operational Guide for CAMHS working with children and young people in care via the Department of Health and Wellbeing (DHW). When complete, this will sit alongside the CAMHS Model of Care, which has been written to encompass all services and clients.
- expanded the implementation of the Sanctuary therapeutic model of care used in DCP residential homes, announced in June 2020. This trauma-informed therapeutic model of care is designed to help staff better understand how trauma and past adversity can impact a young person's behaviour. During the year over 700 staff completed training in this model of care.
- completed the MyPlace Program, which is strengthening the quality of care provided within non-family-based care settings, by refreshing and enhancing the physical home environments for children and young people residing in DCP residential care to make these places "feel like home". This includes personalising bedrooms for children in residential care, by allowing them to turn their bedrooms into their own personal space. It also includes making shared spaces more home-like and comfortable.
- Department for Child Protection informed CCYP that they have established an agreement with SAPOL for DCP to consult on a case-by-case basis prior to taking action on any child or young person living in residential care who is charged with property damage to determine the necessity to proceed and to therefore reduce children in care coming into contact or having involvement with the child justice system. The data on this action is not yet available.

To ensure that children, their families and communities participate in decision-making in order to guarantee an individualised and community-sensitive approach.

As indicated in previous sections there is an increasing number of services working with children and families before children enter the system, which should see an improvement in outcomes for children.

During 2022 the following occurred:

1. A Decision Making Framework with a focus on Aboriginal families was implemented.
2. The Community Visitor Program was recommenced to provide oversight and a voice for children in residential care.
3. Family Group Conferencing was introduced, including a service established specifically for Aboriginal and Torres Strait Islander families and which includes a program for Unborn Child Concerns.
4. The nine Family Reunification service providers which have been operating over the previous twelve months to meet the needs of children and families and to reunify children with their families wherever possible has been maintained.



5. DCP has worked with the CREATE Foundation to improve and support sibling connections and to support young people to find pathways to housing, study and work.

To provide adequate training to child protection carers on the rights and needs of children with disabilities to prevent their maltreatment and abuse.

Approximately one-third of South Australian children and young people in care have a disability or developmental delay. DCP has prepared a Disability Action and Inclusion Plan, which includes improving outcomes for children in care.

There are several programs and services provided by DCP relating to the delivery of services to South Australian children and young people living with disability. During the past year these programs and services reflected an:

- increase in the number of children and young people living in residential care who are now receiving support through an NDIS plan with an increase from 23.5% in 2020–21 to 26.1% in 2021–2022.²⁷
- expansion of the Disability and Development Services Program to offer more support to carers of children with disability and developmental delay. There are currently three teams that support caseworkers, family-based carers, and residential care services. During the year over 500 staff in DCP have had training in this area. The program has also increased its service offerings having travelled across the State to support young people with disability and developmental delay (and their carers) living in regional and remote areas to be identified and provided with support.²⁸
- DCP and the Department for Education established a collaborative approach to seeking and utilising health, developmental, and disability assessments designed to support children and young people in care who are living with disability to access the learning supports they need. Since January 2021 there have been over 90 individual requests to share information between the two departments in relation to better support for children in care.

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■ **No evidence** that the UN Committee's recommendation is being addressed

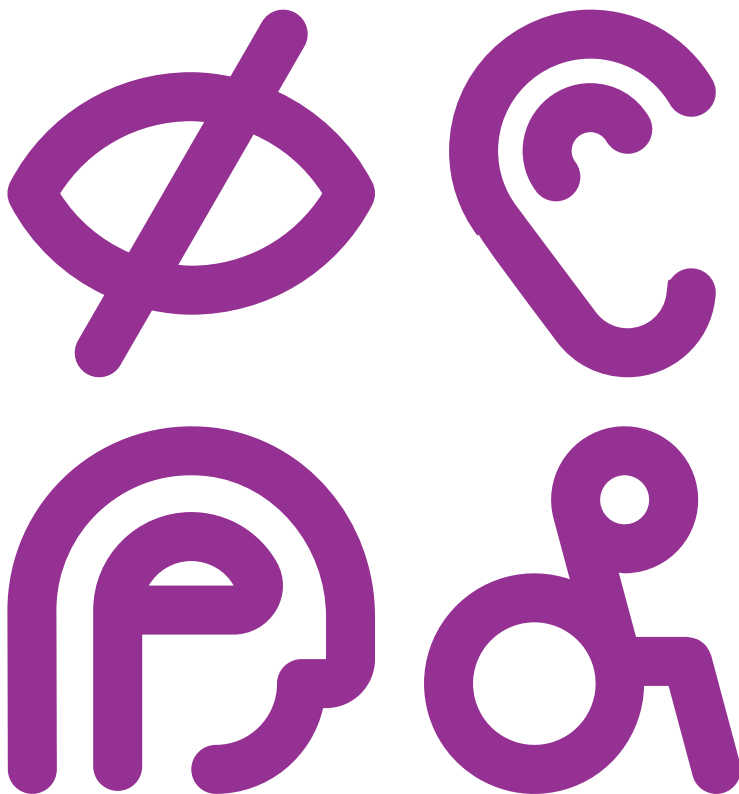
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2022 Child Rights Progress Report on Disability

South Australia's progress on recommendations made
by the UN Committee on the Rights of the Child



About the CCYP

The [South Australian Commissioner for Children and Young People](#) is an independent position, established under the [Children and Young People \(Oversight and Advocacy Bodies\) Act 2016](#) (OAB Act). This legislation was introduced to the South Australian Parliament in response to the [Child Protection Systems Royal Commission 2014](#).

The Commission promotes and advocates for the rights, development and wellbeing of all children and young people in South Australia and seeks to change laws, policies, systems and practice to uphold children's rights.

The work of the Commissioner for Children and Young People is guided by the [United Nations Convention on the Rights of the Child](#) (UNCRC); the core international treaty established in 1989 to which Australia is a signatory. This important agreement sets out the civil, political, economic, social, and cultural rights of children around the world.

The Commissioner aims to ensure that as a part of the Australian Commonwealth, South Australia enacts its international obligations under this Convention.

Each year the Commissioner produces a series of Child Rights Progress reports measuring South Australia's progress against recommendations made by the UN Committee on the Rights of the Child (the Committee).

This year's progress reports include:

- Child Health
- Child Justice
- Child Protection
- Disability
- Education
- Environment
- Physical Punishment



2022 Child Rights Progress Report on Disability



South Australia's progress on recommendations made by the UN Committee on the Rights of the Child

What the data says

Measure	Year (% or number)	Trend (Time period)	Assessment
Proportion of students in South Australian schools receiving adjustments due to disability. ¹	2020 (27.7%) 2019 (26.3%) 2018 (23.6%) 2017 (21%)	Increasing (Year on Year)	+ Favourable
Proportion of suspensions from SA government schools for students receiving disability adjustments. ²	2019 (56.6%) 2016 (42.5%)	Increasing (Year on Year)	- Unfavourable
Data related to this measure is not consistently reported publicly. The most recent available data is from 2019.			
Proportion of children and young people in care who have a current National Disability Insurance Scheme (NDIS) plan. ³	2022 (26.1%) 2021 (23.5%) 2020 (19%)	Increasing (Year on Year)	+ Favourable
Number of children and young people aged 0 to 18 years meeting criteria for access to the NDIS. ⁴	2022 (29,705) 2021 (21,711) 2020 (21,876)	Increasing (Year on Year)	+ Favourable
Compared to all other states and territories, South Australia has the highest NDIS participation rates of children across all three NDIS age groups 18 years and under.			
Proportion of South Australia's general population who are NDIS participants. ⁵	At 30 September 2022: 4.8% of 0–6 year olds; 8.0% of 7–14 year olds; 5.7% of 15–18 year olds. At 30 June 2021: 4.18% of 0–6 year olds; 7.28% of 7–14 year olds; 4.63% of 15–18 year olds. At 30 June 2020: 3.62% of 0–6 year olds; 6.44% of 7–14 year olds; 3.92% of 15–18 year olds. ⁶	Increasing (Year on Year)	+ Favourable
Compared to all other states and territories, South Australia has the highest NDIS participation rates of children across all three NDIS age groups 18 years and under.			

Note: Data related to children with disability varies across data sources. This is due to differences in the definition of disability and age groups used for reporting purposes. There are also challenges in tracking data over time due to inconsistency and irregularity in terms of what data is made publicly available, particularly regarding children with disability who are not NDIS participants.

Background

The UNCRC was the first international Convention to acknowledge that children have rights and that these rights should be protected. Australia ratified the UNCRC in 1990 and South Australia's OAB Act states that all governmental authorities must seek to give effect to the UNCRC. The Convention sets minimum standards and obligations for the protection of children and young people's rights, including their rights to have access to justice, education, health care and social services. All children have the right to have a say on all matters that affect them and for their views to be taken seriously. In making decisions about children their best interests should be the primary concern, as well as the right to be safe, to be free from discrimination.

Every five years, the Australian Government reports to the Committee to explain how Australia is faring in relation to child's rights. This means that the State must provide feedback on how they have fulfilled their obligations under the Convention in the areas over which they have responsibility such as crime, child protection, and health.

In response to Australia's fifth and sixth periodic reports, the Committee highlighted key areas of concern and made recommendations to ensure our governments at both the Federal and State levels, fulfil their obligations under the Convention. One of the Committee's main areas of concern requiring urgent attention is child disability.

The rights of children with disability

Article 23 of the UNCRC recognises that all children with disability have a right to a full and independent life in conditions which ensure dignity and facilitate the child's active participation in the community. The rights of children with disability are also set out in Article 7 of the United Nations Convention on the Rights of Persons with Disabilities, which overlaps with the UNCRC in articulating that: The best interests of a child shall be a primary consideration in all actions concerning children with disability; and that children with disability have the right to express their views freely in all matters affecting them, with their views being given due weight in accordance with their age and maturity.

State authorities must recognise and provide appropriate support and special care to ensure children with disability are able to access and participate in education (Articles 28 and 29), healthcare (Article 24), justice, recreation (Article 31) and preparation for employment (Article 23) on the same basis as others, and in a way that supports the child's full social integration and individual development. This assistance should take into account the financial resources of families (Article 23(3)).

The rights of children and young people with disability are also embedded in South Australia's *Disability Inclusion Act 2018*, which emphasises that children with disability should be considered a priority group with different needs and vulnerabilities.

The *Disability Inclusion Act (SA) 2018* requires each state authority to develop a Disability Access and Inclusion Plan (DAIP) that must give effect to the objects and principles of the Act and acknowledge that there are risks and principles specific to children with disability. The Act states that children with disability should 'be given developmentally appropriate opportunities to participate in decisions that affect them' and that any 'decisions made should be child-centred'.

An Interim Review of Inclusive SA (South Australia's State Disability Inclusion Plan 2019–2023) was also completed in 2022. Inclusive SA sets out whole-of-government actions and measures for State Government agencies and local councils to improve access and inclusion for South Australians living with disability.

The interim review aimed to commence the realignment of existing Inclusive SA actions with the targeted outcome areas and action plans identified in Australia's Disability Strategy 2021–2031 (ADS), which was launched in late 2021. A more comprehensive review of Inclusive SA will be conducted in 2023 and will consider any recommendations made in the review of the *Disability Inclusion Act 2018*.

Some positive developments this year include:

- The commencement of South Australia's Restrictive Practices Authorisation Scheme under the *Disability Inclusion (Restrictive Practices-NDIS) Act 2021*.
- The independent review of the operation and effectiveness of the *Disability Inclusion Act (2018) SA*.
- The allocation of four years of funding to reinstate the Children and Young Person's Visitor role and scheme to promote the rights of children and young people living in residential care, including many children with disability.
- Alignment of Inclusive SA actions with Targeted Action Plans under Australia's Disability Strategy.
- Commitments to increase support for children and young people with Autism from 2023, including:
 - Appointing an Autism lead teacher in every government primary school;
 - Appointing an Assistant Minister for Autism; and
 - Co-designing the state's first Autism Strategy and Autism Friendly Charter.

Ongoing areas of concern in South Australia include:

- Overrepresentation of children and young people living with disability in child protection and youth justice systems.
 - Criminalisation of children in residential care disproportionately impacting children living with disability.
 - Exclusion of children with disability from school.
 - Barriers to accessing health services and a lack of therapeutic support for children with complex disability and behaviour support needs.⁷
- Lack of integration and information sharing between federally funded services under the NDIS and state-funded health, education and family support services, which is a barrier to appropriate and timely support for children living with disability.
 - The isolation, invisibility and lack of safeguarding and oversight of children and young people with complex disability needs who are unable, or at risk of being unable, to live in the family home, despite government commitments and efforts by the Exceptional Needs Unit within DHS with a focus on family assessment and coordination of supports.

South Australia's progress on the latest recommendations made by the UN Committee in relation to disability



No evidence that the UN Committee's recommendation is being addressed



Some evidence that the UN Committee's recommendation is being addressed



Clear evidence that the UN Committee's recommendation is being addressed

Current Status

To ensure that data collected on children's rights covers all areas of the Convention, that they are disaggregated by age, sex, disability, geographic location, ethnic origin, national origin and socioeconomic background, and that they identify children in situations of vulnerability, including children with disabilities.

Where data related to children living with disability exists across systems, it is not consistently collected, reported, or shared between agencies or stakeholders. Nor is it consistently disaggregated by age, gender, geographic location, or socioeconomic background.

Generally, data about children with disability continues to be limited to the prevalence of diagnosed disability and the provision of services, with a lack of mechanisms to capture children and young people's views and experiences in relation to areas of the UNCRC. Specifically, data gaps in the following areas continue to raise concerns:

- lack of data collection in hospitals, which means clinicians lack information about disability-related needs to inform the provision of healthcare
- the primary focus of the Department for Child Protection has been on NDIS plans and access. This does not capture those with disability or trauma-related needs who may not have a diagnosis, or those who may not meet NDIS eligibility criteria; and
- a lack of data about children living with disability in relation to their:
 - safety, including sexual health and safety
 - citizenship, including electoral enrolment and participation
 - participation, engagement and attainment in education, beyond enrolment figures; and
 - inclusion and participation in 'everyday' decision-making and at all levels of government.



- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

Inconsistent definitions and reporting across jurisdictions and systems makes it difficult to:

- ensure that children living with disability are accessing the support they need
- design, implement, monitor and evaluate effective policy, programs and services; and
- determine whether governments are meeting human rights obligations.

The Department of Human Services (DHS) completed the National Disability Data Asset South Australian Pilot test case in 2022, which captured and analysed data related to pathways from education to employment for people with disability. This is welcome progress. However, the test case report noted a lack of information on 'barriers to participation or achievement as experienced by students with disability'.⁸

The Department for Education has developed a disability data reform project as part of the 1 in 4 reforms, which includes the following five work streams and is expected to be finalised by 30 June 2023:

- integrate IESP data into the school enrolment census
- streamline IESP update processes
- streamline IESP site funding calculations and site reports
- obtain endorsement on data quality standards, governance and data definitions; and
- define and implement a holistic view of students with disability.

In 2022, DHS continued to respond to the areas of disability-related need that were identified in the 2019 Youth Justice Disability Screening Assessment Project. Key deliverables include:

- implementation of a revised assessment approach and the introduction of the Child and Adolescent Intellectual Disability Screening Questionnaire (CAIDS-Q) across Youth Justice Services, which aims to support staff to identify children and young people who may require referral for further assessment.
- delivery of the REFRAME training program, which aims to upskill frontline staff who are engaging with young people with Foetal Alcohol Spectrum Disorder and other neuro-divergences.⁹

DHS has committed to working with the Commonwealth Government to 'develop data indicators that measure changes in community attitudes about the rights and needs of people with disability'.

According to the Inclusive SA Annual Report 2021–2022, DHS plans to evaluate the See Me for Me disability awareness campaign launched in 2022 in order to 'measure community impact' and 'inform next steps'.¹⁰

To prohibit by law the sterilisation of girls with disabilities without their prior, fully informed and free consent.

As noted in previous reports, there is limited data available about the sterilisation of children in Australia. While available data suggests sterilisations have become less common over recent years, the practice is still permitted by legislation in South Australia.

While sterilisation is a 'prescribed treatment' under Section 61 of the *Guardianship and Administration Act (SA) 1993*, there is no specific criteria or consistent standard that prescribes the circumstances in which children may or may not be sterilised.

In light of concerns about how a child's best interests are determined and the potential for a child's wishes to be overlooked, governments must put in place policies and procedures that allow support for children and their families, including access to the least invasive non-surgical alternatives to sterilisation available.

To conduct awareness-raising campaigns aimed at government officials, the public, and families, to combat the stigmatisation of and prejudice against children with disabilities and promote a positive image of such children.

According to the Inclusive SA 2020–2021 Annual Report, tabled in Parliament in May 2022:

- 58 State authorities have specific actions in their Disability Access and Inclusion Plans that are targeted to children and young people living with disability; and
- 74% of State authorities are committed to supporting young people with disability to actively participate in decision-making in their DAIPs.¹¹

This is promising, and future reports will monitor the progress of State authorities in relation to delivering on these commitments. However, there continues to be limited opportunities and mechanisms that support the engagement and participation of children living with disability in decision-making at the school, community and systemic levels.

In 2022, South Australian agencies supported the national implementation of Australia's Disability Strategy 2021–2031. The Interim review of the Inclusive SA State Disability Inclusion Plan, tabled in Parliament in September 2022, aligns specific Inclusive SA actions with Targeted Action Plan deliverables as per the new Australia's Disability Strategy.

The Office of Recreation, Sport and Racing has initiated a study to understand and improve the reach of programs for disadvantaged communities, including children living with disability. This is in line with what was originally Action 5, Priority 1 of Inclusive SA: 'To explore opportunities to increase the involvement of children with disability in sports and cultural activities' (now Action 6 under Outcome Area 2 of Australia's Disability Strategy).

In 2022, the Department of Human Services also commissioned an independent review into the operation and effectiveness of the *Disability Inclusion Act 2018* (SA). The report of the Review was tabled in Parliament in September 2022, and future reports will monitor South Australia's progress against recommendations made in the Review with a particular focus on children and young people.

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

- **No evidence** that the UN Committee's recommendation is being addressed
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- **Clear evidence** that the UN Committee's recommendation is being addressed

Provisions that exempt a person of 'unsound mind' from voting in elections remain in Commonwealth and state electoral legislation, despite recommendations from the Australian Law Reform Commission to remove such provisions.¹²

While the *Evidence Act 1929* (SA) provides for special measures for vulnerable witnesses, including children living with disability, the 2021 review of the use of communication found that 'knowledge of this legislation and the entitlement to communication assistance... was sorely lacking, even amongst lawyers'.¹³ The Commissioner will monitor progress against the review's recommendations specific to children, including the recommendation to strengthen provisions to create a positive obligation for SAPOL to provide communication assistance. It is understood that there is now special training for SAPOL officers when interviewing children, and only those who are trained can conduct interviews with children.

In 2022, the 'Pavely' smartphone app was launched, which allows users to rate the accessibility of venues across South Australia. It is designed to assist South Australians who have accessibility needs to find things to do at places they can easily access.

The See Me For Me disability awareness campaign was also launched in 2022 'to improve community understanding and attitudes about people living with disability'. In addition, the Report It Right guidelines for portraying people with disability in the media was launched in 2021.¹⁴ However, both initiatives appear to primarily be adult-focused.

At 30 June 2022, the proportion of children in care receiving supports through an NDIS plan increased to 26.1% of all children in care (up from 23.5% in 2021 and 19% in 2020).¹⁵ While the Department for Child Protection's 2021–22 Annual Report also notes an increase in the rate of carer participation in annual reviews (95.5% compared to 71.5% in 2020-21), this is not disaggregated according to disability or other characteristics.¹⁶

As reported in the 2021 progress report, the Department for Child Protection (DCP) published disability-specific resources for carers last year, in line with commitments in the Disability and Access Inclusion Plan 2020-2024. Relevant updates in 2022 include:

- additional information on the DCP Carer Platform in relation to identifying concerns about developmental delays for children under 5 years; and
- launch of the Caring Together Newsletter for foster and kinship carers, which includes information on supporting children living with disability and the Department's Disability and Development Program of work, including Regional Disability Consultants.¹⁷

Several reviews related to child protection have been undertaken throughout 2022, including the Independent Inquiry into Foster and Kinship Care in SA and the Review of the *Children and Young People (Safety) Act 2017*. Future progress reports will monitor the findings, recommendations and outcomes of these reviews in relation to the provision of support for carers of children with disability, particularly during critical transition periods such as the transition from care.

To provide adequate training to child protection carers on the rights and needs of children with disabilities to prevent their maltreatment and abuse.



- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

The criminalisation of children in care, particularly in residential care, is an ongoing systemic concern that disproportionately impacts children living with disability. More than one third (36.6%) of children and young people in the Guardian for Children and Young People's (GCYP) dual-involved project were assessed as having a disability, and behaviours or circumstances that lead to offending are often 'directly linked to unmet disability health and support needs'.¹⁸

Released in June 2022, the Guardian's final report makes several recommendations aimed at improving early intervention supports and opportunities for diversion, review, analysis and ultimately a reduction in police involvement in residential care settings, including through a joint protocol between DCP and SA Police (SAPOL). The Commissioner intends to monitor South Australia's progress against these recommendations in future reports, particularly in relation to children living with disability.

In the 2022–23 Budget, the South Australian government allocated four years of funding to reinstate the Children and Young Person's Visitor role and scheme. The role was established in 2017 to promote and advocate for children and young people living in residential care, including conducting regular visits and inspections of residential care facilities. Since 2019, there has been no dedicated funding to support or implement the Visitor Scheme as described in legislation. The Commissioner welcomes the reinstated funding for the Visitor role, insofar as it can guide systemic reform needed to improve the care, safety and wellbeing of children in residential care, including those with disability.

The Disability Standards for Education 2005 (the Standards) clarify the obligations of education providers under the *Disability Discrimination Act 1992* (Cth) to ensure that students with disability access and participate in education on the same basis as other students.

The Department for Education's Children and Students with Disability Policy outlines how schools can comply with the Standards. Although this Policy was to be reviewed by 2021, according to the Department's DAIP the most recent review was undertaken in July 2020. As highlighted in last year's report, there are no mechanisms to drive accountability and progress in relation to the Standards, and there has been no formal public response to the recommendations made in the final report of the 2020 Review of the Standards.

In 2022, work progressed on the Department for Education's 1 in 4 reform program and student engagement reforms, which aim to address issues raised in the 2020 Graham Inquiry into suspensions, exclusions and expulsions and the Commissioner's 2020 *Blame Game* Report. Positive developments this year include:

- launch of sixteen practice guides that provide educators with evidence-based strategies and advice to improve the learning and wellbeing outcomes for students with functional needs

To ensure that all children living with disabilities have access to inclusive education in mainstream schools and are provided with the support they need.



- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

- introduction of the Inclusive Education Support Program (IESP) Category 1–2 Pilot, which allows schools to self-report funding needs under IESP categories 1 and 2 without the need to apply through the IESP panel
- automatic renewal of a further 12-month allocation of existing funding to all students with an IESP funding review date that falls between 7 November 2022 and 29 January 2024
- development of an indicator framework that describes the outcomes the Department is seeking for children and students with functional needs
- commitment to improving support for children and young people with autism from 2023, including appointing an Autism Inclusion Teacher in every primary school; and
- improvements to Student Support Services as part of the Accessible Support Models project to increase the number of students receiving services (initially psychology and speech pathology services).

In 2021, a record numbers of students with an intellectual disability completed their SACE, with 1 or more modified subjects (353 students compared to 323 students in 2020).¹⁹

The Commissioner remains concerned about the Department for Education's transport policy. Under the policy, students living with disability are not considered eligible for transport assistance if they are attending their local department school or preschool, or if they live within 5 kilometres of the Special Option they attend.²⁰ The Commissioner will continue to monitor the Department's progress against the commitment in Action 3.4 of the DAIP to 'support access to preschool and school for children and young people living with disability', including through changes to the 'Students with disability transport assistance program procedure', which is due for review in mid-2023.

Year 7 students in South Australian government schools transitioned to high school in 2022. The final report of the Year 7 to High School Project Evaluation was released in June 2022, and reports on the effectiveness of the project, including strategies tailored to support the transition of students with disability.

The Evaluation report identified planning for Special Options placements as one of the most challenging aspects of the project due to inaccurate and outdated data and data management systems. This has led the Department to 'prioritise system improvements' in the uniformity and oversight of data collection processes related to students with disability.

The Commissioner welcomes the focus on support for students with disability throughout the transition project and will continue to monitor system improvements in relation to data, along with work to address other barriers, particularly the noted 'lack of student voice in understanding the need of transitioning students'.

A Human Rights Act in South Australia would provide a strong legislative base for South Australia to meet this UN recommendation. Evidence from other jurisdictions, including Victoria and Queensland, exemplify the ways in which Human Rights Acts meaningfully impact outcomes for vulnerable people, including education outcomes for children with disability.

To address the use of restraints and seclusion against children with disability.

The legislation that establishes South Australia's Restrictive Practices scheme (the *Disability Inclusion (Restrictive Practices–NDIS) Act 2021*) commenced on 30 May 2022. The scheme is administered by the Restrictive Practices Unit within DHS and sets out the roles, processes and criteria for the authorisation of restrictive practices by NDIS service providers for NDIS participants in South Australia.

The Restrictive Practices Guidelines provide further details about the operation of the scheme and were tabled in Parliament in May 2022. It is promising that a section of the Guidelines is dedicated to 'Children and the use of Restrictive Practices', explicitly recognising that 'the needs of children and young people are distinct from those of adults and must be considered within their developmental context'.

One of the targets for 2022–23 in the government's 2022–23 Budget Paper 4 is to 'implement the Restrictive Practices Scheme' and 'promote accountability, transparency, and visibility of restrictive practices to reduce their use'.

A body of work was undertaken in 2020 to develop a cross-government approach to the regulation of restrictive practices in a range of portfolios, including education, child protection and correctional services. In September 2022, the Attorney-General indicated that 'further detailed advice is being provided by my department' on the development of further legislation to regulate the use of restrictive practices.

As noted in previous child rights progress reports, this will be essential to reducing the use of restraint and seclusion against all children with disability, particularly those who are not NDIS participants. The Commissioner will monitor this in future reports.

The Department for Education, the South Australian Ombudsman, the Equal Opportunity Commission and the Australian Human Rights Commission handle complaints in relation to restraints, seclusion and discrimination against children with disability. However, there is still no independent safeguard and oversight mechanisms in place to protect children with disability or regulate the use of restrictive practices in school environments.

A Human Rights Act in South Australia would not only strengthen the protection of rights for all children, including those with disability, but also provide a range of enforceable remedies where the rights of children with disability have been breached, including in cases of restraints or seclusion.

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

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2022 Child Rights Progress Report on Education

South Australia's progress on recommendations made
by the UN Committee on the Rights of the Child



About the CCYP

The [South Australian Commissioner for Children and Young People](#) is an independent position, established under the [Children and Young People \(Oversight and Advocacy Bodies\) Act 2016](#) (OAB Act). This legislation was introduced to the South Australian Parliament in response to the [Child Protection Systems Royal Commission 2014](#).

The Commission promotes and advocates for the rights, development and wellbeing of all children and young people in South Australia and seeks to change laws, policies, systems and practice to uphold children's rights.

The work of the Commissioner for Children and Young People is guided by the [United Nations Convention on the Rights of the Child](#) (UNCRC); the core international treaty established in 1989 to which Australia is a signatory. This important agreement sets out the civil, political, economic, social, and cultural rights of children around the world.

The Commissioner aims to ensure that as a part of the Australian Commonwealth, South Australia enacts its international obligations under this Convention.

Each year the Commissioner produces a series of Child Rights Progress reports measuring South Australia's progress against recommendations made by the UN Committee on the Rights of the Child (the Committee).

This year's progress reports include:

- Child Health
- Child Justice
- Child Protection
- Disability
- Education
- Environment
- Physical Punishment



2022 Child Rights Progress Report on Education



South Australia's progress on recommendations made by the UN Committee on the Rights of the Child

What the data says

Measure	Most recent data	Previous data	Trend (Year on year)	Assessment
Proportion of students in South Australian government schools receiving adjustments due to disability. ¹	2020 (27.7%)	2019 (26.3%) 2018 (23.6%) 2017 (21%)	Increasing	+ Favourable
Total number of incidents of students being suspended in government schools across primary and secondary year levels. ²	In Term 2 of 2022 5,548 suspensions	In Term 2 of 2021 5,128 suspensions	Increasing	- Unfavourable
Primary school suspensions (% of total)	1869 (33.7%)	2,559 (51.1%)		The state-wide transition of Year 7s to high school in 2022 can partly explain the significant increase in incidents of suspension in secondary years.
Secondary school suspensions (% of total)	3679 (66.3%)	2,569 (49.9%)		
Total number of incidents of students being excluded from government schools across primary and secondary year levels. ³	In Term 2 of 2022 281 exclusions	In Term 2 of 2021 207 exclusions	Increasing	- Unfavourable
Primary school exclusions (% of total)	62 (22.1%)	85 (41.1%)		
Secondary school exclusions (% of total)	217 (77.9%)	122 (58.9%)		
Proportion of Year 4 to Year 12 students who have an important adult at school. ⁴	2021 (58%)	2020 (57%) 2019 (56%)	Slight increase	+ Favourable
Proportion of Year 4 to 12 students who feel connected to school. ⁵	2021 (64%)	2020 (61%) 2019 (61%)	Slight increase	+ Favourable

Measure	2022	2018	5-year Trend	Assessment
The proportion of Aboriginal and Torres Strait Islander Year 3 students achieving at or above the national minimum standard (NMS) in learning. ⁶	Reading – 81.4% Writing – 83.4% Numeracy – 75.8%	Reading – 76.8% Writing – 71.2% Numeracy – 72.8%	Increasing for reading and writing. Decreasing for numeracy.	Although the proportion of Year 3, 5 and 7 Aboriginal students achieving at or above the national minimum standard in reading and writing has increased over the past 5 years, it remains between 5 and 17% lower than non-Aboriginal students. The proportion of Aboriginal students achieving at or above the national minimum standard in numeracy has decreased over the past five years and remains between 17 and 26% lower than non-Aboriginal students.
The proportion of Aboriginal and Torres Strait Islander Year 5 students achieving at or above the national minimum standard (NMS) in learning. ⁷	Reading – 78.2% Writing – 70.2% Numeracy – 77.5%	Reading – 72.1% Writing – 56.0% Numeracy – 77.3%	Increasing for reading and writing. Steady for numeracy.	
The proportion of Aboriginal and Torres Strait Islander Year 7 students achieving at or above the national minimum standard (NMS) in learning. ⁸	Reading – 75.9% Writing – 62.2% Numeracy – 65.5%	Reading – 71.8% Writing – 54.3% Numeracy – 76.2%	Increasing for reading and writing. Decreasing for numeracy.	

Background

The UNCRC was the first international Convention to acknowledge that children have rights and that these rights should be protected. Australia ratified the UNCRC in 1990 and South Australia's OAB Act states that all governmental authorities must seek to give effect to the UNCRC. The Convention sets minimum standards and obligations for the protection of children and young people's rights, including their rights to have access to justice, education, health care and social services. All children have the right to have a say on all matters that affect them and for their views to be taken seriously. In making decisions about children their best interests should be the primary concern, as well as the right to be safe, and free from discrimination.

Every five years, the Australian Government reports to the Committee to explain how Australia is faring in relation to child rights. This means that the State must provide feedback on how they have fulfilled their obligations under the Convention in the areas over which they have responsibility such as crime, child protection and health.

In response to Australia's fifth and sixth periodic reports, the Committee highlighted key areas of concern and made recommendations to ensure our governments at both the Federal and State levels, fulfil their obligations under the Convention. One of the Committee's main areas of concern requiring urgent attention is 'access to education'.

Child's right to education

Articles 28 and 29 of the UNCRC recognise the rights of every child to access and participate in education that respects their dignity and develops their individual personality and talents to the full. A good education is central to lifelong physical and mental health outcomes, social inclusion and employment prospects. Education is not only a human right in itself, but also a fundamental means of realising other rights and greater social inclusion.

The right of every child to an education is embedded in South Australia's *Education and Children's Services Act 2019*, which states that the best interests of the child must be the paramount consideration in all decisions pertaining to the Act.

Education is also one of the five key dimensions of the South Australian Outcomes Framework for Children and Young People, which recognises the importance of children entering the school system "ready to take advantage of the learning environment", having positive learning experiences and being engaged in school, further education, training or work.

The education system in South Australia

South Australia's children's education systems is comprised of early, primary, and secondary education levels. Children are required to be engaged in formal education from 6 to 16 years of age. Formal education includes government schools or private – Catholic or Independent schools, and authorised home schooling options. The majority of children attend government schools.

During the year there have been issues affecting schools and students in both public and private schools, as well as development of some new initiatives.

Some welcome initiatives include:

- Introduction of 1 in 4 reform program and student engagement reforms by the Department for Education which aim to address some of the issues raised in the 2020 Graham Inquiry and Commissioner's 2020 *Blame Game* Report in relation to school suspensions, exclusions and expulsions.
- Endorsement of changes to the national curriculum by all State Education Ministers that make it compulsory for all Australian schools to teach age-appropriate consent education from foundation level to Year 10.
- Full implementation of the Problem Sexual Behaviour Strategy, Procedures and Training for Educators.

Ongoing areas of concern include:

- Lack of progress made in relation to implementation of recommendations made by the Graham Inquiry and the Commissioner, including the lack of data around which groups of children are being excluded from schools.
- Continued reports by stakeholders and parents that children with disability are being excluded from their school for behaviour that is arising from their disability.
- Lack of an independent appeals mechanism to ensure natural justice and procedural fairness for students and their families is applied in education related complaints.
- Reports that the year 7 group who commenced high school from 2022 did not go as smoothly as reported, including a lack of facilities such as play areas and buddy programs, and reports of these children not feeling connected to their schools resulting in an increase in behavioural issues.⁹

Introduction of a Human Rights Act in South Australia would provide a strong legislative basis for South Australia to meet its UN obligations in relation to education for children. Evidence from other jurisdictions, including Victoria and Queensland, exemplify the ways in which Human Rights Acts meaningfully impact outcomes for vulnerable people, including education outcomes for children in care, children living with disability and children coming into contact with youth justice.

South Australia's progress on the latest recommendations made by the UN Committee in relation to education



No evidence that the UN Committee's recommendation is being addressed



Some evidence that the UN Committee's recommendation is being addressed



Clear evidence that the UN Committee's recommendation is being addressed

Current Status

To intensify its efforts to prevent and address bullying in schools, including online bullying, through the eSafety Commissioner and provide support to child victims, in particular lesbian, gay, bisexual, transgender and intersex children.

South Australia's state-wide bullying strategy was created and implemented in 2019. "Connected – A Community Approach to Bullying Prevention within the School Gates and Beyond" will be completed in 2022. During the implementation of the strategy there was a 12-month progress report. A final report on the implementation of the strategy is currently being drafted. However, there appears to be no new strategy in the pipeline for bullying prevention beyond the Strategy's lifespan. Outcomes data on its effectiveness is not yet available.

The outcomes reported against the bullying strategy put in place by government include:

- Introducing new practice guidelines that aim to support all learners; resources for educators on how to promote and design inclusive environments, including for those with disability, culturally and linguistically diverse children, gender and sexually diverse children, and children in out-of-home care; and access to information for teachers related to supporting social skills and wellbeing.
- Commencing The Positive Behaviour and Learning Initiative in Term 4, 2022 to provide a framework aiming to resource exclusionary discipline and improve inclusion, initially being rolled out to 40 government schools.
- Developing a participation framework based on Lundy's Model of Youth Participation, providing key minimum standards for meaningful participation in policy development. At this time the Department is considering next steps for its use.
- Including the PEACE Pack on school bullying prevention, which has been made available to all schools; and undertaking the Friendly Schools Pilot. Although it is unclear if these initiatives will be extended into next year and beyond.

Results from the 2022 Department for Education Wellbeing and Engagement Collection, including data about the prevalence of bullying, were not publicly available at the time of writing.

During the 2022 school year, there have been media reports of violence between students in schools and the government is currently seeking stakeholder feedback on how best to respond. One proposed measure is capping enrolments and creating fewer "super" schools with more smaller schools created going forward.¹⁰

In regard to LGBTQIA+ children in particular, the Department for Education's Supporting Gender Diverse, Intersex and Sexually Diverse Children and Young People Policy and Procedure states that discrimination based on sexual orientation or gender identity 'must be addressed' in anti-bullying and harassment policies across all department preschools, schools and child care settings. It remains unclear how the implementation of this policy is being monitored.

Under the *Equal Opportunity Act 1984* (SA), organisations established for religious purposes (including religious schools) can apply exceptions, allowing for discrimination on the basis of a student's sex or LGBTQIA+ identity. While the former state government released a Bill seeking to clarify these exceptions, this has not yet been tabled in Parliament.

The federal government has directed the Australian Law Reform Commission to inquire into religious education institutions and anti-discrimination laws, with a final report due to the Federal Attorney-General in April 2023.

To strengthen the school-based Respectful Relationships initiative to promote gender equality and respect.

Equipping children and young people with education to discern between healthy and unhealthy relationships is crucial to promoting gender equality and respect, as well as addressing the intergenerational issue of sexual and domestic violence.

Strengthening school-based education on respectful relationships is also crucial to promoting children's rights and gender equality.

There has been some welcome progress achieved against the recommendation made in 2022. Australian Education Ministers endorsed changes to the national curriculum that will make it compulsory for all Australian schools to teach age-appropriate consent education from foundation to Year 10.

However, to meet the UN recommendation, there needs to be greater consistency in the quality, content and timing of relationships and sexual health education. As highlighted in a 2022 national stock-take and gap analysis of respectful relationships education in Australian schools, the Australian Curriculum does not provide detailed learning content or detailed teaching methods, delivery or duration. As such, it is up to individual teachers, schools and school sectors to interpret and implement broad requirements, which means that 'consistent outcomes cannot be guaranteed for students across different school environments and jurisdictions'.¹¹

In 2022, the Department for Education updated its policies and procedures around children displaying problem sexual behaviours. Training for educators to better understand the issue is also expected to commence in 2023.

The Commissioner will monitor whether these actions improve outcomes for young people, as well as responses to recommendations made in recent reports: *Sex Education in South Australia: What young people need to know for sexual health and safety*, and *Stereotypes and Sexism: The views and experiences of SA school students*.¹²

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed



To ensure that all children with disabilities have access to inclusive education in mainstream schools and are provided with the support they need, and to address the use of restraints and seclusion.

Students with disability can be disproportionately impacted by informal and formal exclusionary practices that limit or reject the enrolment, participation and engagement of students with disability, including:

- using suspensions and exclusions to respond to behaviour related to a child's disability
- limitations on the hours students can attend school; and
- isolating students from peers and use of practices that restrict children's rights.

A review by the Office of the Public Advocate in 2021, by David Caudrey on South Australian Children and Young People and the National Disability Insurance Scheme found the following:

- challenges in balancing educational needs with visiting services for children and managing onsite visits or time away from the education environment
- disbandment of the state group coordinated by SA Department for Human Services for information sharing about the NDIS
- an inability to obtain data about which students have an NDIS Plan in place; and
- the late identification of disability or disability related needs of students. This may be due to parental hesitancy to recognise there is a developmental delay.¹³

Authentic inclusion of students with disability requires cultural change that builds on the Inclusive Education Support Plan (IESP) and increases understanding, expectations, and support for all children living with disability.

In 2022, work was progressed on the Department for Education's 1 in 4 reform program with the Department reporting the following:

- commitment to improving support for children and young people with autism from 2023, including appointment of an Autism Inclusion Teacher in every government primary school
- improvements to Student Support Services as part of the Accessible Support Models project, to increase the number of students receiving services (initially psychology and speech pathology services)¹⁴
- launch of sixteen practice guides that provide educators with evidence-based strategies and advice to improve the learning and wellbeing outcomes for students with functional needs
- all students with an IESP funding review date between 7 November 2022 and 29 January 2024 will automatically receive a further 12-month allocation of the existing funding allocation; and
- development of an indicator framework that describes the outcomes for children and students with functional needs that the Department for Education is seeking.

There has been an increase in the proportion of children living with disability who are being enrolled in the public system (as opposed to non-government schools) from 79.9% in 2013 to 84.2% in 2020. The Term 3, 2020 enrolment census audit identified 19,587.7 FTE students who currently being supported by the IESP.

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

There appears to be an increase in the number of students diagnosed with a disability in mainstream schools (either in mainstream classes or special classes or units) since 2013: from 13,841 in 2013 to 18,610.3 in 2022.¹⁵

Australia's Disability Strategy 2021–2031 was released on 3 December 2021 and endorsed by all state governments.¹⁶ One outcome of the strategy is that “people with disability achieve their full potential through education and learning” with policy priorities that include:

- children living with disability accessing and participating in high-quality early childhood education and care; and
- improved educational outcomes for school students with disability by building capability in the delivery of inclusive education.

This strategy also includes developing a National Disability Data Asset (NDDA) to connect data about people with disability, including information about health, employment and support services.¹⁷

The Department is continuing to review and redesign FLO learning provisions and practices as part of the student engagement reforms that aim to address issues raised in the 2020 Graham Inquiry and Commissioner's 2020 *Blame Game* Report. Stakeholder consultation began in Term 1, 2022 but to date there is no information that is public about community consultation.

Restrictive Practices

There is currently no safeguarding mechanism or independent oversight to protect children with disability against exclusionary or restrictive practices in the education system. To date, no Bill has been tabled in Parliament in respect to cross-government legislation for restrictive practices outside of the NDIS, so these practices are not currently being monitored on education sites.

The Department for Education's Protective Practices policy document allows staff to “make legitimate use of physical restraint” as a “last resort” where a student is causing harm to themselves or others.¹⁸ The Protective Practices Guidance acknowledges that staff must consider “the age, stature, disability, understanding and gender of the child or young person” and that the “inappropriate use of physical restraint/restrictive practices may constitute assault.”

The Department for Education, the Ombudsman SA, the Equal Opportunity Commission and the Australian Human Rights Commission can handle complaints, especially in relation to discriminatory or exclusory practices. There is currently no child-focused safeguard mechanism in place. Neither is there an independent oversight to protect children living with disability from exclusionary or restrictive practices being used against them by the education system.

■ **No evidence** that the UN Committee's recommendation is being addressed

■ **Some evidence** that the UN Committee's recommendation is being addressed

■ **Clear evidence** that the UN Committee's recommendation is being addressed

To address the shortcomings of the Closing the Gap measures for Aboriginal and Torres Strait Islander children and to reach the targets on school attendance, retention rates, literacy and numeracy standards by paying particular attention to these children in remote areas and investing in teachers' cultural competency of these communities' history.

Students in regional and remote areas are consistently less likely to be at the national minimum standard for writing, reading and numeracy compared to their counterparts in major Australian cities. Although there has been an increase in the proportion of Aboriginal students in Years 3, 5 and 7 whose reading and writing levels are either at, or above national minimum standards, the levels are still between 5–10% lower than the State average.¹⁹

In 2019–20, the Aboriginal Learner Achievement Leaders' Resource was implemented across government schools that have students enrolled who are Aboriginal, with the aim of improving the literacy and numeracy outcomes for Aboriginal students.

The apparent retention rate in 2021 for Aboriginal students in South Australia was 76.3%, which is below the peak in 2016 of 92.6%, but higher than the national average of 60.3%.²⁰ 77.3% of all enrolled Aboriginal students from Year 1 to Year 10 attended school in 2021.²¹

Meeting this UN recommendation requires greater understanding of and investment in the positive outcomes of culturally responsive, community-based education. This understanding depends on the quality of data collection at both the student-level and school-level.

In 2018, the Department for Education released its ten-year Aboriginal Education Strategy 2019–29. An Expert Advisory Panel has been established to support the successful implementation of the strategy's goals for Aboriginal children to excel in the early years, at school and in the transition from school to employment, training, or further education.

The key goals of the strategy are:

1. Aboriginal children establish foundations for success in the early years.
2. Aboriginal children and young people excel at school.
3. Aboriginal young people are on pathways to success.

In implementing the strategy to reach these goals, the Department for Education has reported that the following steps have been undertaken:

1. Aboriginal children establish foundations for success in the early years:
 - a. As of October 2022, 71.5% of Aboriginal learners have a One Plan (no substantive change from the previous year), including 1,011 plans for Aboriginal children attending preschool.²²
 - b. The Culturally Responsive Framework to develop a culturally responsive method of teaching was co-designed in 2021 and released in 2022.²³
2. Aboriginal children and young people excel at school:
 - a. Expanding the Foundation and Shooting Stars Academy programs. This includes the Clontarf program being extended to three more schools, bringing the number up to twelve and extending the program for a further three years in existing sites. It will also expand to eight other sites by 2024.²⁴

■ **No evidence** that the UN Committee's recommendation is being addressed

■ **Some evidence** that the UN Committee's recommendation is being addressed

■ **Clear evidence** that the UN Committee's recommendation is being addressed

- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

- b. Partnering with the South Australian Aboriginal Education and Training Consultative Council (SAAETCC) to ensure the voice of Aboriginal students, families and their community are reflected in new and ongoing service delivery.
 - c. Increasing opportunities to engage with Aboriginal languages and culture, including embedding South Australian Aboriginal understanding, knowledge and ways into teaching resources aligned with the Australian Curriculum: Science Years 7–10.²⁵ Kurna and Ngarrindjeri resources have also been developed and released.
 - d. Implementing education elements of the Buthera Agreement through the ongoing partnership with the Narungga Nation.²⁶
 - e. Launching Aboriginal and Torres Strait Islander English as an additional language or dialect (EALD) to support Aboriginal students who learn English as an additional language or dialect. There were 2,562 EALD Hub online users in 2021.
3. Aboriginal young people on pathways to success:
- a. The Workabout expansion has been completed. During 2021, the program offered 80 programs to 657 students enrolled in 69 schools. As a result of participation in the Workabout program students achieved the following outcomes in 2021:
 - 909 training outcomes (accredited and non-accredited)
 - 68 employment outcomes
 - 10 full-time traineeships/apprenticeships
 - 44 casual or part-time positions
 - 14 school based traineeships/apprenticeships.

In addition, 104 students who engaged in Workabout in 2021, completed their SACE. All 117 students (31%) who received a service from Workabout Centre in 2020, also received a service in 2021.

To invest more in improving education at the early childhood, primary and secondary levels, paying particular attention to children living in remote areas, Aboriginal and Torres Strait Islander children, children with disabilities, children in marginalised and disadvantaged situations, children in alternative care and children from refugee and migrant backgrounds.

Over a quarter (26.7%) of students enrolled in all South Australian schools in 2020 were in the lowest quartile of socio-educational advantage, equating to almost a third (32.3%) of government school students. The only two states with higher proportion of students with low socio-educational advantage are Tasmania and the Northern Territory.²⁷ It is imperative that children identified as being within this group receive the educational support they need to fulfil their individual potential.

According to Australian Curriculum, Assessment and Reporting Authority (ACARA) over a quarter (26.7%) of students enrolled in all South Australian schools in 2020 were in the lowest quartile of socio-educational advantage; ie almost a third (32.3%) of government school students. The only two states with students who are more disadvantaged than those in South Australia are those living in Tasmania and Northern Territory.²⁸ This makes it imperative that these children get the educational support they need to fulfill their learning potential.

The following section covers groups of students whose learning needs have not been previously addressed:



1. Early childhood education

The Department for Education's Early Learning Strategy 2021-2031 involves two key streams; "Growing Learners Together" and "World Class Preschools" with the use of AECD data as a key enabler.²⁹ The strategy aims to increase the ability for preschool children in remote and rural areas to access programs and is linking outcomes with the Child Development Council's dataset; a positive step that ensures public reporting on the outcomes of the new strategy.³⁰

In 2021, \$50.1 million was allocated over the first four years of the Strategy, including funding for additional developmental milestone checks at key stages between birth and school age. The Office of the Early Years was established in October 2021. The dataset that will be used includes the following:

- the proportion of children meeting developmental milestones at 2 and 4 years
- the proportion of children with special needs, birth to 5 years, attending approved childcare services
- the proportion and number of 3-year-old Aboriginal children enrolled in a quality preschool program
- the proportion of children enrolled in a quality preschool program in the year before attending full-time school; and
- the number of children receiving early childhood early intervention supports through the NDIS or with an approved NDIS plan in place before entering school.

The Royal Commission into Early Childhood Education and Care was established in October 2022 to investigate what can be done to better support families in South Australia, including preschool for 3-year-old children and out of school hours care for all ages. The Royal Commission is expected to run until mid to late 2023.

2. Primary and secondary

Highlights from the Department for Education 2021 Annual Report include:

- a record-breaking 15,644 South Australian students completed their South Australian Certificate of Education (SACE) in 2021
- 3,512 students completed a VET Certificate III as part of their SACE, compared to 2,961 in 2020 with 45.3% of students who completed SACE including VET subjects in their studies
- a record 428 Aboriginal students completed their SACE in 2021
- a record number of students with an intellectual disability completed their SACE (with 1 or more modified subjects) – 353 in 2021 compared with 323 in 2020
- 3,897 students in country South Australia completed their SACE in 2021
- South Australia recorded its highest ever NAPLAN mean scores in years 3 and 5 – reading and spelling; and
- phonics screening check results in 2021 climbed for the third consecutive year in a row, delivering a 24 percentage point improvement since its inception in 2018.³¹

3. Country and rural areas

There are 24.8% (8,747) South Australian full-time students in regional and remote schools. The majority of these students attend public schools, with 7,083 enrolled in public schools and 1,664 in the non-government sector.

The Department for Education's Country Education Strategy was launched in 2021 and seeks to address the barriers to teachers working in regional and remote locations, to ensure equity of opportunity for SA school students living in the regions and help achieve the goal of delivering a world class public education system in South Australia.

The Strategy will run to 2028 and goals reported on in the 2021 Annual Report include:

- ICT infrastructure upgrades in country schools (87% of schools have had ICT health check; 66% of schools have had ICT upgrades)
- a Country Education webpage for educators, students and families providing information and further support
- provision for more support and relief teachers for country schools; and
- undertaking pilots for telepractice in psychology (Far North and Eyre and Western regions).³²

4. Children in care

In 2021, the Department for Education and the Department for Child Protection (DCP) developed and released a plan of action to support the education and wellbeing outcomes of children and young people who are living in residential care and are working together to implement these actions. Further, in 2022 there was a review of the *Children and Young People (Safety) Act (2017)* which could result in amendments to legislation that better prioritise this group in respect to their education.

According to the DCP's website children in care get priority enrolment into public schools, a personalised learning plan (One Plan), extra learning support (including, if applicable tutoring, mentoring, and disability support), as well as financial support and scholarships.

According to the Guardian for Children and Young People's most recent report on children in care in South Australian schools:

1. In 2020, the proportion of South Australian children and young people in care who attended government schools was 56.4% – a decrease from 58.6% in 2019.
2. In 2020, 35.9% of South Australian children and young people who were in care in government schools identified as Aboriginal.
3. There are lower rates of school absences for Aboriginal students in care compared to the overall population of Aboriginal students attending government schools.
4. A greater proportion of all children and young people in care have learning disabilities compared to the overall government school student population, notably with respect to complex social/emotional/behaviour needs.

5. The proportion of children and young people in care with an intellectual disability, and those with complex social/emotional/behavioural needs are both six times higher than the overall government school student population.
6. Children and young people in care enrolled in government schools are four times more likely to be suspended, and seven times more likely to be excluded than the broader government school student group.³³

Introduction of a Human Rights Act in South Australia would provide a strong legislative basis for South Australia to meet its UN obligations in relation to education for children in care. Evidence from other jurisdictions, including Victoria and Queensland, exemplify the ways in which Human Rights Acts meaningfully impact outcomes for vulnerable people, including education outcomes for children, children living with disability and children coming into contact with youth justice.

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2022 Child Rights Progress Report on the Environment

South Australia's progress on recommendations made
by the UN Committee on the Rights of the Child



About the CCYP

The [South Australian Commissioner for Children and Young People](#) is an independent position, established under the [Children and Young People \(Oversight and Advocacy Bodies\) Act 2016](#) (OAB Act). This legislation was introduced to the South Australian Parliament in response to the [Child Protection Systems Royal Commission 2014](#).

The Commission promotes and advocates for the rights, development and wellbeing of all children and young people in South Australia and seeks to change laws, policies, systems and practice to uphold children's rights.

The work of the Commissioner for Children and Young People is guided by the [United Nations Convention on the Rights of the Child](#) (UNCRC); the core international treaty established in 1989 to which Australia is a signatory. This important agreement sets out the civil, political, economic, social, and cultural rights of children around the world.

The Commissioner aims to ensure that as a part of the Australian Commonwealth, South Australia enacts its international obligations under this Convention.

Each year the Commissioner produces a series of Child Rights Progress reports measuring South Australia's progress against recommendations made by the UN Committee on the Rights of the Child (the Committee).

This year's progress reports include:

- Child Health
- Child Justice
- Child Protection
- Disability
- Education
- Environment
- Physical Punishment



2022 Child Rights Progress Report on the Environment



South Australia's progress on recommendations made by the UN Committee on the Rights of the Child

Background

The UNCRC was the first international Convention to acknowledge that children have rights and that these rights should be protected. Australia ratified the UNCRC in 1990 and South Australia's OAB Act states that all governmental authorities must seek to give effect to the UNCRC. The Convention sets minimum standards and obligations for the protection of children and young people's rights, including their rights to have access to justice, education, health care and social services. All children have the right to have a say on all matters that affect them and for their views to be taken seriously. In making decisions about children their best interests should be the primary concern, as well as their right to be safe and to be free from discrimination.

Every five years, the Australian Government reports to the Committee to explain how Australia is faring in relation to child's rights. This means that the State must provide feedback on how they have fulfilled their obligations under the Convention in the areas over which they have responsibility such as crime, child protection, and health.

In response to Australia's fifth and sixth periodic reports, the Committee highlighted key areas of concern and made recommendations to ensure our governments at both the Federal and State levels, fulfil their obligations under the Convention. One of the Committee's main areas of concern requiring urgent attention is the environment.

The impact of climate change on children's rights

This is the Commissioner's second progress report on children's rights in relation to the environment and climate change.

South Australian children and young people consistently raise concerns about climate change in the context of conversations about poverty, health, education and transport.¹ This highlights the significant impacts of climate change on children and young people's daily lives, the people, places and animals they care about, and how they feel about the future.

Key to children and young people's concern about natural disasters and the future of the environment is their sense of justice. They recognise that climate change heightens social and economic inequalities and disproportionately impacts vulnerable people and communities.

South Australian children and young people describe feeling invisible, ignored, and 'cut off' from information and decision-making at school, in their community and across levels of government. There is also limited information made by and for children and young people about climate change-related risks, impacts and solutions, including what positive action is already being taken or what opportunities are available to them to contribute to these efforts.

This lack of information and influence undermines children and young people's trust in adults and institutions and exacerbates climate anxiety, particularly when there are few mechanisms to support children and young people's participation in decision-making.

Climate change adversely impacts a range of children's rights and presents as both a threat to their future and as a problem that is 'beyond their sphere of influence'. The United Nations Committee on the Rights of the Child has emphasised the 'undeniable impact' that the effects of climate change have on children's rights, including their rights to life, survival and development, non-discrimination, health, education and an adequate standard of living.²

In the Committee's Concluding Observations on Australia's most recent periodic reports, the Committee raised particular concerns in relation to:

- Australia's 'insufficient progress' on the emissions reductions targets set out in international agreements; and
- the government's response to protests led by Australian children and young people calling on the government to protect the environment, demonstrated disrespect 'from those in authority' for the rights of children to express their views (as per Article 12 of the UNCRC).

In October 2021, the UN Committee ruled that a State party can be held responsible for the negative impact of its carbon emissions on the rights of children, both within and outside its territory.³

In late 2022, the UN Committee published a first draft of General Comment on Children's Rights and the Environment with a Special Focus on Climate Change (General Comment No. 26), which will be finalised in 2023 following a second round of consultations with children globally.⁴

South Australia's climate change, environment, and emergency management policy frameworks

Responsibility for the environment is shared between the Commonwealth, state, and local governments in Australia. The Commonwealth is responsible for ratifying international treaties and can pass laws giving effect to such conventions, whereas South Australia has passed legislation that 'limits the status of international treaties to that of non-binding policy documents only'.⁵

The State has passed several laws that affect the environment, including the *Environment Protection Act 1993 (SA)*, the *Native Vegetation Act 1991 (SA)*, the *Planning, Development, and Infrastructure Act 2016 (SA)* and the *Landscape South Australia Act 2019 (SA)*.

The main Commonwealth environment legislation is the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. In 2022, the *Climate Change Act (Cth)* passed both houses of parliament.

Released in December 2019, Directions for a Climate Smart South Australia set the South Australian government's agenda for 'low emissions jobs and growth' and 'net zero emissions by 2050'.

The Climate Change Action Plan 2021–2025 released in December 2020, sets out 68 government-led actions to deliver the Directions for a Climate Smart South Australia and drive progress towards emissions reduction goals.⁶ Some key initiatives include South Australia's Hydrogen Action Plan and Electric Vehicle Action Plan, which aim to drive the uptake of electric vehicles by 2025.

The Climate Change Science and Knowledge Plan identifies the critical knowledge needed to inform risk assessment, mitigation, planning, and adaptation responses, including those identified in the Climate Change Adaptation Framework for South Australia.

South Australia's *Climate Change and Greenhouse Emissions Reduction Act 2007* (the Act) sets targets to achieve a reduction in greenhouse gas emissions, promote renewable sources of energy, and 'facilitate the early development of policies and programs to address climate change'.

The Premier's Climate Change Council was established under this Act to provide independent advice to the Minister for Environment and Water on climate change adaptation, energy efficiency, establishment and achievement of targets, and the impacts of climate change on business and community. The Council also consults with businesses, the environment sector, and the wider community about issues relating to climate change.

Each year the Department for Environment and Water publishes a set of 38 Trend and Condition Report Cards on the health of South Australia's natural environment over time. South Australia's independent environment protection regulator, the Environment Protection Authority (EPA), also releases a State of the Environment Report for South Australia at least every five years. These reports provide an assessment of our efforts to deal with significant environmental issues, and the South Australian government is required to respond to recommendations contained in each of these reports.

As for emergency and disaster management, the South Australian Fire and Emergency Services Commission (SAFECOM) works with the South Australian Country and Metropolitan Fire Services (CFS and MFS) as well as the State Emergency Service (SES) to lead emergency management planning across the state. This includes coordinating the implementation of recommendations from reviews and reports that have been made, such as the Ministerial Review of Bushfire Management in South Australia.

SAFECOM also led the development of the Stronger Together, South Australia's Disaster Resilience Strategy 2019–2024, which provides a foundation for State and local government, businesses, and the non-government and community sectors, to collectively strengthen the resilience of South Australians to survive, adapt and grow, no matter what happens'.⁷

There is also a National Strategy for Disaster Resilience that was endorsed by the Commonwealth and State governments in 2011 following the 'Black Saturday' fires in 2009, and the more recent National Disaster Risk Reduction Framework. Neither of these national frameworks mention children or young people.⁸

South Australia's progress on the latest recommendations made by the UN Committee in relation to the environment



No evidence that the UN Committee's recommendation is being addressed



Some evidence that the UN Committee's recommendation is being addressed



Clear evidence that the UN Committee's recommendation is being addressed

Current Status

To ensure that children's views are taken into account in developing policies and programs addressing climate change, the environment and disaster risk management, and to increase children's awareness and preparedness for climate change and natural disasters.

Focus Area 3 of *Stronger Together: South Australia's disaster resilience strategy 2019–2024* is 'children and young people actively engaged in reducing their risks and increasing their self-reliance'. As reported in the 2021 Child Rights Progress Report, several projects have been funded and delivered in line with this Focus Area that seek to increase children's awareness, preparedness and resilience for disasters, including:

- the Disaster Resilience Innovation Challenges for Schools (pilot) with high school students;
- Leave it to Z – Involving children and young people in emergency management; and
- Empowering SA Guides and Scouts to 'help build the resilience of their communities', including through a co-designed app.⁹

South Australia's Climate Science and Knowledge Plan recognises the importance of providing 'high-quality and accessible climate change science and information' and support for communities to 'build resilience and adapt'.¹⁰

A number of positive climate change education resources, programs and partnerships have been developed over recent years and continue to be implemented in schools across South Australia. They include Green Adelaide's Climate Ready schools program; the Climate Clever schools sustainability program; the Bushfire Kids Connect program; the Wipe Out Waste program; and the Cooling the Schools initiative.

However, without a substantive climate change education curriculum, or consistent policy frameworks at a state or national level, climate change education is often vested in the goodwill of individual 'champions' and there are inconsistent opportunities across year levels and subjects, particularly between primary school years and secondary school years.

Many initiatives related to disaster preparedness in the community tend to focus on primary school aged children rather than teenagers. The Commissioner is aware of work underway that aims to address this gap and will monitor progress in future reports.

The Youth Environment Council of South Australia provides young people with a voice and opportunities to take action through environmental projects in their school or local community. Local youth councils advise local councils on a range of matters, including those related to sustainability and climate change.

However despite some progress towards more consistent disaster resilience education, there is limited information made directly by and for children about both:

- climate change-related risks, impacts and issues, including disaster awareness and preparedness; and
- what action is being taken and what more can be done to mitigate risks and support present and future generations (by government and non-government organisations at a local, state, national and global level).

Provision of child-friendly, age-appropriate information is not only key to ensuring accountability and trust, but also to ensuring children’s meaningful participation. It would also address the UN Committee’s following recommendation in relation to the ‘General principle’ of ‘Respect for the views of the child’ (as per Article 12 of the UNCRC):

That State parties ‘Develop toolkits for holding public consultations with children on issues that affect them, including on climate change and the environment’.¹¹

To promptly take measures to reduce its emissions of greenhouse gases by establishing targets and deadlines to phase out the domestic use and export of coal and to accelerate the transition to renewable energy, including by committing to meeting 100 per cent of its electricity needs with renewable energy.

In May 2022, South Australia’s Parliament passed a motion to declare a ‘climate emergency’ and to ‘commit to restoring a safe climate by transforming the economy to zero net emissions’.¹² To achieve this South Australia has committed to the following emissions reduction targets:

- net zero emissions by 2050
- reduction in net emissions by more than 50 per cent by 2030 (from 2005 levels); and
- 100 per cent net renewable energy generation by 2030.

While these commitments are set out in policy and the Government’s Climate Change Action Plan 2021–25, they are not enshrined in legislation. The legislated emissions reduction and renewable electricity targets set out in South Australia’s *Climate Change and Emissions Reduction Act (SA) 2007* have not been updated to reflect current commitments, even though some of the targets set out in the Act were met in 2013–2014.¹³

In 2021, the former Minister for Environment and Water introduced a bill to amend the Act to update the State’s emissions reduction and renewable electricity targets. The now Shadow Minister for the Environment re-introduced the Bill to the House of Assembly in 2022. At the time of writing, this Bill has not progressed beyond second reading debate.

In 2022, Australia’s federal parliament passed the *Climate Change Act 2022 (Cth)*, which legislates national targets of reducing emissions by at least 43% by 2030 and net zero emissions by 2050.¹⁴

Consistent with South Australia’s policy target of achieving 100% net renewable energy by 2030, more than 60% of South Australia’s power supply currently comes from renewable energy.¹⁵

- **No evidence** that the UN Committee’s recommendation is being addressed
- **Some evidence** that the UN Committee’s recommendation is being addressed
- **Clear evidence** that the UN Committee’s recommendation is being addressed



While it is promising that South Australia's electricity emissions are reducing, emissions in sectors other than electricity are projected to increase or plateau at best. Although the state's total emissions are decreasing, transport emissions are increasing.

South Australia's Electric Vehicle Action Plan was developed under the former government, and the current government has committed to contributing to the National Electric Vehicle Strategy, which is led by Federal Minister for Climate Change and Energy. This is in addition to several state-based initiatives, including:

- 7,000 electric vehicle purchase subsidies of \$3,000 and a three-year registration fee exemption; and
- funding for the first state-wide electric vehicle rapid charging network, which will comprise 536 chargers across 140 charging stations in 52 rural, regional and metropolitan service locations, and is expected to be finalised by early 2024.

The *Motor Vehicles (Electric Vehicle Levy) Amendment Act 2021* legislated for a road user charge on electric vehicles that would commence in 2027 or once electric vehicles made up 30% of new vehicle sales in South Australia.

The Labor government introduced a Bill to repeal the Act on the basis that the levy would discourage electric vehicle uptake and equate to 'a disincentive in a policy area we want to incentivise'.¹⁶ The Repeal Bill passed the House of Assembly in early November 2022.

Other progress made since COP26 in November 2021 and during COP27 in November 2022 include:

- The State government has established the Office of Hydrogen Power South Australia to oversee the design and delivery of the 'Hydrogen Jobs Plan'. In the 2022–23 State Budget, the government committed \$593 million to build a green hydrogen power station and storage facility near Whyalla by 2025.¹⁷
- South Australia's largest battery storage project to date – the 225MW Battery Energy Storage System (BESS) at Gould Creek – is still scheduled for completion in 2023, is expected to power 40,000 homes during peak hour.
- At COP27, South Australia's Deputy Premier and Minister for Climate Change signed the Net Zero Emissions Policy Forum joining agreement, which brings together subnational jurisdictions with a focus on 'practical collaboration and immediate actions' to accelerate governments' progress towards emissions reduction goals.

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2022 Child Rights Progress Report on Physical Punishment

South Australia's progress on recommendations made
by the UN Committee on the Rights of the Child



About the CCYP

The [South Australian Commissioner for Children and Young People](#) is an independent position, established under the [Children and Young People \(Oversight and Advocacy Bodies\) Act 2016](#) (OAB Act). This legislation was introduced to the South Australian Parliament in response to the [Child Protection Systems Royal Commission 2014](#).

The Commission promotes and advocates for the rights, development and wellbeing of all children and young people in South Australia and seeks to change laws, policies, systems and practice to uphold children's rights.

The work of the Commissioner for Children and Young People is guided by the [United Nations Convention on the Rights of the Child](#) (UNCRC); the core international treaty established in 1989 to which Australia is a signatory. This important agreement sets out the civil, political, economic, social, and cultural rights of children around the world.

The Commissioner aims to ensure that as a part of the Australian Commonwealth, South Australia enacts its international obligations under this Convention.

Each year the Commissioner produces a series of Child Rights Progress reports measuring South Australia's progress against recommendations made by the UN Committee on the Rights of the Child (the Committee).

This year's progress reports include:

- Child Health
- Child Justice
- Child Protection
- Disability
- Education
- Environment
- Physical Punishment

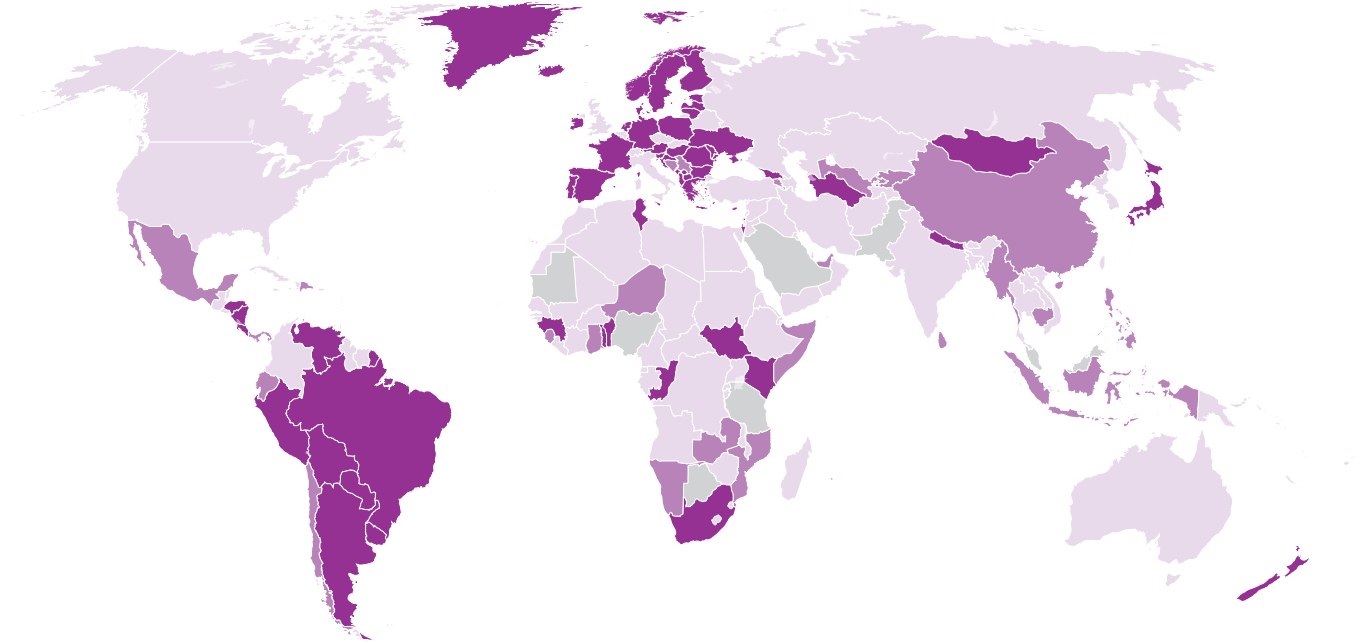


2022 Child Rights Progress Report on Physical Punishment



South Australia's progress on recommendations made by the UN Committee on the Rights of the Child

Physical punishment around the world



As at August 2022, 63 sovereign states have achieved prohibition of physical punishment in all settings, including in the home; governments of at least 28 other sovereign states have expressed a commitment to enacting full prohibition, the most recent being Wales who outlawed all forms of physical punishment in March 2022.

- Countries where physical punishment is prohibited in all settings
- Countries where governments are committed to full prohibition of physical punishment
- Countries where physical punishment is prohibited in some settings
- Countries where physical punishment is not fully prohibited in any setting

Background

The UNCRC was the first international Convention to acknowledge that children have rights and that these rights should be protected. Australia ratified the UNCRC in 1990 and South Australia's OAB Act states that all governmental authorities must seek to give effect to the UNCRC. The Convention sets minimum standards and obligations for the protection of children and young people's rights, including their rights to have access to justice, education, health care and social services. All children have the right to have a say on all matters that affect them and for their views to be taken seriously. In making decisions about children their best interests should be the primary concern, as well as the right to be safe, to be free from discrimination.

Every five years, the Australian Government reports to the Committee to explain how Australia is faring in relation to child's rights. This means that the State must provide feedback on

how they have fulfilled their obligations under the Convention in the areas over which they have responsibility such as crime, child protection, and health.

In response to Australia's fifth and sixth periodic reports, the Committee highlighted key areas of concern and made recommendations to ensure our governments at both the Federal and State levels, fulfil their obligations under the Convention. One of the Committee's main areas of concern requiring urgent attention is physical punishment.

Rights in relation to Physical Punishment*

According to the Committee, children should not be subject to any form of violence. This includes children being safe from violence from parents/guardians (Art. 19) at school (Art. 28), and against cruel and degrading treatment (Art. 37).

Specifically, the Committee on the Rights of the Child recommends:

- explicitly prohibiting physical punishment in law in all settings, including in the home, in public and private schools, in detention centres and in alternative care settings, and to repeal the legal defence of “reasonable chastisement”; and
- development of awareness-raising and education campaigns that promote positive and alternative forms of discipline and that underscore the adverse consequences of physical punishment.

* Also called corporal punishment

Why should Physical Punishment be outlawed?

Adults often argue that physical punishment is justified to “teach children a lesson”. But it is well known that adults cannot be taught a lesson by using physical assault, so why would it work for children?

There is now overwhelming evidence to suggest that physical punishment is not an appropriate teaching method or behaviour management strategy for children.

Research has found that physical punishment:

- does not reduce defiant or aggressive behaviour, nor does it promote long-term positive behaviour in children;
- has negative effects on students in school, including on the academic performance of children, leading to behavioural issues (for example, violent behaviour and aggressive conduct);
- can harm children’s cognitive, behavioural, social and emotional development; and
- can carry the risk of escalating into physical abuse (causing a physical injury) and have negative outcomes for children. This includes impacts on their mental health and emotional wellbeing. It can also result in lower cognitive ability, lower self-esteem, more aggression, more antisocial behaviour and negative relationships with parents.

South Australia’s progress on the latest recommendations made by the UN Committee in relation to physical punishment



No evidence that the UN Committee’s recommendation is being addressed



Some evidence that the UN Committee’s recommendation is being addressed



Clear evidence that the UN Committee’s recommendation is being addressed

Current Status

Australia should explicitly prohibit corporal punishment in law in all settings, including in the home, in public and private schools, in detention centres and in alternative care settings, and to repeal the legal defence of ‘reasonable chastisement.’

In South Australia, parents and guardians can still physically punish children under section 20(2) of the *Criminal Law Consolidation Act 1935*.¹ This Act provides for contact between persons that would generally be regarded as accepted within the community. There is also a common law defence of chastisement.² The defence looks at the child’s age, their behaviour, severity of the response, and the reason for the punishment (did it occur to teach the child a lesson or ‘because the adult snapped’), the child’s behaviour and seriousness of the contact should all be considered.

South Australia has prohibited physical punishment in all schools via the *Education and Children Services Act (2019)* which outlaws physical punishment in pre-school services (s32) and in all South Australian schools (s83). However, the common law defence is still available to educators if the conduct lies within “the limits of what would be generally accepted in the community as normal incidents of social interaction or community life.”³ The Protective Practices Behaviour Guidelines for staff and volunteers working with children⁴ and young people is adopted by all schools in the state makes corporal punishment a violation.



- **No evidence** that the UN Committee's recommendation is being addressed
- **Some evidence** that the UN Committee's recommendation is being addressed
- **Clear evidence** that the UN Committee's recommendation is being addressed

A nationwide movement of researchers, Commissioners and advocates are launching a new national campaign from late 2022 to end physical punishment throughout Australia.

South Australia has adopted national provisions for early childhood services, enshrined in the South Australian *Education and Early Childhood Services (Registration and Standards) Act 2011*.⁵ Section 166 of this Act prohibits the use of physical punishment by providers, nominated supervisors, staff members, volunteers, and day care providers of an approved education and care service. Regulation 39 of the Child Care Centres Regulation 1998, states that: 'Behaviour management techniques used should not include physical, verbal or emotional punishment and including, for example, punishment that humiliates, frightens or threatens the child'.⁶

Carers and employees are prohibited to physically punish a child under the Family and Community Services Regulations 2009.⁷ However this has not stopped reports of children being arrested by the police to manage behaviour, which could result in some physical handling that could amount to assault.⁸

To develop awareness-raising and education campaigns that promote positive and alternative forms of discipline and that underscore the adverse consequences of corporal punishment.

The Department for Education has some resources that can be accessed by educators on alternative behaviour management responses that attempt to promote positive and inclusive behaviour. This includes teachers promoting and modelling positive behaviour. There are also online courses for educators on positive behavioural management.

Parenting SA⁹ also has guides helping parents on some issues, including respectful relationships, positive approaches to guiding behaviour, role models and many other topics. The new Adults Supporting Kids website, developed by the Department for Human Services (DHS) also provides information for parents, carers and guardians.

There is also a government supported Families Growing Together¹⁰ program that supports "families by empowering them with the knowledge and skills they need to connect and grow together. This helps them lay strong foundations for their children and young people". There are a few workshops, that can all be accessed online.

Endnotes

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