



Submission to South Australia's Royal Commission into Domestic, Family and Sexual Violence

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Commissioner
for Children &
Young People

251 Morphett Street, Adelaide, SA 5000

08 8226 3355 | commissionercyp@sa.gov.au

Introduction

As South Australia's Commissioner for Children and Young People, I welcome the opportunity to provide a submission to South Australia's Royal Commission into Domestic, Family and Sexual Violence.

My mandate under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* is to promote and advocate for the rights, interests and wellbeing of all children and young people in South Australia. It is also my role to ensure that South Australia meets its obligations in relation to the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC sets out the rights of all children and young people, including the right to have their views taken into account in all decisions that affect them (Article 12) and to live free from violence (Article 19) and discrimination (Article 2).

I commend the Royal Commission for the work you have undertaken to date and your commitment to seeking the views and experiences of children and young people. Designing a system to 'better meet the needs of those who interact with it'¹ and to 'end gender-based violence in one generation'² means designing a system that effectively and meaningfully recognises and responds to children and young people's rights and experiences.

The National Plan to End Violence Against Women and Children 2022-2032 recognises children and young people as victims of gender-based violence in their own right. However, children and young people's unique perspectives and experiences continue to be overlooked in policies, systems and services generally and in the context of domestic, family and sexual violence specifically.

Overview of this submission

This document makes several recommendations for child-centred systemic reform. It forms part of my submission and is intended to be read alongside the attached publications. Together, these contributions draw on my extensive engagement with children and young people since 2017, as well as a more recent targeted program of work undertaken in response to and in collaboration with this Royal Commission. This work includes:

Teenagers and Safety report: Views and experiences of South Australian young people in relation to safety

The Teenagers and Safety report focuses on my safety survey with responses from over 900 teenagers in South Australia. The report unpacks the different meanings of safety as it is understood by teenagers, including how safe teenagers are feeling and what needs to be done to improve safety. The report has a specific focus on safety at home, in school and in the community.

Recommendations from this report include the need to develop a comprehensive overarching legislative framework for children's safety, for state and local governments to work together to create more youth friendly communities, for schools to work on creating safer environments for students, for schools to work

with external partners on evidence-based violence prevention programs, and for schools to work with their student bodies to conduct diversity reviews.

Unseen and Unheard report: Listening to the voices of young people with lived experiences of violence

I engaged consultants, Jodie Evans and Belinda Lorek, to connect with young people with lived experience of family, domestic and sexual violence through 1:1 conversations. The attached Unseen and Unheard report centres the experiences of eight young people aged 19 to 24 years old and their insights for systemic reform.

Young people shared diverse experiences of growing up in homes that featured violence, experiencing violence in their own intimate relationships and/or witnessing violence in the relationships of their peers or siblings. While their experiences varied, the impacts of violence on their identity, self-esteem and relationships were similar. Young people shared consistent ideas about what needs to change to better support others who have experienced violence.

Policy position: Realising children and young people's rights to positive relationships, and sexual health and wellbeing

This policy position highlights the systemic changes needed to fully realise children and young people's rights to positive relationships, sexual health and wellbeing. This includes ensuring school cultures consistently respect rights and promote gender equality, scaling up consistent, comprehensive, positive school-based relationships and sexual health education programs, and developing a statewide strategy that specifically meets children and young people's reproductive and sexual health rights.

Missing Voices postcards booklets

These booklets draw on responses from students aged 8–12 years who participated in my annual Student Voice Postcards initiative via their school. Written responses and drawings are unedited and are in response to open-ended questions about their lives.

- **Domestic and family violence as described by primary school children**
The purpose of this booklet is to bring children's perspectives and experiences of domestic and family violence to the fore. It is clear that we must actively consider and respond to children's experiences and needs in their own right.
- **Sexism and gender stereotypes as described by primary school children**
One of the enduring themes raised by children is the impact that sexism and gender roles and gender stereotyping has on their lives. It affects their aspirations, relationships and wellbeing. From what they have told me, we still have a long way to go to address the behaviours and environments that enable and reinforce sexist attitudes, jibes, derogatory comments and

harassment.

- **Physical punishment as described by primary school children**
Although addressing physical punishment is recognised as critical to eliminating all forms of violence, physical punishment has received little attention in policy and conversations about family violence prevention. By focusing on the impacts of physical punishment from children’s perspectives and experiences, this booklet highlights the need for law reform to fully prohibit physical punishment (see recommendation 6 below).

Postcards snapshot for South Australia’s Royal Commission into Domestic, Family and Sexual Violence

This snapshot summarises children and young people’s responses to a postcard designed specifically for the Royal Commission to engage with children and young people who are not usually heard. The postcard asked when children and young people feel safe, what would make them feel safer, what they would do if someone they knew needed help to be safe, and what SA should do to prevent domestic and family violence. Postcards were distributed to a range of service providers in metropolitan and regional South Australia. More than 110 children and young people aged 7 to 23 years participated.

Policy position: The need for a system response to harmful sexual behaviours in children

This policy position highlights opportunities for changes to law, policy and services to prevent children displaying harmful sexual behaviour and to provide for consistent, joined-up therapeutic responses to children displaying or impacted by harmful sexual behaviour.

Principles and recommendations for child-centred systemic reform

This Royal Commission is an opportunity to consider how all systems can respond better to the unique and diverse perspectives and experiences of children and young people. This responsibility does not fall on one service or system but rather requires collaboration across systems and shifts across legislation, policy and planning, as well as practice, culture and workforce training and support.

This submission highlights the importance of focusing on children and young people across all domains: prevention, early intervention, response, and recovery and healing. It also recognises that these domains intersect and important opportunities to prevent violence (from occurring, reoccurring and/or escalating) exist across all domains.³

We need to ensure all policies, legal frameworks and services are consistently promoting the rights of all children and young people. This means building the capacity of all systems to listen to, value and act upon children and young people’s experiences and perspectives. The best interests of the child (Article 3 of the UNCRC) can only be met if

their right to be heard (Article 12) is respected. We must therefore focus on systemic changes to ensure children and young people are protected *in* rather than protected *from* participation.

We also need to consider the broader contexts in which violence is more likely to take place by investing earlier to support families and build trust and connections between key systems and services. This includes addressing high rates of child poverty, food insecurity, housing insecurity and homelessness. We must actively avoid criminalising children and young people and prioritise early, therapeutic, child- and youth-specific support and responses to problematic behaviours.

Specifically, it is recommended that the Royal Commission into Domestic, Family and Sexual Violence:

- 1. Improve collaboration across all systems to:**
 - a. Prioritise prevention, early intervention and listen to and value children and young people’s perspectives and experiences.**
 - b. Build the capacity of all systems to understand the dynamics of family, sexual and domestic violence and support children, young people and families earlier.**
 - c. Support coordinated and consistent approaches to family, domestic and sexual violence, and address contradictory approaches to safety across family violence, family law and child protection systems.**
- 2. Invest in universal and targeted prevention from an early age, promoting positive relationships and behaviours, and addressing sexism and gender stereotypes.**
- 3. Prioritise specialist child- and youth-specific recovery and support responses for children and young people who have experienced violence, with particular regard to:**
 - a. Groups of children who are at greater risk of experiencing violence and face additional barriers to support.**
 - b. Children and young people escaping violence and seeking support without an adult.**
- 4. Prioritise earlier, tailored and therapeutic systemic responses for:**
 - a. Children and young people using violence at home.**
 - b. Children and young people displaying harmful sexual behaviours.**
 - c. Children and young people using and experiencing violence in intimate relationships.**
- 5. Improve the capacity of the family law system to better listen to and support children, and to understand the dynamics of family, domestic and sexual violence.**

6. Recognise the impacts of physical punishment on children and repeal the legal defence of 'reasonable chastisement'.

Yours sincerely



Helen Connolly

Commissioner for Children and Young People
Adelaide, South Australia

1. Improve collaboration across all systems to:

- a. **Prioritise prevention, early intervention and listen to and value children and young people’s perspectives and experiences.**
- b. **Build the capacity of all systems to understand the dynamics of family, sexual and domestic violence and support children, young people and families earlier.**
- c. **Support coordinated and consistent approaches to family, domestic and sexual violence, and address contradictory approaches to safety across family violence, family law and child protection systems.**

We must improve communication and collaboration between key systems and ensure all systems are accountable for children and young people’s rights, safety and wellbeing.

A recent report prepared by the Australian Institute of Family Studies and the Australian Human Rights Commission consolidated evidence and recommendations from over 3,000 recommendations made in 61 state, territory and Commonwealth reports between 2010 and 2022. Consistent with my own regular engagement with children and young people, the report identified the following systemic barriers to evidence-based reform to support children and families:

- Limited opportunities for child voice and participation
- Inadequate focus on prevention and early intervention
- Inadequate cross-system information sharing, collaboration and coordination
- Lack of mechanisms for oversight, monitoring, accountability and transparency.⁴

The systemic safety and wellbeing of children depends on them having opportunities to be included in the processes that affect their lives. When children talk about being safe, they talk about feeling valued, known, heard and understood. Recognising children’s participation rights alongside their rights of protection must be a key part of system reform. This includes listening to and acting upon what children and young people say makes them feel safe at home, at school and in the community.

Child safety and wellbeing is too often seen as the remit of the child protection system alone. We need to consider the responsibility and intersection of all systems and strengthen investment in ‘upstream’ prevention and early intervention efforts across health, education, and other community services.

Children and families are affected by issues that cut across a range of portfolios and jurisdictional boundaries. Yet key departments and agencies are developing policy, collecting data and delivering services in a siloed manner. This fragmentation of systems is most harmful and difficult to navigate for children and families who are vulnerable, including in the context of family, domestic and sexual violence.

In South Australia, families experiencing violence come into contact with many services and organisations, many of which operate in isolation from one another and have their own unique focus. This includes health, mental health and homelessness services, police, courts, and child protection services, as well as many others. This is time consuming and

confusing to navigate and can lead to an increasing number of referrals without them accessing the support they need.

We need to build the capacity of all systems to identify and understand the dynamics of domestic, family and sexual violence, particularly the impacts on children and young people, as well as ways to support children and young people experiencing or using violence. This includes universal health and education services such as prenatal, maternal, child and adolescent health services, early childhood education and care settings and schools, as well as police, courts and the justice system.

Effective responses to domestic, family and sexual violence require a shared understanding of the dynamics of domestic, family and sexual violence across the community and key agencies and services. Yet systems for responding to families affected by domestic, family and sexual violence are fragmented. The Commonwealth is responsible for family law while state and territories primarily deal with child protection and family violence.

Contradictory approaches to safety are perhaps most evident at the intersection between family violence, family law and child protection systems. Each system has different policies, laws, cultures, timeframes and language, and different thresholds for responding to risks of harm. Approaches to safety across these systems differ so greatly that they have been described as three different ‘planets’:⁵

- The ‘domestic violence’ planet, where domestic, family and sexual violence is considered a crime and the focus is on containing predominantly male perpetrators of violence while supporting the safety of women and children.
- The ‘child protection’ planet, where protective parents – usually mothers – are seen as responsible for removing themselves and their children from a perpetrator. When they are unable to do this, they are seen as ‘failing to protect’ children and the tool are children are removed from their care.
- The ‘child contact’ planet of family law, where victim survivors who have tried to protect themselves or their child by contacting the police or removing themselves from the situation are now ordered by the federal Family Court to allow contact between the violent partner and children.

Various reviews and inquiries have highlighted the systemic issues and the significant confusion and distress for children and families navigating complex cross-jurisdictional systems.⁶ The system should be focussing on holistic and coordinated responses to ensure children, young people and families have access to services and supports.

We should be seeking to transform current approaches that remove or separate children from protective parents and/or familiar environments. This includes working with and building trust with families and maintaining connections with people who already know the child. This also includes recognising that the reality for children and parents or carers escaping violence is often precarious, unsafe housing and financial insecurity, and that children do not have choice or control or access to support that is designed for them.

2. Invest in universal and targeted prevention from an early age, promoting positive relationships and behaviours, and addressing sexism and gender stereotypes.

All children and young people should have access to information and support to understand and communicate their feelings, make informed decisions, understand their own rights, protect the rights of others, reflect on power dynamics and challenge gender stereotypes. Prevention through education is currently falling short in South Australia, and is inconsistent in terms of accessibility, timing, quality, content and relevance.

School-based prevention initiatives need to be validated and supported by whole-of-community efforts that embed a culture of respect and equity across all systems and settings, including sports clubs, community groups, youth organisations, parenting programs, workplaces, and the media. Prevention efforts must also challenge the normalisation of violence in families and communities, including by eliminating the use of physical punishment (see recommendation 6).

The attached policy position on Realising children and young people's rights to positive relationships, and sexual health and wellbeing highlights the need to:

- scale up and improve oversight of consistent, comprehensive and positive relationships and sexual health education.
- address the way school environments enable and reinforce gender stereotypes, sexism and other forms of discrimination.
- develop a statewide strategy that specifically meets children and young people's reproductive and sexual health rights to promote universal access to services and information and help ensure all services are child- and youth-friendly.

My Missing Voices postcards booklet on sexism and gender stereotypes as described by primary school children 8-12 years highlights the importance of engaging with children early and consistently over time to address these issues and behaviours. The ANROWS National Community Attitudes towards Violence against Women Survey surveyed 16-24 year olds. The younger age group (16-17 years) were often less likely recognise items in the survey as domestic violence when compared to the older age group (18-24 years).⁷

It is concerning that improvements to gender equality have not translated to a downturn in gender-based violence. As backlash against gender equality and LGBTQIA+ rights continue to grow and undermine prevention efforts globally, we need to consider how and why these messages are targeting and resonating with boys and young men.

We need to ensure information, education and support meaningfully connects with boys and young men. While holding boys and men to account for violence, we also need to invest in approaches that focus on building empathy and supporting emotional regulation and avoid reinforcing shame, stigma or trauma.

My Teenagers and Safety survey included an additional question on attitudes which is included here rather than in the final report. The nearly 900 teenagers (12-19 years) largely viewed behaviours relating to issues like unwanted sexual behaviours and control in relationships as 'not ok'. Some responses may reflect that they knew the socially acceptable responses to these types of questions. However, of concern was that several

unacceptable behaviours were less likely to be seen that way by teenage males than females. Young people were asked whether a range of behaviours were ‘always ok’, ‘sometimes ok’, or ‘never ok’. The following responses are those who responded ‘never ok’ for the following:

- ‘Comment on someone’s physical appearance online’ (males 35.9%, females 50.1%, total 42.9%)
- ‘Tell sexual jokes and stories’ (males 51.7%, females 62.8%, total 56.3%)
- ‘Tell a partner what they should wear’ (males 54.3%, females 74.1%, total 65.5%)
- ‘Stare at or wolf whistle at someone you don’t know but think is hot’ (males 74.9%, females 85.8%, total 81.0%)
- ‘Repeatedly asking someone to go on dates after they say no’ (males 79.7%, females 90.3%, total 85.7%), and
- ‘Make sexual gestures behind someone’s back’ (males 84.8%, females 94.0%, total 90.0).

Some young people highlighted the importance of context, suggesting some of these behaviours were okay in certain circumstances. This highlights the need for more communication with children and young people as well as more education and broader whole-of-community prevention efforts.

The language and images used in current violence awareness and prevention campaigns and support services are not relatable to young people. There needs to be contemporary approaches to prevention and education that are co-designed with young people for messages to reach and resonate with them.

- 3. Prioritise specialist child- and youth-specific recovery and support services for children and young people who have experienced violence, with particular regard to:**
 - a. Groups of children who are at greater risk of experiencing violence and face additional barriers to support.**
 - b. Children and young people escaping violence and seeking support without an adult.**

Data and information about children and young people’s experiences of violence is limited. Current service systems, policies and practices for people who have experienced violence are adult-focused. For example, South Australia’s Family Safety Practice Manual refers to a ‘person at risk and their children’ but specific references to children are limited other than the inclusion of ‘liaison with school staff regarding children’s safety’ as an example of ‘positive actions to decrease risk’.⁸

Crisis response services tend to focus on the wellbeing and safety of women and families. While children may benefit from this support, there is a lack of dedicated specialist support tailored to children and young people’s needs and experiences.

Services that work more directly with children, including education and health services, are not always well equipped to identify and respond when children and young people

are, or are at risk of, experiencing or using violence. It is important for these systems to be better informed and equipped to provide support rather than just refer on to other systems that are unfamiliar to children and young people.

Young people with lived experience of violence want to be heard, understood and engaged with in their own right. They emphasise the importance of familiarity, consistency and stability, and better coordination and communication between services to reduce the need for young people to retell their stories multiple times. They also highlighted the need for programs and supports that are specific for young men.

A lack of appropriate child and youth-specific support is in itself a barrier to accessing help.⁹ Other barriers and issues specific to children and young people accessing help that must be addressed include:

- Lack of clear information about support, processes and resources.
- Not being believed.
- Parental consent processes that require young people to contact the perpetrator or a non-offending parent who may be fearful of the implications of their child seeking support.
- Emotional and/or financial reliance on the perpetrator of violence.
- Fear of being removed or ‘taken away’ and insufficient support to prevent removal.
- Lack of trust arising from negative interactions with the very the systems that are supposed to keep children and families safe, including police, child protection and/or legal systems.
- Lack of understanding of violence or abuse and inability to communicate, including due to lack of information, safe spaces or opportunities.
- Lack of safe and affordable housing options, including motels, refuges and crisis accommodation that are inadequately resourced for children and young people.
- Issues of accessibility, including the cost of support, long waiting lists, or narrow criteria for accessing support services that do not consider violence.
- Limited duration of support, which limits the chance to build trust and be known by professionals and fails to recognise the lifelong impacts of violence.

Responses to children and young people must build trust rather than fear, and recognise that violence affects people of all genders, cultures, ages, and across all postcodes. We need to ensure systems are equipped to consider the diversity and complexity of each individual’s experiences and needs, and to challenge assumptions that all people’s experiences are the same. Child-led, play- and activity-based approaches have been shown to help younger children process trauma, build trust and connections and communicate their feelings and experiences.

a. Groups of children who are at greater risk of experiencing violence and face additional barriers to support.

We also need to consider tailored responses for certain groups of children and young people who are at greater risk of experiencing violence, face additional barriers to support and may be falling through gaps. This includes young people who are LGBTQIA+, with disability, from refugee and migrant backgrounds, disengaged from school, Aboriginal and/or living in regional areas.

These young people's experiences of inequality, marginalisation and/or discrimination make them vulnerable to exploitation. Tailored responses can draw on evidence and frameworks from ANROWS, including the Connecting the Dots strengths-based framework for working with children and young people with disability who experience domestic and family violence.¹⁰

b. Children and young people escaping violence and seeking support without an adult.

Children and young people experiencing violence are often seen as an extension of their parent or carer. If we are to truly recognise children and young people as victims in their own right, we must address the significant barriers and gaps in support for children and young people who may seek safe housing and financial support without an adult.

This is evident in the lack of appropriate accommodation options for young people who are forced to leave their home, as well as the exclusion of children and young people aged under 18 from the Leaving Violence payment.¹¹

In 2022-23, 20% children under the age of 18 who sought help from homelessness services approached services alone, unaccompanied by a parent or carer. Many of these young people were fleeing violence. In South Australia, there was a 16% increase in children remaining homeless after seeking assistance in 2022-23 compared to the previous year.¹²

4. Prioritise earlier, tailored and therapeutic systemic responses for:

- a. Children and young people using violence at home.**
- b. Children and young people displaying harmful sexual behaviours.**
- c. Young people using and experiencing violence in intimate relationships.**

There are significant gaps in systemic responses and support services for children and young people who use family violence, display harmful sexual behaviour, and use intimate partner violence. While not every young person who displays these behaviours has a history of trauma, there is a high level of overlap with unacknowledged and unaddressed trauma, including experiences of violence or abuse. Importantly, the 'pathway between childhood and adult experiences of violence is not inevitable', particularly with earlier tailored and therapeutic support.¹³

This reinforces the importance of prioritising holistic, child- and youth-centred recovery and support (see recommendation 3). In the absence of early child-centred therapeutic support, interventions tend to involve police, youth justice and/or mental health response.

Services and supports that are primarily designed for adults are unlikely to engage children and young people and may actually escalate harm.¹⁴

a. Children and young people using violence at home.

There are significant gaps in systemic responses and support for young people using violence against a parent, carer, sibling or other family member in the home. Often, there is no clear avenue for children, young people and families to access support until they come into contact with the justice system. This highlights missed opportunities to address the issue earlier and before behaviour escalates.

The KIND program is one of the only specialist responses in South Australia, which aims to reduce adolescent family violence and dating violence by providing tailored support to young people involved in the youth justice system and their support network. An initial pilot was well-received, and the program was expanded in 2022.¹⁵ In 2024, the federal government committed further funding for one-on-one mentors to work with young people engaged in the KIND program.¹⁶

The federal government has also recently committed \$23 million for programs aimed at boys and young men who are at risk of using violence.¹⁷ While this is welcome, existing support is not available early enough. For example, the recent federal funding is aimed at 12- to 18-year-olds. However, a 2022 national study of adolescent family violence funded by Australia's National Research Organisation for Women's Safety (ANROWS) indicated that the average age when young people started using violence was 11 years old, with 42% of respondents who provided their age indicating that they were 10 years old or younger.¹⁸ Feedback from the pilot of the KIND program also highlighted the need for earlier support, with comments from families such as 'we were too far gone'.¹⁹

The 2022 ANROWS study found that almost 9 in 10 young people who had used violence in the home had either witnessed family violence or directly experienced abuse themselves.²⁰ Young people who had used violence in the home highlighted that they needed support earlier for themselves and their families. This included the need for a safe space or place to go, someone to talk to, professional support, education around violence and emotional regulation, and supportive school environments and staff.²¹

Children and young people using violence, or at risk of using violence in the home, require tailored and therapeutic responses that:

- Consider the factors underlying the behaviour and the vulnerability of children or young people, including trauma or distress, difficulty regulating emotions, and adverse childhood experiences.²²
- Focus on families and communities, and engage with children, young people and families early in flexible and individualised ways, noting that many parents are reluctant to seek support.
- Recognise that positive outcomes in cases of young people using violence tend to involve keeping the family together rather than separating them.²³
- Acknowledge that violence can also be towards siblings and provide tailored support for siblings that is different to support for adults in families.

- Consider particular groups of children and young people who are at higher risk of experiencing and using violence, including young people with disability and LGBTQIA+ young people.

The Act for Kids Safe Families Program in Queensland is a holistic ‘multigenerational ecological’ service model that provides therapeutic in-home and outreach support tailored to all family members. It aims to identify and address the underlying issues contributing to violence and uses intensive intervention with families in the first few weeks, often for hours a day. This service predominantly works with families where the person using violence remains part of the family unit and is required to coparent, or where adolescents are using violence. The program provides tailored support for each family member, both those using and affected by violence. Feedback from Queensland Police in relation to the first family to receive support through the Safe Families shows there was a significant reduction in the volume of calls to police within six months of support.²⁴

b. Children and young people displaying harmful sexual behaviours.

My 2023 [Policy Position on the need for a systemic response to harmful sexual behaviour in children](#) highlights the need for changes to legislation, policy and services to address the gaps in current responses to children who are displaying or impacted by harmful sexual behaviours.

South Australia needs a state-wide and multi-agency response to ensure that we adopt a preventative and early intervention approach to sexually coercive, aggressive or violent behaviours towards children from other children. Responses must be timely, accessible, therapeutic and non-stigmatising, in line with the recommendations made by the 2017 Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA). Therapeutic and rehabilitative approaches will provide a basis for intervening earlier to help prevent behaviour escalating into ongoing and more serious sexual offences.

The state government should develop a state-wide policy framework that provides a consistent, joined up and therapeutic response that prioritises supporting children and families outside of the justice system. This must include services for individual children and young people, families, communities, and schools. This should include:

- establishing a lower threshold for access to primary and secondary health responses to support treatment for children displaying behaviours at the lower end of the spectrum.
- Expanding resourcing for statewide services and training for frontline staff working with children and young people across a range of sectors.
- Reviewing legislation to address barriers to appropriate responses and ensure children are supported rather than criminalised
- Developing guidance for agencies to ensure that police intervention is used as a last resort, and ensuring SAPOL has the power to divert children displaying harmful sexual behaviours away from the child justice system and toward interventions

that provide therapeutic treatment and wrap around support for the child and their family.

- Developing resources for families and children to raise awareness about the spectrum of sexual behaviours and making these available at all childcare and family health centres.
- Reviewing the implementation and effectiveness of the Department for Education's new harmful sexual behaviour procedure and guideline to determine whether school responses have resulted in better outcomes for students, educators, families, and communities.

c. Young people using and experiencing violence in intimate relationships.

Data from the Longitudinal Study of Australian Children (LSAC) indicates 29% of 18-19 year olds reported having experienced some form of intimate partner violence.²⁵ While South Australia's KIND program addresses adolescent dating violence as well as adolescent family violence, this support is only available to young people once they are involved in the youth justice system. This highlights the need for prevention efforts and early intervention to minimise the impacts on victim-survivors and perpetrators.

This must include scaling up comprehensive relationships and sexual health education that is grounded in human rights, including gender equality (see recommendation 2 and attached Policy position on Realising children and young people's rights to positive relationships, and sexual health and wellbeing). My Sex Education survey found that sexual assault and violence are among the topics least likely to be covered in school-based relationships and sexual health education. Where it is covered, there is a lack of practical guidance on where and how to seek support before or if it occurs.

The LSAC data highlights that friendships and supportive relationships with parents during adolescence are key protective factors that reduce the risk of later emotional abuse victimisation.²⁶ As such, we need to provide all adolescents, families and practitioners with information to respond to disclosures. At the same time, child- and youth-specific support services exist and are accessible (see recommendation 3).

It is also important to increase awareness of the prevalence of intimate partner violence among health and community services to be able to identify and refer to appropriate supports. This includes recognising that young men are just as likely to be victim-survivors of emotional abuse and physical violence as young women, whereas young women are more likely than young men to be victim-survivors of sexual abuse within intimate partner relationships.²⁷

5. Improve the capacity of the family law system to better listen to and support children and young people, and to understand the dynamics of family, domestic and sexual violence.

While it is critical that all systems better listen to and support children and young people and understand the dynamics of family violence, the family law system requires

particular attention. Children and young people, families and professionals continue to raise significant concerns about the failure of the federal family courts to give sufficient consideration and weight to family violence and to the views and experiences of children, which further compromises the rights, safety and wellbeing of children.

Family Court data shows that 83% of matters in 2022–23 involved allegations of family violence, with 69% involving allegations of four or more risk factors.²⁸ The key challenges of the family law’s response to family violence are well-documented, and many problems arise from the inconsistency with other jurisdictions such as the state and territory family violence legislation and child protection systems (see Recommendation 1).

The recent national report of the Rapid Review of Prevention Approaches highlights the need to improve data collection about the impacts on children affected by family law processes and prevent perpetrators from weaponising and manipulating systems to further victimise children, particularly the family law system but also child support, immigration and taxation systems.²⁹

My [2018 report](#) on children and young people’s experiences of family separation raised significant concerns about the family law system. Children and young people with experience of formalised family court proceedings highlighted the need for:

- Access to clear and easily understandable information on the family law process and the adults involved in the process.
- The opportunity to choose the extent to which they are involved in the process and the opportunity to attend court.
- People in the system to be kind, listen and believe what they say.
- Someone who is there just for them, from the start.
- The opportunity to have decisions reviewed and to monitor outcomes when circumstances changed.

Currently, determinations of best interests do not consistently prioritise, and in some cases are used to justify overriding, children and young people’s rights to express their views and participate in decisions affecting their lives. Family law decisions have a significant impact on children’s immediate and long-term wellbeing and safety.

The fact that children and young people’s preferences will not always be accommodated is not a reason to negate their right to be heard. When children and young people are supported to understand why certain decisions have been made, they are more likely to accept the outcome, including when a decision does not reflect their wishes.

Several initiatives have attempted to improve the Family Court’s early identification of and response to family violence, including the Lighthouse project and the Evatt list. Other reforms to address family violence and improve the focus on children include:

- Child Impact Reports that consider the child’s experience and needs during the initial stages of proceedings to inform decision makers.³⁰
- The rolling out of Safe and Together Training for registrars and court child experts to understand family violence and improve decisions related to children.³¹
- Better information sharing with child protection and law enforcement agencies through the Family Law Amendment (Information Sharing) Act 2023.³²

While I welcome recent amendments to the *Family Law Act 1975* (Cth) that strengthen requirements for Independent Children’s Lawyers to meet with children, further action is needed to bring the focus on to children. Greater monitoring and evaluation of these reforms is needed to determine whether they are resulting in better outcomes for children and their families.

6. Recognise the impacts of physical punishment on children and repeal the legal defence of ‘reasonable chastisement’.

Physical punishment is the use of physical force against a child with the intention of causing pain or discomfort to discipline or punish them. It typically involves hitting, smacking, slapping and spanking children with the hand or with an object.

Addressing the widespread acceptance of physical punishment and eliminating it is recognised as ‘a key strategy in reducing all forms of violence’.³³ Despite this, physical punishment has received little attention in conversations about family violence prevention in Australia.

My 2023 [Missing Voices Booklet](#) highlights the experiences of physical punishment as described by primary school children. My annual [Child Rights Progress Reports](#) and my 2024 [Smacking and Physical Punishment Fact Sheet](#) provides further information about the adverse effects of physical punishment and positive alternative approaches.

This Royal Commission is an opportunity to consider the impacts of physical punishment on children and the current legal defence of ‘reasonable chastisement’, which appears to contradict Australia’s commitments to end all forms of violence and uphold children’s right to live free from ‘all forms of physical and mental violence, injury or abuse’ (Article 19 of the UNCRC).

There is a growing body of research indicating that physical punishment is not an effective method of changing children’s behaviour over time.³⁴ Physical punishment is associated with a range of adverse outcomes for children and can:

- Normalise violence and fail to teach children prosocial alternative behaviours.³⁵
- Escalate into physical abuse and can be a contributing factor to becoming involved in intimate partner violence in adulthood, as a victim or perpetrator.³⁶
- Harm a child’s social, emotional, behavioural and cognitive development and be associated with mental health challenges, low self-esteem and increased risk of substance abuse and antisocial behaviour, with implications for a child’s schooling and academic engagement.³⁷
- Have a similar negative effect on a child’s brain development as other forms of abuse.³⁸
- Reduce trust and negatively impact parent-child relationships and other interpersonal relationships.³⁹

Intentionally applying force to a child, or threatening to do so, is assault under section 20 of South Australia’s *Criminal Law Consolidation Act 1935*.⁴⁰ However, a common law defence of ‘reasonable chastisement’ allows parents or guardians to justify the assault if

it was ‘moderate and reasonable’ and applied ‘for the purpose of correcting behaviour and not out of rage or malice or for personal gratification’.⁴¹

Determining what is ‘reasonable’ may consider the age, size, health and cognitive ability of the child, as well as the nature and severity of the punishment. However, there is confusion and uncertainty among parents, law enforcers and the wider public about what is acceptable, including where physical punishment ends and child abuse begins.

The United Nations Committee on the Rights of the Child has repeatedly called for Australia to fully prohibit the use of physical punishment and ensure children have the same legal protection as adults when it comes to assault. As at June 2024, 67 sovereign states have fully prohibited physical punishment and a further 26 states have committed to reforming laws to achieve full prohibition.⁴² Legislative reform has been shown to be most successful alongside public health campaigns that raise awareness about physical punishment and support parents to adopt alternative, non-violent strategies.⁴³

The Australian Child Maltreatment Study indicates that physical punishment is prevalent in Australia, but that beliefs about its necessity may be changing.⁴⁴

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