

Inquiry into the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026

Australian Human Rights Commission submission
to the Legislative Scrutiny Committee

22 May 2026

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Acknowledgement of Country

The Australian Human Rights Commission acknowledges the Traditional Custodians of Country throughout Australia, and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders – past and present.

About the Australian Human Rights Commission

Our vision for Australia is one where everyone can live free and equal in dignity and rights as part of a strong, healthy democratic society.

We have 4 core functions under our legislation:

- Access to justice: We help people to resolve complaints of discrimination and human rights breaches through our complaint handling services.
- Fairer laws, policies and practices: We review existing and proposed laws, policies and practices and provide expert advice on how they can better protect people's human rights. We help organisations to protect human rights in their work. We publish reports on human rights problems and how to fix them.
- Education and understanding: We promote understanding, acceptance and public discussion of human rights. We deliver workplace and community human rights education and training.
- Compliance: We are the regulator for positive duty laws requiring employers and others to address sexual harassment, sex discrimination and other unlawful conduct.

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Overview

1. The Australian Human Rights Commission (Commission) makes this submission to the Legislative Scrutiny Committee (Committee) in relation to its inquiry into the *Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026* (the Bill). The Commission is opposed to the Bill.
2. Every child has a human right to be safe. This human right is set out in international treaties Australia has agreed to uphold including the *United Nations Convention on the Rights of the Child* (CRC). Article 3 of the CRC also requires that the best interests of the child be a primary consideration in all decisions that affect children, with safety being a key component of this. These rights are reflected in child protection legislation across all states and territories, including in the Northern Territory.
3. The Bill proposes significant changes to the way the child protection system operates, undermining the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP), which the Secretariat of National Aboriginal and Torres Strait Islander Child Care (SNAICC) has described as 'a safety framework built on decades of evidence, designed to keep Aboriginal children connected to family, culture and community, and to ensure the mistakes of the past are never repeated'.¹
4. The ATSICPP comprises 5 interrelated elements: Prevention, Partnership, Placement, Participation and Connection, which must be applied together to realise the full intent of the ATSICPP.
5. Social disadvantage—such as poverty, housing instability and limited services—drives contact with child protection, especially for Aboriginal and Torres Strait Islander families affected by systemic racism and trauma. Without early support, intervention becomes more likely, and punitive measures can worsen outcomes by increasing stress and failing to address underlying causes.
6. The ATSICPP is embedded in legislation and policy across all Australian states and territories. Its fundamental goal is to enhance and preserve Aboriginal and Torres Strait Islander children's connection to family and community, as well as their sense of identity and culture. Evidence shows that connection to culture, family and community is a key protective factor for children.
7. The Bill weakens the placement element, a key part of the ATSICPP, that outlines that decisions must follow a culturally grounded hierarchy designed to maintain connection to family, kin and community, which are essential to children's identity, safety and long-term wellbeing. This erodes critical protections for Aboriginal and Torres Strait Islander children and ignores both historical context and evidence about what supports child wellbeing.

8. Weakening the placement element is based on a false assumption that culture conflicts with child safety. The law already prioritises the best interests of the child as paramount. The placement element works alongside this, not against it. Connection to culture is a protective factor, supporting children's resilience, identity and wellbeing, rather than placing them at risk.
9. The proposed changes risk increasing the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care, which is already extremely high. In the Northern Territory, Aboriginal and Torres Strait Islander children are 11.2 times more likely to be placed in out-of-home care than non-Indigenous children.² This is despite the ATSI CPP currently operating in the Care and Protection Act.
10. The Commission calls for consultation and engagement with Aboriginal and Torres Strait Islander communities before proceeding with the proposed changes to the child protection legislation in the Northern Territory.
11. It is also premature to make these legislative changes before the completion of an inquiry into child protection in the Northern Territory, which has only just been announced.
12. An inquiry, with a proper consultation approach, is an appropriate means to consider what reforms to the child protection system are necessary, based on clear evidence, including why recommendations from previous inquiries remain unaddressed.
13. This is not the first inquiry into the effectiveness of the child protection system in the Northern Territory. Both *Growing them strong, together – Promoting the Safety and Wellbeing of the Northern Territory's Children – Report of the Board of Inquiry into the Child Protection System in the Northern Territory* (2010) and the *Royal Commission into the Protection and Detention of Children in the Northern Territory* (2016) made sound recommendations for reforming child protection in the Northern Territory. However, in both cases, while some of the recommendations were accepted, reforms to overcome many of the systemic failures did not occur.
14. In response to the findings of the *Royal Commission into the Protection and Detention of Children in the Northern Territory*, the Northern Territory Government introduced the *10-Year Generational Strategy for Children and Families in the Northern Territory* and the *Planting the Seeds Action Plan 1: 2023–2025*. However, no progress on the implementation of these has been reported by the Northern Territory Government.
15. Weakening the ATSI CPP means that the Northern Territory's child protection legislation will not be aligned with national reform frameworks and commitments. The national direction is to strengthen—not dilute—the ATSI CPP, alongside investing in prevention, community-led services and family support.

The Northern Territory Government will be ignoring strong evidence about cultural safety improving outcomes, risking repeating historic harms of child removal policies, undermining self-determination and Aboriginal leadership, failing to address the real causes of child protection involvement, and worsen outcomes in a system already underperforming.

16. In its review of the implementation of the ATSICPP in the Northern Territory in 2025, SNAICC reported that:

the full implementation of the Child Placement Principle has not reached the level of active efforts seen elsewhere, nor are active efforts explicitly enshrined in legislation, limiting operational effectiveness.³
17. The Bill raises serious concerns about the commitment of the Northern Territory Government to reducing the rate of Aboriginal and Torres Strait Islander children in out-of-home care, including its wider commitments under the National Agreement on Closing the Gap; and also its commitment to implementing all 5 elements of the ATSICPP in the *Safe and Supported Aboriginal and Torres Strait Islander Action Plan 2023-2026* under the *National Framework for Protecting Australia's Children 2021-2031*.
18. There are key concerns as to whether the amendments are necessary to ensure child safety. Weakening the ATSICPP undermines cultural protections and risks disconnection from family and community. Overall, this change to the legislation is likely to worsen outcomes and increase over-representation in out-of-home care.

Recommendations

Recommendations

1. The Northern Territory Government consults and engages with Aboriginal and Torres Strait Islander organisations and communities before proceeding with these amendments to the child protection legislation in the Northern Territory.
2. The Northern Territory Government implements the recommendations of the *Royal Commission into the Protection and Detention of Children in the Northern Territory* (2016).
3. The Northern Territory Government asks the Northern Territory Children's Commissioner to review the child protection system with support from other experts, including the National Commissioner for Aboriginal and Torres Strait Islander Children and Young People.

1 Key issues with the Bill

Social disadvantage—such as poverty, housing instability and limited services—drives contact with child protection, especially for Aboriginal and Torres Strait Islander families affected by systemic racism and trauma. Without early support, intervention becomes more likely, and punitive measures, including Family Responsibility Agreements and Orders, can worsen outcomes by increasing stress and failing to address underlying causes.

Section 10 of the *Care and Protection of Children Act 2007* (NT) (Care and Protection Act) already prioritises the child's best interests. The Commission is concerned that changes to this section are being proposed without adequate justification and consideration of the risks of those changes.

Undermining the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) through these proposed amendments weakens cultural protections and risks disconnection from family and community. Overall, this change to the legislation is likely to worsen outcomes and increase over-representation in out-of-home care.

Removing Part 6A of the *Youth Justice Act 2005* (NT) (responsible care and supervision within the family) and inserting this into the Act; and introducing accountability measures applicable to parents who refuse to engage with the Chief Executive Officer (CEO), supports and services

19. Multiple inquiries into child protection and youth justice over the past decade have demonstrated the need to prioritise investment in prevention and early intervention to address children's safety and wellbeing. The amendments in the Bill do not address these needs. Instead, they take a narrow, punitive and reactive approach to the complex issue of child safety.
20. Social issues like housing insecurity, poverty, unemployment and limited access to healthcare and education can increase the chances of a family coming into contact with child protection services. These social issues limit how children are able to enjoy their rights on a non-discriminatory basis, including the right to education, health and an adequate standard of living, as well as the right to live in safety and to fully enjoy their culture.⁴
21. For Aboriginal and Torres Strait Islander families, these experiences are intensified by colonisation, systemic racism and intergenerational trauma. Ongoing inequities in essential services accumulate, affecting wellbeing and increasing visibility to authorities—problems that are maintained by policy inaction and failure to implement culturally safe supports.

22. When early, culturally safe, accessible supports are not available, families facing hardship are more likely to experience intervention by child protection services instead of being supported to stay safely connected.
23. Applying punitive measures, like Family Responsibility Agreements and Orders, on families involved in child protection matters is not supported by evidence. Such measures place increased stress on vulnerable families when they may already be facing complex challenges like poverty, trauma, or lack of access to support services.
24. These measures can unfairly blame families for problems that are often rooted in broader structural factors such as poverty, trauma and limited access to services, particularly in remote areas where support programs may not be readily available.
25. Punitive approaches disproportionately affect Aboriginal and Torres Strait Islander families, reinforcing existing inequalities and undermining cultural practices and community structures. Focusing on punitive measures rather than on support does little to address the underlying causes of social disadvantage and may instead worsen outcomes by pushing families deeper into crisis and increasing the likelihood of child removal. The use of these measures is often at the expense of long-term child wellbeing and family stability.
26. Punitive accountability measures on parents are inconsistent with Articles 18 and 27 of the CRC, which emphasise supporting families and addressing living conditions, rather than punishing disadvantage.
27. Punitive accountability measures also conflict with Article 21 (right to improvement of social and economic conditions) of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) which emphasises addressing disadvantage and supporting families, not punishing them.
28. Prevention starts with addressing the underlying social determinants and service gaps.

Clarifying the operation of the guiding principles of the Act, introducing a broad Child Placement Principle to guide placement decisions with a focus on permanency and stability, and introducing a legislative framework for proactive efforts to support early intervention and better decision making, and promote accountability

29. Every child deserves to be safe. This is a fundamental human right, set out in the CRC. Article 3 of the CRC also requires that the best interests of the child be a primary consideration in all decisions that affect children, with safety being a key component of this. These rights are reflected in child protection legislation across all states and territories, including in the Northern Territory.

30. Section 10 of the Care and Protection Act already makes the best interests of the child the paramount consideration in every child protection decision, including that any intervention must be the least intrusive intervention in the child's life that is consistent with the best interests of the child. The need to protect the child from harm and exploitation is already an existing matter to be considered under this section.
31. The Commission is concerned that the changes are being proposed without adequate justification and consideration of the risks of those changes.
32. The Bill also proposes establishing a hierarchy of matters to be considered, making the need to ensure the safety of the child and protect the child from harm and exploitation priority considerations, and permanency in living arrangements and the child's need for stable and nurturing relationships the next factors in that order. The child's right to cultural connection is demoted to considerations that 'may also be relevant'.
33. The Commission notes that creating a hierarchy of factors for a consideration of the best interests principle is inconsistent with the approach taken by the UN Committee on the Rights of the Child (UN Committee) to Article 3 of the CRC, which focuses on a consideration of the individual child's circumstances. The UN Committee has said that 'the concept of the child's best interests is complex, and its content must be determined on a case-by-case basis'.⁵ It has stated that it is useful to draw up a non-exhaustive and non-hierarchical list of elements that could be included by any decision-maker to determine the best interests of a child. These must be taken into consideration and balanced in light of each situation.⁶
34. It is also concerning that these changes are being proposed in the context of changes to the implementation of the placement principle, which is designed to ensure children removed by the government retain connections to family, community and culture. As pointed out by SNAICC:

The Principle was established to recognise the importance of safe care within family and culture to the best interests of children, as well as to ensure that the actions that resulted in the Stolen Generations are not repeated. Its components include both prevention of entry into out-of-home care and reunification to ensure culturally connected placements and to enable Aboriginal and Torres Strait Islander families and communities to participate in child protection decision-making.⁷
35. The ATSI CPP comprises 5 interrelated elements: Prevention, Partnership, Placement, Participation and Connection, which must be applied together to realise the full intent of the ATSI CPP.
36. In particular, the Bill weakens the placement element, a key part of the ATSI CPP, that outlines that decisions must follow a culturally grounded hierarchy designed to maintain connection to family, kin and community, which are

essential to children's identity, safety and long-term wellbeing. This erodes critical protections for Aboriginal and Torres Strait Islander children and ignores both historical context and evidence about what supports child wellbeing.

37. Weakening the placement element is based on a false assumption that culture conflicts with child safety. The law already prioritises the best interests of the child as paramount. The placement element works alongside this, not against it. Connection to culture is a protective factor, supporting children's resilience, identity and wellbeing, rather than placing them at risk.
38. The proposed changes to the placement element risk an increase in placements outside of family or kin, leading to cultural disconnection. This is known to cause lasting harm. Removing children and reducing the role and participation of Aboriginal families and communities in decision-making undermines self-determination and culturally appropriate care. This is especially concerning because the ATSICPP is a response to the Stolen Generations, where government policies removed children from their families and caused intergenerational trauma that continues today.
39. The proposed changes also risk increasing the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care, which is already extremely high. In the Northern Territory, Aboriginal and Torres Strait Islander children are 11.2 times more likely to be placed in out-of-home care than non-Indigenous children.⁸ This is despite the ATSICPP currently operating in the Care and Protection Act.
40. In its review of the implementation of the ATSICPP in the Northern Territory in 2025, SNAICC reported that:

the full implementation of the Child Placement Principle has not reached the level of active efforts seen elsewhere, nor are active efforts explicitly enshrined in legislation, limiting operational effectiveness.⁹
41. The current Bill raises serious concerns about the commitment of the Northern Territory Government to reducing the rate of Aboriginal and Torres Strait Islander children in out-of-home care, including its wider commitments under the National Agreement on Closing the Gap; and also its commitment to implementing all 5 elements of the ATSICPP in the *Safe and Supported Aboriginal and Torres Strait Islander Action Plan 2023-2026* under the *National Framework for Protecting Australia's Children 2021-2031*.
42. One of the supporting indicators of Target 12 on out-of-home care under Closing the Gap is the application of the ATSICPP. Latest figures show that out of all Australian jurisdictions, the Northern Territory has the lowest proportion of Aboriginal and Torres Strait Islander children living with Aboriginal and Torres Strait Islander or non-Indigenous relatives, kin or Aboriginal and Torres Strait Islander carers.¹⁰

43. In terms of the UNDRIP, weakening the child placement principle runs counter to Article 9 (right of Indigenous peoples to belong to their community), Article 14 & 22 (special protections for Indigenous children) and Article 18 & 19 (right to participate in decisions and free, prior and informed consent).
44. It also raises concerns under the CRC including Article 30 (right to culture) and Article 20 (continuity of cultural identity in care), as it weakens children's connection to family, culture and community.

Strengthening children's access to independent legal representation in long-term child protection matters

45. Strengthening children's access to independent legal representation in long-term child protection matters is a positive reform, as it ensures children's voices are heard in decisions that directly affect their lives and promotes fairness in a system often dominated by adult perspectives. It can improve accountability and support better outcomes, particularly given the Northern Territory's complex context. However, its effectiveness depends on adequate funding, availability of trained lawyers and culturally appropriate practices, as otherwise it may lead to delays or uneven access to representation.

Working With Children Check (WWCC) amendments

46. We support amendments in the Bill to the WWCC system in the Northern Territory that improves consistency with the National Standards and the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Endnotes

- ¹ Secretariat of National Aboriginal and Islander Child Care, *Sector Peak Urges NT Government to Scrap Legislative Changes and Partner on Child Protection Media Release*, 12 May 2026 <https://www.snaicc.org.au/wp-content/uploads/2026/05/260512-Sector-Peak-Urges-NT-Government-to-Scrap-Legislative-Changes-and-Partner-on-Child-Protection.pdf>
- ² Secretariat of National Aboriginal and Islander Child Care, *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle – NT 2025*, 4 https://apo.org.au/sites/default/files/resource-files/2026-02/apo-nid334349_6.pdf
- ³ Secretariat of National Aboriginal and Islander Child Care, *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle – NT 2025*, 4 https://apo.org.au/sites/default/files/resource-files/2026-02/apo-nid334349_6.pdf
- ⁴ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (2024) at <https://humanrights.gov.au/our-work/childrens-rights/publications/help-way-earlier>.
- ⁵ UN Committee on the Rights of the Child, *General Comment No.14 on the rights of the child to have his or her best interests taken as a primary consideration*, UN Doc CRC/C/GC/14 (29 May 2013) [32]. https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf.
- ⁶ UN Committee on the Rights of the Child, *General Comment No.14 on the rights of the child to have his or her best interests taken as a primary consideration*, UN Doc CRC/C/GC/14 (29 May 2013) [50]. https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf.
- ⁷ Secretariat of National Aboriginal and Islander Child Care, *More Effort Needed to Place Children with Family* (Media Release, 30 September 2025) <https://www.snaicc.org.au/wp-content/uploads/2025/09/250930-More-effort-needed-to-place-children-with-family.pdf>
- ⁸ Secretariat of National Aboriginal and Islander Child Care, *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle – NT 2025*, 4 https://apo.org.au/sites/default/files/resource-files/2026-02/apo-nid334349_6.pdf

- ⁹ Secretariat of National Aboriginal and Islander Child Care, Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle – NT 2025, 4 https://apo.org.au/sites/default/files/resource-files/2026-02/apo-nid334349_6.pdf
- ¹⁰ Productivity Commission, 'Socio-economic outcome area 12 - Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system', Closing the Gap Information Repository, Figure SE12e.1 (Web Page, 2025) <https://www.pc.gov.au/closing-the-gap-data/dashboard/outcome-area/child-protection/#application-of-the-aboriginal-and-torres-strait-islander-child-placement-principle>.