

Children

While most children in Australia live in safe, healthy environments and do well, there are some groups of children whose rights are not adequately protected, which impacts negatively on their wellbeing and ability to thrive.

Australian governments must be held accountable for the wellbeing of our children, now and into the future, meeting our obligations to Australian children under the *Convention on the Rights of the Child*.

Children's Rights

Safety

Urgent human rights issues

Australia's first child maltreatment study in 2023 found disturbingly high rates of maltreatment experienced in childhood. The response has been inadequate, with limited protection of children's rights nationally. Various national plans and strategies relating to violence and abuse experienced by children are uncoordinated, inadequately funded and do not focus sufficiently on protecting the rights of children. Significant concerns exist about safety in early childhood education and care following recent scandals.

Children maltreatment

In 2023, the Australian Child Maltreatment Study (ACMS), the first Australian prevalence study, revealed high rates of maltreatment in childhood including physical, sexual and emotional abuse, neglect and exposure to domestic violence. The ACMS reported that 40.2% of young people aged 16-24 years experienced one or more types of child maltreatment. Children experienced multi-type maltreatment more often than a single type.ⁱ

Child maltreatment has broad and long-lasting impacts on children's development, health and wellbeing. The ACMS found almost half (48%) of those who experienced maltreatment in childhood meet the criteria for a mental health disorder, compared with 21.6% of those who did not experience child maltreatment. Girls and LGBTIQ+ children experience child maltreatment at higher rates.ⁱⁱ

Nationally, in 2023-2024, 42,000 children in the child protection system were subjects of substantiated maltreatmentⁱⁱⁱ, with higher rates of maltreatment substantiations reported among Aboriginal and Torres Strait Islander children,^{iv} children living in very remote areas, and children living in the lowest socioeconomic areas.^v

The ACMS also shows that corporal punishment is common in Australia, with over half (53.7%) of parents reporting using physical punishment.^{vi} Corporal punishment remains lawful for parents in all Australian states and territories to use 'reasonable' chastisement to discipline their children.^{vii}

The ACMS also identified high prevalence of exposure to domestic violence (39.6%). Young people aged 16-24 years reported even higher rates (43.8%).^{viii} In families where children are exposed to domestic violence, there is a much higher chance of the child experiencing other forms of maltreatment.^{ix}

The Commission welcomes the work of the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030*,^x *Safe and Supported: National Framework for Protecting Australia's Children 2021 – 2031*,^{xi} the *National Plan to End Violence against Women and Children 2022 – 2032*,^{xii} and *Our Ways – Strong Ways – Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence 2026–2036*.^{xiii} The effectiveness of this work will depend on adequate funding and co-ordinated implementation by Australian governments.

Priority Action

The Australian Government uses the Australian Child Maltreatment Study data to inform and prioritise prevention and early intervention initiatives through programs, policies and law reform.

Legal Protections for children's rights

Legal protections for children's rights in Australia are inadequate, with significant gaps across data collection, policy and programs.

There is currently no federal legislation that directly and adequately incorporates all child rights, and that effectively holds the Australian government to account for protecting child rights across the nation. Policy affecting children is uncoordinated, spread across different policy portfolios, and there is a lack of monitoring and accountability for reform.

The Australian Human Rights Commission's proposed model for a Human Rights Act includes all civil, political, economic, social and cultural rights; a 'participation duty' requiring that children, First Nations peoples and persons with disability be involved in decision-making on matter that affect them; and an interpretative clause that requires that all human rights are interpreted consistent with the United Nations Convention on the Rights of the Child (CRC).

A national approach to child wellbeing reform requires political will and accountability at the highest levels of government, including by establishing a Minister for Children in National Cabinet and a Ministerial Council for Child Wellbeing. This would be supported by laws that strengthen accountability for the rights and wellbeing of Australia's children.

Australia also needs to ensure better data collection covering all areas of the CRC. National datasets that are intersectional and can be disaggregated would improve decision-making and interventions.

In 2023, the Australian Institute of Health and Wellbeing (AIHW) completed a scoping study for the establishment of a [Child Wellbeing Data Asset Development \(CWDA\) Framework and Roadmap](#). The governance and technical implementation for the CWDA is currently being finalised. The CWDA aims to enable research that can support better outcomes for children, young people and their families. Details on the type of research that the CWDA can and cannot be used for will be clearly detailed in the CWDA Governance Framework, which AIHW are currently finalising.^{xiv} It will be

important to monitor implementation of the CWDA, and the research findings that it generates.

Priority Action

The Australian Government fully incorporates the Convention on the Rights of the Child into Australian law; develops a National Plan for Child Wellbeing; builds a national data framework to measure child wellbeing; and establishes a Minister for Children.

Children in the Justice System

Safety

Urgent human rights issues

There has been limited progress in raising the age of criminal responsibility nationally. Most jurisdictions, including the Commonwealth, allow children as young as 10 to be arrested, prosecuted and locked up. Victoria has raised the age to 12 and ACT has moved to 14 with some exemptions. The Northern Territory lowered the age from 12 to 10.

Age of Criminal responsibility

Up until 2023, the minimum age of criminal responsibility across all jurisdictions in Australia was set at 10 years, with an individualised assessment of responsibility through the courts, under the common law presumption of *doli incapax* ('incapable of wrong'), for children under 14 years. This does not align with the stages of child development relating to responsibility and accountability.

Some states and territories have raised the age:

- In November 2023, the Australian Capital Territory passed legislation to raise the age from 10 to 12 years, and then to raise the age to 14 in 2025. The changes include limited exceptions for serious and intentionally violent offences for young people aged 12 or 13 years.
- Victoria passed legislation to raise the age to 12 in 2024. However, it abandoned its previous commitment to raise the age to 14 with exceptions for serious crimes.
- In December 2023, Tasmania committed to raising the age of criminal responsibility from 10 to 14 years, with no exceptions, by 2029.
- After raising the age of criminal responsibility from 10 to 12 years in October 2023, the Northern Territory Government lowered the age back to 10 years in 2024.

The remaining jurisdictions have yet to commit to raising the age of criminal responsibility. These inconsistencies exacerbate existing inequalities and create discriminatory outcomes for children.

There are also concerns about the inconsistent application of *doli incapax* in Australia. National consistency could be achieved by introducing national standards to guide clinicians conducting *doli incapax* assessments; police and Children’s Courts in Australian jurisdictions clearly recording and retaining data concerning the application of the presumption; and Children’s Courts adopting a routine practice (with judicial discretion) of releasing *doli incapax* assessment reports to the defence legal team.

In addition, a national approach is required to support those aged under 14 who have early contact with the child justice system. These young children are especially vulnerable, and because of their complex support needs, they should have access to specialist therapeutic supports as opposed to punitive responses.

Priority Action

The Australian Government raise the age of criminal responsibility to 14 years in all Australian jurisdictions.

Detention of children as a last resort

The principle of detention of children as a last resort, and for the shortest appropriate period of time, was incorporated in most state and territory laws. However, Queensland, Victoria and the Northern Territory recently removed the principle from legislation.

On an average night in the June quarter 2025, almost 3 in 4 (597 or 72%) young people in detention across Australia were unsentenced.^{xv} Many states and territories laws make it more difficult for children to get bail. This undermines the principle of detention as a last resort and ongoing efforts to reduce the numbers of children in detention. Children are also being detained inappropriately in adult watch houses in Queensland; a [2023 review](#) showed a significant increase in the length of detention of children in watch houses.

Mandatory minimum sentencing laws also undermine the principle of detention as a last resort. In Western Australia, minimum mandatory sentences for certain offences still apply to children. In Queensland, if a child is sentenced to life, the law sets a minimum non-parole period of 15 years. In those cases, the court will not consider the

child's best interests when determining the appropriate non-parole length of a life sentence.

Spit hoods and solitary confinement

Only Victoria has passed legislation to prohibit solitary confinement of children in detention. Only South Australia and New South Wales legislate against the use of spit hoods in child detention. The Northern Territory has recently passed legislation reinstating its use.

Standards for Youth Justice

Some states and territories have agencies (e.g. statutory inspectors and ombudsmen) with oversight and monitoring functions specific to children in detention facilities. They apply their own standards to their work. However, these standards are not consistent between jurisdictions, with variability in data collection, public reporting, accessible complaints mechanisms and consequences for improper conduct.

There needs to be consistent standards for monitoring the provision of child justice services across Australia to ensure children's rights are being protected. All Australian jurisdictions agreed to the [Australasian Youth Justice Administrators principles and standards for Youth Justice](#), but they are not legally binding. There is no mechanism for public accountability on how these Standards are being implemented.

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) presents an opportunity to develop nationally consistent standards for child justice facilities, based on international human rights obligations and standards. However, Australia has still not operationalised OPCAT.

Priority Action

The Australian Government sets national standards for treatment in child justice and detention systems with Australian governments legislating that children be detained only as a last resort.

Prevention and early intervention

In 2023, the [Australian Child Maltreatment Study](#) (ACMS) revealed high rates of physical abuse (28.2%), sexual abuse (25.7%), emotional abuse (34.6%), neglect (10.3%) and exposure to domestic violence (43.8%) in childhood. The study also found that child maltreatment has broad and long-lasting impacts. Almost half (48%) the children who experienced maltreatment in childhood met the criteria for a mental health disorder, compared with 21.6% of those who did not experience child maltreatment. The ACMS also showed that multi-type maltreatment is common. Broader family-related adverse experiences almost doubled the risk of multi-type maltreatment.

In 2023-24:

- 179,000 Australian children under 18 had contact with the child protection system. 23.5% of these were substantiated as child maltreatment or at risk of maltreatment.
- The rate of child maltreatment is 33 per 1,000 First Nations children, compared to 5.1 per 1,000 non-Indigenous children. This is despite First Nations children making up only about 5.7% of the Australian population aged 10–17.
- 7.7 of 1,000 children were in out-of-home care. The rate is nearly 10 times higher for First Nations children.

Child safety and wellbeing must be a national priority. There is a need for investment in prevention and early intervention approaches that address the underlying causes of child protection intervention, including poverty, intergenerational trauma, violence and abuse, racism, homelessness, and inadequate healthcare. This means shifting mindsets to focus on supporting children and families before they reach crisis point where there is often little choice to do anything other than to remove the child from their family. Early notifications of child abuse and neglect are often not addressed because they do not reach the threshold of risk of harm used by particular jurisdictions and there are few resources allocated to deal with safety concerns in the early stages.

Prevention measures need to be designed not only to prevent child abuse and neglect from occurring in the first place, but also to prevent the escalation or re-occurrence of abuse and neglect. There needs to be improved co-ordination and increased access to

different types of child and family services. These need to be community based and community driven.

Prevention is one of the core elements of the Aboriginal and Torres Strait Islander Child Placement Principle. This includes primary prevention activities that improve the health and wellbeing of children, families and communities as well as early intervention or secondary-level activities that provide family support services for children and families who are experiencing vulnerabilities or facing personal or social barriers in meeting their needs.

Priority Action

The Australian Government urgently prioritises prevention and early intervention programs to stop child maltreatment.

Priority Action

Australian governments prioritise early intervention to prevent children entering child protection systems and fully implement the Aboriginal and Torres Strait Islander Child Placement Principle.

Sexual abuse in institutional contexts

Safety

Other priority human rights issues

There has been inadequate progress in introducing a nationally-consistent system of working with children checks and reportable conduct schemes aimed at ensuring child safety in institutional contexts, long after the Royal Commission into Institutional Responses to Child Sexual Abuse. National child safety standards are now embedded in all service contracts with the government, requiring a more preventive approach from organisations providing services and care to children.

Since the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) in 2017, Australian governments have made some progress toward implementing its recommendations on child safety, including development of the National Strategy to Prevent and Respond to Child Sexual Abuse, and the endorsement in 2019 of the National Principles for Child Safe Organisations, developed by the Australian Human Rights Commission.^{xvi}

The National Office for Child Safety (the National Office) is referencing the Australian Human Rights Commission's (AHRC) publicly available child safety tools and resources in its upcoming Contract Management Guide for Commonwealth entities. This guide, currently being developed by the National Office, provides support on incorporating child safety clauses into grants and contracts and will draw on the Commission's materials as part of best-practice guidance.

However, the pace for implementing some of the Royal Commission's key recommendations has been slow, and some remain inconsistently applied across the jurisdictions.

While National Standards for Working With Children Checks (WWCCs) were endorsed by all governments in 2019,^{xvii} Australia still lacks a nationally consistent WWCC system, a key recommendation of the Royal Commission. This has created loopholes that offenders can exploit and move between the states and territories.

Reportable conduct schemes do not yet exist in South Australia and the Northern Territory.^{xviii} Similarly, not all states or territories have introduced child safe standards, the regulatory frameworks needed for implementing the National Principles.

Following reports of harms to infants and young children in childcare in recent months, Australian governments made commitments to ensure national coordination and consistency in WWCCs, including working towards implementing mutual national recognition of negative WWCC decisions by the end of 2025.^{xix} These commitments have not yet been achieved across all jurisdictions.

Priority Action

The Australian Government develop a nationally consistent system of working with children checks, reportable conduct schemes and child safe standards, including the timetable for implementation.

Australia's Social Media Ban

Democratic freedoms

Other priority human rights issues

Monitoring the efficacy and impact of the ban on social media for children under 16 is required, to ensure it is effective in its goal of preventing online harm without unduly impacting on children's rights to freedom of expression and association.

Digital harms for children in Australia include exposure to harmful content and online abuse. The Australian Government amended the *Online Safety Act 2021 (Cth)* to ban under-16s from holding accounts on social media platforms from 10 December 2025.

It has also introduced a Children's Privacy Code, and committed to the introduction of a digital duty of care as part of the Online Safety Act to incentivise harm prevention. Further legislation may be required in the future to ensure compliance with this.

The *Online Safety Act 2021* requires an independent review of the social media ban within 2 years of the Act taking effect, which will assess the effectiveness of the measures and consider whether changes to scope, minimum age (or if additional powers) are necessary. Baseline data about social media use and restrictions are being collected to inform the statutory review of the social media ban. The study involves about 4000 children and their parents/caregivers. It will use surveys, interviews/focus groups and passive monitoring of smartphone activity. Final data collection is expected at the end of 2027.^{xx}

The eSafety Commissioner's powers have also been expanded to monitor and regulate online harm through other regulatory schemes, such as the [industry codes and standards](#) and the [Basic Online Safety Expectations](#).

ⁱ Divna Haslam et al, *The Prevalence and Impact of Child Maltreatment in Australia: Findings from the Australian Child Maltreatment Study* (Brief Report, 2023) 3, 15–16

<<https://www.acms.au/resources/the-prevalence-and-impact-of-child-maltreatment-in-australia-findings-from-the-australian-child-maltreatment-study-2023-brief-report/>>.

ⁱⁱ Divna Haslam et al, *The Prevalence and Impact of Child Maltreatment in Australia: Findings from the Australian Child Maltreatment Study* (Brief Report, 2023) 3

<<https://www.acms.au/resources/the-prevalence-and-impact-of-child-maltreatment-in-australia-findings-from-the-australian-child-maltreatment-study-2023-brief-report/>>; Daryl

Higgins et al, 'Prevalence of Diverse Genders and Sexualities in Australia and Associations With Five Forms of Child Maltreatment and Multi-type Maltreatment' (2025) 30(1) *Child Maltreatment* 21 <<https://pubmed.ncbi.nlm.nih.gov/38214251/>>.

ⁱⁱⁱ Australian Institute of Health and Welfare, *Child Protection in Australia 2023-24* (Web Report, 30 September 2025) <<https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2023-24/contents/about>>.

^{iv} Productivity Commission, 'Rates of Substantiation of a Notification by Type of Abuse', *Closing the Gap Information Repository* (Web Page, 2023-2024) <<https://www.pc.gov.au/closing-the-gap-data/dashboard/outcome-area/child-protection/#rates-of-substantiation-by-type-of-abuse>>.

^v Australian Institute of Health and Welfare, *Child Protection in Australia 2023-24* (Web Report, 30 September 2025) <<https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2023-24/contents/about>>.

^{vi} Divna Haslam et al, 'The Prevalence of Corporal Punishment in Australia: Findings From A Nationally Representative Survey' (2024) 59 *Australian Journal of Social Issues* 580 <<https://onlinelibrary.wiley.com/doi/epdf/10.1002/ajs4.301>>.

^{vii} Australian Institute of Family Studies, *Physical Punishment Legislation* (Resource Sheet, August 2021) 2 <<https://aifs.gov.au/resources/resource-sheets/physical-punishment-legislation>>.

^{viii} Divna Haslam et al, *The Prevalence and Impact of Child Maltreatment in Australia: Findings from the Australian Child Maltreatment Study* (Brief Report, 2023) 3

<<https://www.acms.au/resources/the-prevalence-and-impact-of-child-maltreatment-in-australia-findings-from-the-australian-child-maltreatment-study-2023-brief-report/>>.

^{ix} Divna Haslam et al, *The Prevalence and Impact of Child Maltreatment in Australia: Findings from the Australian Child Maltreatment Study* (Brief Report, 2023) 23

<<https://www.acms.au/resources/the-prevalence-and-impact-of-child-maltreatment-in-australia-findings-from-the-australian-child-maltreatment-study-2023-brief-report/>>

^x <https://www.childsafety.gov.au/resources/national-strategy-prevent-and-respond-child-sexual-abuse-2021-2030>

^{xi} <https://www.dss.gov.au/child-protection/safe-and-supported-implementation>

^{xii} Department of Social Services *The National Plan to End Violence against Women and Children 2022-2032* (Report, 17 October 2022) <<https://www.dss.gov.au/national-plan-end-gender-based-violence>>.

^{xiii} https://www.dss.gov.au/system/files/documents/2026-03/260219-our-ways-report-v7-web_0.pdf

^{xiv} <https://www.aihw.gov.au/reports-data/child-wellbeing-data-asset/about>

^{xv} <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2025/contents/trends-in-sentenced-and-unsentenced-detention>

^{xvi} 'Lead the National Principles for Child Safe Organisations', *National Office for Child Safety* (Web Page) <<https://www.childsafety.gov.au/what-we-do/lead-national-principles-child-safe-organisations>>.

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- ^{xvii} 'Working With Children Check Reform', *National Office for Child Safety* (Web Page) <<https://www.childsafety.gov.au/what-we-do/working-children-check-reform>>.
- ^{xviii} 'Working With Children Check Reform', *National Office for Child Safety* (Web Page) <<https://www.childsafety.gov.au/what-we-do/working-children-check-reform>>.
- ^{xix} Department of Education, *Education Ministers Meeting Communiqué* (Communiqué, 22 August 2025) <<https://www.education.gov.au/collections/communiques-education-ministers-meetings-2025>>.
- ^{xx} The methodology for the Social Media ban evaluation has now been published: https://osf.io/preprints/psyarxiv/u5zn6_v2