



Australian
Human Rights
Commission

Children's Rights Report 2017

NATIONAL CHILDREN'S COMMISSIONER



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**Australian
Human Rights
Commission**

5 December 2017

Senator the Hon George Brandis QC
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney

Children's Rights Report 2017

I am pleased to present to you the Children's Rights Report 2017, in accordance with section 46MB of the *Australian Human Rights Commission Act 1986* (Cth) (the Act). The Act provides that I may submit reports relating to the enjoyment and exercise of human rights by children in Australia as I consider appropriate.

This report covers the work I have undertaken between 1 July 2016 and 30 September 2017.

Chapter 1 reports on the work I have undertaken throughout the past year to promote discussion and awareness of matters relating to the human rights of children and young people in Australia. It also discusses the progress of the recommendations that I have made in previous Children's Rights Reports since 2013.

Chapter 2 reports on how children's rights have been considered in Commonwealth legislation and provides a case study on the consideration of children's rights in court proceedings.

Chapter 3 reports on my investigation into the rights, needs and experiences of young parents and their children, with a view to identifying the critical supports needed to improve their personal, educational and economic outcomes.

Chapter 4 discusses the work I am leading to embed child safe cultures and child rights knowledge throughout organisations that work for and with children across Australia. This initiative has primarily been precipitated by the work of the *Royal Commission into Institutional Responses to Child Sexual Abuse*, which will shortly come to completion, but whose findings will require ongoing action and monitoring in order to prevent and effectively respond to child harm.

I look forward to discussing the report with you.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Megan Mitchell'.

Megan Mitchell
National Children's Commissioner

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About the

National Children's Commissioner

Legislation establishing the position of National Children's Commissioner was passed by the federal Parliament on 25 June 2012.

Ms Megan Mitchell was appointed as the inaugural National Children's Commissioner on 25 February 2013 and commenced in the role on 25 March 2013.

Section 46MB of the *Australian Human Rights Commission Act 1986* (Cth) (the Act) describes the functions that are to be performed by the National Children's Commissioner. Under the Act, the National Children's Commissioner is specifically required to:

- promote discussion and awareness of matters relating to the human rights of children in Australia
- undertake research, or educational or other programs, for the purpose of promoting respect for the human rights of children in Australia, and promoting the enjoyment and exercise of human rights by children in Australia
- examine existing and proposed Commonwealth enactments for the purpose of ascertaining whether they recognise and protect the human rights of children in Australia, and to report to the Minister the results of any such examination.

In performing these functions, the Commissioner may give particular attention to children who are at risk or vulnerable. The Commissioner may consult with children, departments and authorities of the Commonwealth, and of the states and territories, non-governmental organisations, international agencies, and other organisations or persons.

The Act provides that the National Children's Commissioner may submit reports to the Minister that deal with matters relating to the enjoyment and exercise of human rights by children in Australia, as the Commissioner considers appropriate. A report may include recommendations that the Commissioner considers appropriate as to the action that should be taken to ensure the enjoyment and exercise of human rights by children in Australia.

On 13 April 2017, Section 46MB of the Act was amended to remove the requirement that the Commissioner submit a report to the Minister annually.

The Commissioner is able to compel the production of documents and information held by the Commonwealth.

The United Nations *Convention on the Rights of the Child* (CRC) underpins the Commissioner's work. In addition to having regard to the CRC, the Commissioner must have regard to a range of human rights instruments:

- *Universal Declaration of Human Rights*
- *International Convention on the Elimination of All Forms of Racial Discrimination*
- *International Covenant on Economic, Social and Cultural Rights*
- *International Covenant on Civil and Political Rights*
- *Convention on the Elimination of All Forms of Discrimination Against Women*
- *Convention on the Rights of Persons with Disabilities*
- other instruments relating to human rights considered relevant.

Megan Mitchell

National Children's Commissioner



All Australian states and territories have Children's Commissioners, Guardians or Advocates. The legislative functions of these roles differ between jurisdictions. Some have a broad focus, which include all children, whereas others have specified responsibilities relating to children who are at risk or who are vulnerable. Their primary focus is on issues concerning children within their individual jurisdictions. The National Children's Commissioner works collaboratively with the state and territory Children's Commissioners, Guardians and Advocates through the Australian Children's Commissioners and Guardians Group.

Previous roles and qualifications

Commissioner Mitchell has extensive experience working with children from all types of backgrounds, including practical expertise in child protection, juvenile justice, and children's services. Previous roles include NSW Commissioner for Children and Young People, Executive Director of the ACT Office for Children, Youth and Family Support, Executive Director for Out-of-Home Care in the NSW Department of Community Services, and CEO of the Australian Council of Social Service.

Commissioner Mitchell has qualifications in social policy, psychology and education, a Bachelor of Arts from the University of Sydney, a Diploma of Education from the Sydney Teachers College, a Master of Arts (Psychology) from the University of Sydney and a Master of Arts (Social Policy) from the University of York.

For information on the work of the National Children's Commissioner, please visit: <http://www.humanrights.gov.au/our-work/childrens-rights>.

¹ Human Rights Legislation Amendment Act (2017) (Cth). At <https://www.legislation.gov.au/Details/C2017A00032/Html/Text#primary-nav> (viewed 13 October 2017).

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Overview

I am pleased to present my fifth Children's Rights Report as the National Children's Commissioner. This report details how I have fulfilled my statutory functions, outlined in Section 46MB of the *Australian Human Rights Commission Act 1986* (Cth) (the Act) during 2016–17.

During this period, I have continued to monitor Australia's progress in meeting our responsibilities to children and young people under international law. The work I do as Commissioner is guided by the *Convention on the Rights of the Child*, which articulates all the basic conditions children and young people need to thrive and flourish.

This report sets out significant advances in community understanding of children's rights and of our obligations to ensure that these are respected and upheld. I also point to areas where more action is needed and refer to the major strands of advocacy and research activity I have undertaken throughout the year.

Following on from my work in previous years, I have continued to advocate for a national focus on suicide and self-harm among children and young people, and for improved responses to the needs of children affected by family and domestic violence. I also continue to seek improvements in the oversight and treatment of children in custodial detention.

I am pleased to note that this report outlines positive progress in these areas, including the Australian Government announcement in April 2016 that it intends to ratify the *Optional Protocol to the Convention against Torture* by December 2017.

This year my major project has focused on the rights and needs of young parents and their children. Recent modelling has shown that life outcomes are particularly poor for this small but highly vulnerable group. They may struggle to complete their education, find stable housing, or get a job. Without access to adequate health services, the wellbeing of these families may be compromised. Young parents may need help to learn about parenting and may be unable to afford or access early childhood services. Some are at risk of having their children removed and taken into care.

In doing this work we have spoken with many young people who told us about the struggles, stigma and barriers they face. Despite this, overwhelmingly they are motivated to be great parents, to provide the best care for their children, to get an education and to do well in life. I hope that the findings of this investigation will help to identify the supports these young families need at different points in time.

As children are increasingly recognised as rights holders, citizens, consumers, clients and customers, the idea of engaging them in the design and delivery of programs and services becomes more natural. The *National Framework for Protecting Australia's Children 2009–2020* (National Framework) provides an example of this, where ongoing consultation with children and young people is now embedded in its development, implementation and evaluation. I wish to thank the jurisdictional Ministers, the officials and non-government representatives involved in the work of the National Framework who have supported the rights of children by ensuring their engagement in the process. I have no doubt the actions that flow from the Framework will be more successful as a result.

Every year I have the privilege of talking with a diversity of children and young people. This year I listened as they told me about: what makes them feel safe and welcomed; the help they need as they grow into adulthood; and, for some, their experiences of being young parents. What they have said about these issues very much relates to their individual journeys and circumstances. Understanding their 'backstories' is vital if we are to effectively tailor our supports to them. I thank all those children and young people for opening up to me, letting me into their lives and giving me such sound advice to pass on to decision makers.

I could not do my job without the generous support of the many individuals and agencies who care about and care for children and young people and I thank them for their assistance.

In closing, I wish to acknowledge the tireless work of the staff of the Australian Human Rights Commission who have supported me in all the activities undertaken over the year, and who were instrumental in delivering this report.

Chapter 1: Promoting discussion and awareness of children's rights

Chapter 1 examines the work I have undertaken throughout the past year to promote discussion and awareness of matters relating to the human rights of children and young people in Australia. This work is reported against the five themes which emerged from my consultations with children and young people when I started my term in 2013. The chapter also discusses the encouraging progress in relation to recommendations I made in my previous Children's Rights Reports.

Chapter 2: Children’s rights in Commonwealth legislation and court proceedings

Chapter 2 reports on the consideration of children’s rights in the development of Commonwealth legislation and related policies. In particular, it reviews the comments of the Joint Parliamentary Committee on Human Rights (JPCHR) in 2016–17 on how children’s rights are taken into account in Statements of Compatibility with Human Rights, which accompany Bills introduced to federal Parliament. It includes summaries of submissions made by the Australian Human Rights Commission in relation to these Bills. On the consideration of children’s rights in court proceedings, I include a case study on children with gender dysphoria.

Chapter 3: Young parents and their children

Chapter 3 presents the findings of our project on the rights of young parents and their children. Young parents and their children are particularly vulnerable to breaches of their rights to health, education and care, and are at risk of long-term disadvantage and welfare dependency. For this project, I hosted a series of expert forums across Australia, received submissions, consulted with young parents, and conducted a survey of young parents. I also considered key data and research relevant to the wellbeing of young parents. This chapter identifies gaps in knowledge regarding the experiences and trajectories of young parents, and analyses good practice in early intervention and support services that lead to better outcomes for young parents and their children. I make a number of recommendations to improve the protection of human rights for this vulnerable group of children and young people.

Chapter 4: Child safety and wellbeing

Chapter 4 outlines our contemporary understanding of child harm and abuse in Australia, with a particular focus on children and young people in organisational settings. It highlights data on child harm and abuse, noting trends and gaps in available information. It also refers to findings from recent government inquiries that emphasise the importance of valuing and empowering children and listening to what they say. In addition, it describes the work I am leading to embed child safe cultures and child rights knowledge throughout organisations that work for and with children across Australia.

Support services

Whether you are younger or older, if you are feeling distressed, are worried about someone, or would like someone to talk to, please contact:

- Kids Helpline on 1800 55 1800 or www.kidshelp.com.au
- Headspace on 1800 650 890 or www.headspace.org.au
- Lifeline on 13 11 14 or www.lifeline.org
- 1800 RESPECT on 1800 737 732 or www.1800respect.org.au
- MensLine Australia on 1300 78 99 78 or www.mensline.org.au
- Police and ambulance services on 000

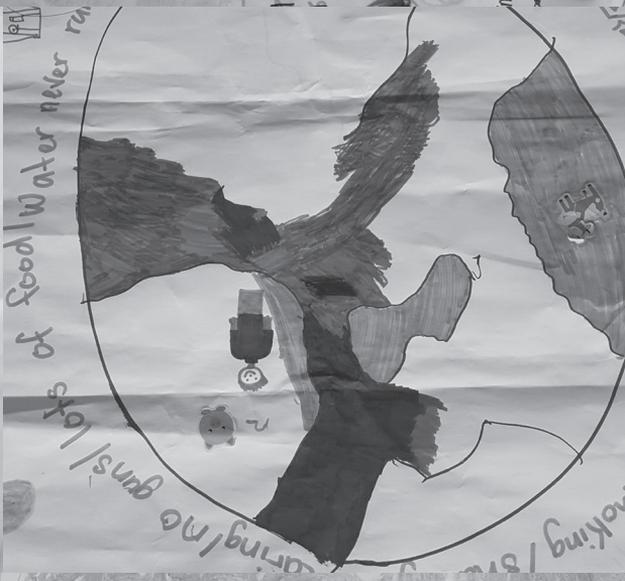
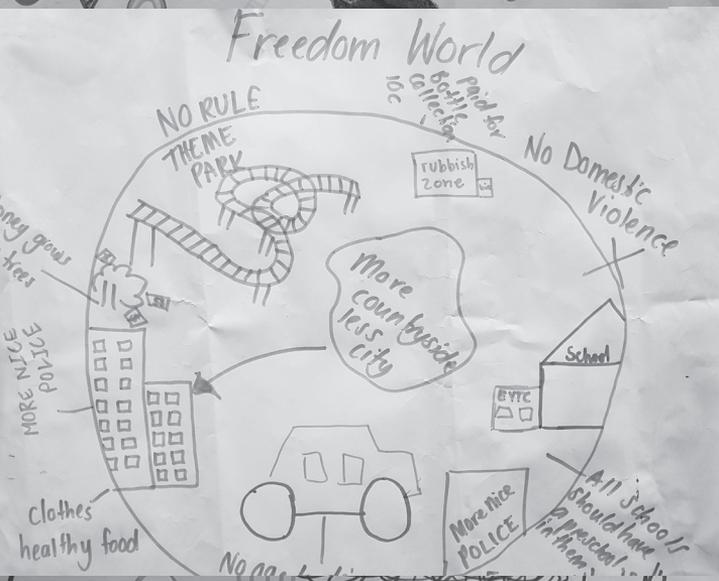
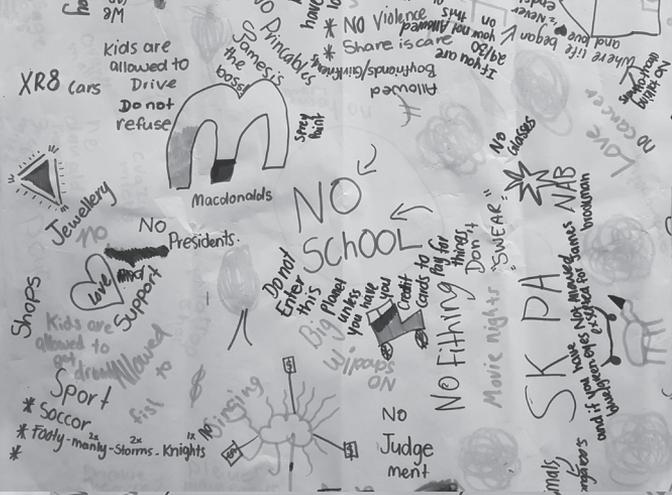
Recommendations

Recommendation 1:	The Australian Institute of Health and Welfare and the Australian Bureau of Statistics should work with state and territory governments to ensure that national data on fertility rates consistently record age, sex, indigeneity and remoteness.
Recommendation 2:	The Australian Institute of Health and Welfare should work with state and territory governments to collect nationally consistent data, over time, on the characteristics and number of young parents in detention.
Recommendation 3:	State and territory governments should explore the use of alternative sentencing options, such as home detention, for offenders who are young parents. Where a young parent who is a primary carer is given a custodial sentence, programs which allow them to remain with their children should be made available, when this is in the best interests of the child.
Recommendation 4:	The Australian Government should commission the development of a mobile enabled e-resource for young people to address their education and knowledge gap on sexual health issues such as contraception, pregnancy and parenting.
Recommendation 5:	The Australian Government should commission research into the distinct needs and characteristics of young parents that present barriers to employment pathways, and the kinds of targeted interventions that are most likely to assist in overcoming these.
Recommendation 6:	The Australian Government should commission research into how to deliver housing and homelessness services that more effectively suit the unique needs of young parents and their children. This research will necessarily involve consulting with young parents and their children themselves.
Recommendation 7:	The Australian Government should commission research into the factors that lead to parenthood for young fathers and how young fathers can be meaningfully included in education, health and community services programs for parents.
Recommendation 8:	The Australian Government, through the Council of Australian Governments' Education Council, should work with state and territory governments to develop systemic policies to address the needs of young pregnant and parenting students, including through specific policies and programs.
Recommendation 9:	State and territory education departments should systematically collect data on the numbers of young pregnant and parenting young people who are enrolled students.
Recommendation 10:	The Australian Government should develop a specific ParentsNext stream for young parents, in particular for those living in rural or remote Australia.

Recommendation 11:	The Australian Government, through the Council of Australian Governments' Health Council, should work with states and territories to review laws, policies and practices, so that all children and young people who are determined to be Gillick competent have access to prescribed medical forms of contraception and abortion.
Recommendation 12:	<p>The Australian Government, through the Council of Australian Governments' Education Council, should work with states and territories to review their laws, policies and practices to ensure that:</p> <ul style="list-style-type: none"> a) access to education for all children is guaranteed b) educational authorities and educational institutions – both public and private – are required to make all necessary adjustments and provide all necessary support to facilitate and ensure access to education for children and young people who are pregnant or are parents c) regular publication of information on adjustments made to support children and young people who are pregnant or are parents is required d) suspension, expulsion or denial of education of a child or young person on the ground of their being pregnant or a parent is prohibited.
Recommendation 13:	The Australian Government, through the Council of Australian Governments' Attorneys-General Council, should work with states and territories to review their laws, policies and practices to ensure that discrimination against a child or young person on the ground of their pregnancy, breastfeeding or parental status/responsibilities is prohibited without exceptions.
Recommendation 14:	State and territory governments should review their policies and practices to ensure that young parents are not targeted on the basis of their age as an at-risk group for child protection assessment purposes.
Recommendation 15:	State and territory governments should review their policies and practices to ensure that young parents receive services designed to support them in their parenting role.
Recommendation 16:	As part of the National Framework for Protecting Australia's Children, Commonwealth, state and territory governments should collect nationally consistent data on children receiving child protection and care services who have teenage parents and on young people receiving child protection and care services who have children as teenagers themselves.
Recommendation 17:	All states and territories, led by the Australian Government, should commit to conducting a routine national child maltreatment incidence and prevalence study.



Children's artwork provided by Anglicare in the Northern Territory
for Children's Week 2016



Collage of artworks by students from Bourke Primary School

Chapter 1:

Promoting
discussion and
awareness of
children's rights

1.1 Introduction

This chapter reports on work I have undertaken in the period from 1 July 2016 to 30 September 2017 to promote discussion and awareness of children's rights in Australia. These activities are structured according to five key themes that guide my work as National Children's Commissioner:

1. **A right to be heard:** elevating children's voices and participation in decision-making.
2. **Freedom from violence, abuse and neglect:** ensuring safe environments and respect for the dignity of the child.
3. **The opportunity to thrive:** safeguarding the health and wellbeing of all children, particularly those who are most vulnerable.
4. **Engaged citizenship:** promoting children's civic engagement and active citizenship through education and awareness-raising.
5. **Action and accountability:** monitoring the progress of Australia's commitments to protect the rights and wellbeing of children.

These key themes arose from the national listening tour (*the Big Banter*) I conducted at the beginning of my term in 2013. The consultations with children and young people and their advocates identified the main issues affecting children and young people in Australia and have shaped the strategic direction of my work to date.

I continue to engage with children and young people and other key stakeholders in the work that I do. My speaking engagements for this year are detailed in Appendix 1, my meetings with stakeholders are listed in Appendix 2, and my memberships of advisory groups and ambassadorships are provided in Appendix 3.

In this chapter, I also report on the progress of the recommendations I made in my statutory reports to federal Parliament since 2013.

1.2 A right to be heard

One of my main objectives as National Children's Commissioner is to ensure that children and young people's views and opinions are sought and taken into account in decision-making processes.

The right of children and young people to be heard is set out in article 12 of the *Convention on the Rights of the Child* (CRC),¹ and is considered to be one of the four guiding principles of the CRC.² This means that it is a right that underpins the interpretation and implementation of all other rights under the CRC.

The United Nations Committee on the Rights of the Child has stated that 'article 12 is connected to all other articles of the CRC, which cannot be fully implemented if the child is not respected as a subject with her or his own views'.³

A key aspect of my work involves regular consultations with children and young people and ongoing advocacy for the inclusion of children and young people's perspectives in decisions and processes that affect them.

(a) National Framework for Protecting Australia's Children

The *National Framework for Protecting Australia's Children 2009–2020* (National Framework) is a national policy initiative which brings together the Commonwealth, state and territory governments and non-government organisations in a sustained commitment to improving the safety and wellbeing of Australia's children.

The National Framework is implemented through three-year action plans. The National Framework's Third Action Plan for 2015–2018 outlines three strategies to achieve the Framework outcomes:

1. Early intervention with a focus on the early years, particularly the first 1000 days for a child.
2. Helping young people in out-of-home care to thrive into adulthood.
3. Organisations responding better to children and young people to keep them safe.⁴

The National Forum, of which I am a member, oversees the development and implementation of the National Framework.

Consultations with children and young people

From the beginning of my involvement in the National Framework, I have advocated for the inclusion of children and young people's voices in its development and implementation, along with others such as Families Australia and the CREATE Foundation.

In 2016, I worked in partnership with the Department of Social Services (DSS) and the CREATE Foundation to facilitate two roundtables with young people to assist in the development of the Third Action Plan of the National Framework.

In March and April 2017, the CREATE Foundation and I facilitated further consultations with children and young people about the implementation of the Third Action Plan. The consultations involved a series of focus groups with 323 children and young people from diverse backgrounds across Australia. These children and young people shared their insights into how strategies related to the Third Action Plan can be improved, implemented and evaluated.

The final report on the consultations, dated June 2017, reflects the views and insights of young parents, young people transitioning to adulthood from out-of-home care (OOHC), and vulnerable young people about what makes places and spaces safe and welcoming for them.

Most young parents said that access to affordable, safe accommodation and day-care, and more money, would help them going into the future. Many young parents also said that access to information about services and supports, including mental health support, as well as less judging, stigmatising and stereotyping of them, would assist them.

Most young people leaving care said that they needed support to find a job and to access the documentation necessary for living and travelling independently. They would welcome information about available services and supports, before and after leaving care, as well as financial assistance. Many said that they needed support to find somewhere to live, obtain their driver's licence, and acquire day-to-day life skills to look after themselves.

Vulnerable young people said in the consultations that increased security, maintenance of places and spaces, availability of mentors or others in the community they could talk with, and participating in events with other young people would make them feel safe and more welcome.

Like all young people, those we spoke with need the right help at the right time to navigate their worlds and grasp the opportunities that are presented to them. However, because of their life journeys, this help is not always readily available to them. One of the main messages of these young people to the Australian Government is: **keep supporting us, don't give up on us, and listen to what we have to say.**

Messages to the Australian Government from young people

How to support young parents in the first 1000 days

'Live in my shoes for one month and I'm sure you will make a lot of changes to your health, social support and education systems. Financially I only just manage to survive on good weeks, on a bad week I find myself eating toast for dinner and walking 5–8kms to the shopping centre. It's about time you try before you buy – that goes for everything!'

'All young mums would appreciate a little more financial help and housing help without being judged.'

'Listen to young people. Stop cutting funding for organisations. Make organisations more accessible and easier to find.'

How to improve the lives of young people leaving care

'That we are more than what you see on a piece of paper and more than just another name/number. We too need all the support to live a fulfilled and accomplished life. We too need better access to resources to mental health and after-care services. We need you to be open and honest with us about our lives. We need you to be 110% dedicated to us, or there is no point working for us.'

'I believe that you should start listening to younger children. It's not just the adults that have a say. The children have a say and should always have an opinion and say.'

'Help young people on their feet once they leave care as they don't have any support after 18 years of age.'

How to support young people recently arrived in Australia

'... Sometimes when I feel alone and sad I don't have someone to talk with. Someone who can listen me and give me an advice. Someone to trust.'

'Australia is made up of people from all around the world. Let's keep that in mind when making decisions that affect them.'

I would like to thank the children and young people who participated in these consultations. I would also like to thank the Department of Social Services for demonstrating strong leadership in this area by making consultations with children and young people a core element of the National Framework.

As the Third Action Plan of the National Framework is implemented, I trust that the voices of children and young people will be heard and acted on, and influence the agendas of governments and service providers alike. I look forward to the development of the Fourth Action Plan of the National Framework, and the inclusion of children and young people as co-designers of this Plan.

National Standards for Out-of-Home Care

One outcome under the National Framework has been the development of *National Standards for Out-of-Home Care* (National Standards). The 13 National Standards are designed to improve the quality of care provided to children and young people in the OOH system. It is intended that progress towards these National Standards will be measured in part through an annual national survey of children in OOH, ensuring children's perspectives are a formal part of the evaluation process.

In my *Children's Rights Report 2016*, I described some of the results of a pilot version of this survey carried out in 2015.

The Department of Social Services (DSS) and the Australian Institute of Health and Welfare (AIHW) advise that a second national survey on the views of children in OOH will be undertaken by states and territories in 2018. Data collection will occur as part of local case management processes between January and May 2018.

The AIHW has been commissioned by the DSS to analyse the data collected by the states and territories, and provide updated national reporting for eight indicators under the National Standards. It is anticipated that the results will be released on the AIHW website by the end of 2018.

A national working group, comprising representatives from states and territories, DSS and the AIHW, is currently completing preparations for the delivery of the 2018 survey.

I look forward to the ongoing development of the 2018 survey and examining the findings in coming years.

(b) Children and young people from refugee, asylum seeker and migrant backgrounds

Children and young people from refugee, asylum seeker and migrant backgrounds have enormous potential as active participants in Australian society. However, they face unique challenges and barriers in accessing the support and opportunities they need to reach their full potential, including racism and discrimination, limited social capital, and learning a new language and culture. This places them at greater social and economic disadvantage than Australian-born children and young people, and often means that their voices are marginalised.⁵

In December 2016, I participated in FUSE 2016, a three-day National Multicultural Youth Summit hosted by the Multicultural Youth Advocacy Network (Australia) (MYAN) in Melbourne. Working with the themes of 'Connect', 'Ignite' and 'Trailblaze', FUSE 2016 brought together 35 children and young people from across Australia to network with peers, share perspectives and ideas, and engage with experienced advocates, Members of Parliament and other decision makers. The participants worked together to develop ideas and explore key issues facing children and young people from refugee, asylum seeker and migrant backgrounds in Australia. These issues included education, health, community and belonging, racism and discrimination, and youth leadership and empowerment.⁶

As part of the Summit, I gave a presentation on the relevance of the CRC and my work as the National Children's Commissioner. I spoke about how children and young people can be leaders, role models, change-makers, and the importance of having their voices heard.

The children and young people at the Summit demonstrated their strengths and capabilities, and their potential to contribute as leaders within their communities. I am encouraged to hear that the delegates have continued to run events in the community and advocate on issues that matter to them. I look forward to the next Summit, to be held in 2018.

I also look forward to participating in the MYAN Conference in November 2017. This event will bring together international and local policymakers, practitioners, young people, academics and the business sector to consider the experiences of young people in the context of current global challenges and explore how research, policy and practice can best respond into the future.⁷

(c) *What Matters?* writing competition

In 2017, I was part of the judging panel at *What Matters?*, an annual writing competition run by the Whitlam Institute within Western Sydney University. Inspired by Gough Whitlam's commitment to involving young people in shaping Australia's future, the competition is open to school students in Years 5 to 12 in New South Wales (NSW), the Australian Capital Territory (ACT) and Tasmania (Tas). Responding to the simple question 'what matters?', entrants submitted an opinion piece expressing their views on any matter they care about.⁸ In 2017, I co-judged the Year 5/6 category entries. The winner in this category, a Year 5 student at Greenacre Public School, Anhaar Kareem, prepared a poem titled 'My Dreams Matter' (see following page).

'My Dreams Matter' by Anhaar Kareem

War,
Tragedy,
Destruction,
Where she grew up.
Everything gone ...
Her school gone,
Her home gone,
Her people gone,
Her heart gone.
Her dream of becoming a vet,
Vanishes before her tired green eyes.

Boat,
Moans,
Cries and life haunting screams,
A petrifying journey ...
At last,
Arrived,
Just *another* refugee in Australia.
Missing her home and family,
Isolated,
Terrified,
But alive ...

Her circumstances,
Her background,
No English,
Being a refugee,
Being Syrian,
No friends,
So many limitations.
Does her dream matter?

A ten year old,
Thriving at school,
A wealth of knowledge,
Enjoying every bit of his science project.
From then on he dreamed of becoming a computer
engineer.

He worked day and night,
Worked his heart out,
His dream finally came true,
Creating state of the art software.
He loved his career,
He truly was living the dream.

After a holiday,
Going back to his family and beloved job,
Could he be banned? Banned from entering the
country he now calls home?
His background,
Discrimination,
#Muslimban,
Will he be forced to say goodbye to his dream?
Does his dream matter?

Dreaming,
First female Prime Minister,
Working hard,
To achieve her dreams.
At last she achieved the impossible,
Prime Minister of Australia!
First female,
Going strong,
Ready to prove them wrong,
She pursued her dreams.

Oh,
Underestimated,
Treated unfairly,
No one thinks a *girl* can run a country,
She didn't feel her dream fulfilled,
Gender discrimination,
For her whole career.
Does her dream matter?

A young boy,
Dreaming of becoming an Australian TV star,
Constantly practicing in front of the mirror,
Gazing wondrously at the screen,
Loving everything about the telly,
The endless magic,
The touching stories,
The intriguing characters,
The various voices,
It is his dream.

As he grows older,
His dream slowly fades,
He is restricted,
Racism ...

Wait,
A glimmer of hope,
A job opening,
An amazing opportunity,
His dream,
Since he was a child,
He can see himself on the screen now.

Finally he faces the sad truth,
In order to fulfil his long life dream,
He must change his name,
The first word he learnt to write,
The name given to him by his beloved parents.
Does his dream matter?

A nine year old,
Public speaking state finalist,
Debating champion,
Loving politics and government,
Dreaming of being The Prime Minister of
Australia.

For the people,
True to the people.

First *Muslim* Prime Minister in Australia?
And *female*?
And wearing a *Hijab*?
I must be dreaming ...

Cultural discrimination,
Racism,
Hate speech,
Section 18C,
Gender discrimination,
Bias,
My dream appears far from reach ...
Does my dream matter?

Everyone's dream matters,
No fear,
Dream big,
Limitless ...
My dream matters!

(d) Children's and youth parliaments

In 2017, I was involved in a number of initiatives to support and promote children's civic participation through children's and youth parliaments. Children and young people have unique ideas and views to contribute to the development of public policy. However, due to their age, they are disenfranchised.

The YMCA NSW Youth Parliament empowers children to connect with their community and be advocates for causes they care about. The children voice their ideas, passions and experiences in a parliamentary format, proposing positive change for their futures.⁹ I am currently working with the YMCA to assess the feasibility of establishing a youth parliament. We have written jointly to the Prime Minister to push this issue forward.

In 2017, Liverpool Council Chambers launched the '2168 Children's Parliament', giving students aged eight to 12 years from ten schools in the 2168 postcode area the opportunity to express the aspirations and ambitions of their local community. As a member of the Ambassadors Panel, I am involved in advocating on behalf of the Children's Parliament and championing their voices to achieve children's aspirations for change. I participated in the inaugural Children's Parliament sitting on 21 June 2017, discussing matters of importance to the young parliamentarians: safety and anti-social behaviour; parks maintenance and refurbishment; wellbeing; and community facilities. I have also contributed to the advocacy implementation plan for the Ambassadors Panel on these themes.

(e) Young parents

As part of my investigation into the experiences of young parents this year, I conducted consultations with children and young people who became parents when they were teenagers. This included several young parents who are detained in juvenile justice centres. I also asked them to complete a survey about their experiences. I report on this in detail in Chapter 3.

1.3 Freedom from violence, abuse and neglect

The obligation to protect children and young people from all forms of violence, abuse and neglect is set out in article 19 of the CRC, and is a key theme for my work as National Children's Commissioner.

In my 2015 and 2016 Children's Rights Reports I examined intentional self-harm involving children, the impact of family and domestic violence on children, and the oversight mechanisms in youth justice processes. These examinations highlighted that certain vulnerable groups of children continue to experience disproportionately high levels of violence and disadvantage. These groups include Aboriginal and Torres Strait Islander children and young people, children in OOH, children with disability, children who are sexually diverse, transgender, gender diverse and intersex, children from culturally and linguistically diverse backgrounds, and children living in rural and remote areas.

More details of my continued advocacy regarding suicide and self-harm, family and domestic violence, and the youth justice system are set out below.

(a) Children and young people in the youth justice system

In 2016, following the release of images and footage of abuse and mistreatment at Don Dale Youth Detention Centre in the Northern Territory (NT), the Royal Commission into the Protection and Detention of Children in the Northern Territory (NT Royal Commission) was established. On 9 October 2016, I provided a statement to the NT Royal Commission, outlining the international human rights standards as they relate to the situation of children and young people who are detained. On 11 October 2016, I provided oral evidence to the NT Royal Commission about the extent and sufficiency of existing legislative protections for the rights of children in detention in the NT. I look forward to the release of the NT Royal Commission final report.

On 9 February 2017, the Australian Government announced that it intends to ratify the *Optional Protocol to the Convention against Torture* (OPCAT) by December 2017.¹⁰ This will provide for a system of independent inspections and oversight of all places of detention across Australia.¹¹ I commend the Government for taking this initiative. The Australian Human Rights Commission (the Commission) continues to have an ongoing role in the implementation of OPCAT, with the Human Rights Commissioner conducting consultations with civil society to provide advice to the Australian Government on views of how OPCAT should be implemented within Australia. The Attorney-General has indicated that multiple bodies from the federal, state and territory governments will be responsible for conducting regular inspections and monitoring the treatment of people in detention. The work of these various inspection bodies will be supported by the Commonwealth Ombudsman as the national preventive mechanism (NPM) responsible for coordination and capacity building.¹²

I note that various reviews of juvenile justice systems across Australia have recently been completed or are currently underway. I look forward to their outcomes. The reviews are summarised in Appendix 4.

On 13 February 2017, I presented at the inaugural meeting of the NSW Juvenile Justice Advisory Committee, which was established by Juvenile Justice NSW to provide independent advice and guidance on practices in juvenile justice centres across NSW. In my presentation, I reflected on my experience of visiting juvenile justice centres around the country as part of my 2016 investigation into whether the oversight mechanisms that are in place are compatible with our international obligations, meet relevant standards, and can readily feed into a national oversight monitoring and preventive mechanism. I also discussed some good practices in Australia and other jurisdictions in relation to the treatment of incarcerated children.

In May 2017, I provided a written submission to the NSW Inspector of Custodial Services' review of how the use of force against detainees in juvenile justice centres in NSW is managed.¹³ I recommended that the NSW Inspector take OPCAT's oversight mechanisms into account when reviewing the use of isolation, force and restraints in NSW juvenile justice centres. I also recommended that more specific and robust monitoring and reporting processes be implemented when force or restraints are used against child detainees, and that the Inspector develop alternative management techniques to the use of force, restraints and isolation.

On 27 October 2016, the Australian Government announced the Australian Law Reform Commission (ALRC) inquiry into the incarceration rates of Aboriginal and Torres Strait Islander peoples.¹⁴ The ALRC is due to report to the Attorney-General by 22 December 2017.

I hope to see legislative and policy changes to strengthen and develop therapeutic, non-punitive systems for children in contact with the law across Australia. I also look forward to the ratification, and subsequent implementation, of OPCAT, which will strengthen oversight of these systems.

(b) Creating child-safe institutions

National Statement of Principles for Child Safe Organisations

In November 2016, under the National Framework, Community Services Ministers agreed to the development of a National Statement of Principles for Child Safe Organisations (National Principles).

The National Principles are being developed over an 18-month period under a phased approach led by me as National Children's Commissioner. A cross-sector consultation and engagement process, involving everyone from sports to health services, from very small clubs to large businesses. The development of these principles has been designed to take into account and build upon the work of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), which is due to report by 15 December 2017. It is understood that the Royal Commission's final report will include a volume on making institutions child safe, including recommendations relating to child safe elements.

The draft National Principles consist of ten principles based largely on the child safe elements developed by the Royal Commission. It is underpinned by a child rights approach to building capacity in organisations and settings in order to deliver child safety and wellbeing.

Further details of my work on Child Safe Organisations are set out in Chapter 4.

Child Safeguarding Framework

In March 2015, the Department of Immigration and Border Protection established the Child Protection Panel to provide independent advice on issues concerning the wellbeing and protection of children in immigration detention and in regional processing centres. The Panel has focused on strategies to improve child wellbeing and the responses of the Department of Immigration and Border Protection to incidents involving children. In 2017, the Panel released its final report, *Making Children Safer: The wellbeing and protection of children in immigration detention and regional processing centres*.¹⁵ A focus of the Panel has been the development of the Department's Child Safeguarding Framework, which outlines the principles, policies and procedures for staff and contracted service providers to safeguard children who receive our services.¹⁶ I understand that the Department of Immigration and Border Protection is reviewing this Framework. I look forward to contributing to this opportunity for reshaping child protection policy for children in immigration detention and in regional processing centres.

(c) The impact of family and domestic violence on children and young people

National Plan to Reduce Violence against Women and their Children

The *National Plan to Reduce Violence against Women and their Children 2010–2022* (National Plan) brings together governments, key organisations, the community sector and individuals to prevent and respond to domestic, family and sexual violence.¹⁷

The Advisory Panel on Reducing Violence against Women and their Children presented their final report to the Council of Australian Governments (COAG) in April 2016. This report, containing 28 recommendations, acknowledged that the needs and wellbeing of children and young people should be considered across all areas of action in government responses to violence against women.¹⁸ COAG gave ‘in principle’ support to the six areas identified for further joint action. I especially welcome Action Area 3 of the Panel’s report, which states that children and young people should be recognised as victims of violence against women in their own right, and recommends that the views and experiences of children and young people be taken into account during the scoping, design, and evaluation of services.¹⁹ COAG agreed that jurisdictions would consider the recommendations in developing the Third Action Plan 2016–2019 of the National Plan.²⁰

In October 2016, I participated in the COAG National Summit on Reducing Violence against Women and their Children in Brisbane, focusing on the distinct needs of children affected by family and domestic violence. The purpose of the Summit was for governments to review progress and profile best practice in their collective efforts to make Australia safer for women and their children. I was involved in consultations for the development of the Third Action Plan of the National Plan, which was launched at the Summit.

The Third Action Plan of the National Plan outlines 36 practical actions under the following six priority areas:

1. Prevention and early intervention
2. Aboriginal and Torres Strait Islander women and their children
3. Greater support and choice
4. Sexual violence
5. Responding to children living with violence
6. Keeping perpetrators accountable across all systems.²¹

I am pleased that the Third Action Plan of the National Plan contains several priorities addressing the needs of children affected by family and domestic violence, including Aboriginal and Torres Strait Islander children, and ensuring children’s environments are safe from violence.

On 7 March 2017, I attended the first joint meeting of the National Plan Implementation Executive Group and the National Forum for Protecting Australia’s Children. The purpose of these meetings is to discuss opportunities for collaboration on activities concerning the interlinked issues of family and domestic violence and child protection. Given the strong linkages between the Third Action Plans under the National Plans and the National Framework, these meetings represent a significant step towards better coordination of the two national policy initiatives.

Several working groups and initiatives have been established under the Third Action Plan of the National Plan, which relate to the impact of family and domestic violence on children. Two of these working groups are highlighted below.

A **Children and Parenting Working Group**, co-led by Queensland (Qld) and Western Australia (WA), will identify ways to support community-based and government services to recognise and respond to the impact of violence on children. Child and domestic and family violence reforms in train in Qld will inform the work of other jurisdictions. The working group's first project is being undertaken by the Australian Catholic University's Institute of Child Protection Studies. The project will examine service system responses, in two pilot jurisdictions, to children and their families where there is domestic and family violence and the family is known to child protection authorities. The working group will maintain close links between the work of the Third Action Plan of the National Plan and the Third Action Plan of the National Framework.²²

An **Aboriginal and Torres Strait Islander Working Group**, co-led by South Australia (SA) and the NT, will ensure a strong focus on reducing domestic and family violence experienced by Aboriginal and Torres Strait Islander women and children. The working group's first research project will develop resources to guide researchers and service providers on how to obtain consent to work with Aboriginal and Torres Strait Islander children who have experienced family and domestic violence. This work is also being undertaken by the Institute of Child Protection Studies at the Australian Catholic University. In addition, DSS has commissioned the Australian National University to conduct a study examining the extent of exposure to violence amongst Aboriginal and Torres Strait Islander women and children. This working group will engage closely with the Aboriginal and Torres Strait Islander Working Group under the Third Action Plan of the National Framework.²³

Educating children and young people about respectful relationships

In recent years there has been substantial advocacy for, and commitments made to, respectful relationships education across Australia. As part of the Third Action Plan of the National Plan, the Commonwealth and state and territory governments agreed to 'support schools and teachers to deliver age-appropriate and evidence-based respectful relationships education to all school children covering sexual violence, gender equality issues and a range of other relationships issues and tailored to vulnerable cohorts'.

To drive this commitment forward, the National Respectful Relationships Education Expert Group has been established to oversee the development of evidence-based, best practice respectful relationships education policy and practice across Australia. The Expert Group will also provide technical support for specific initiatives, such as Our Watch and Luke Batty Foundation's Creating a violence free future: Respectful Relationships Education in Australian Primary Schools program. The Expert Group, of which I am a member, is tasked with reviewing respectful relationships education policy, programs and practice; advising on emerging issues; sharing current approaches, research and evidence; and providing expertise and advice to assist the effective implementation of respectful relationships education in primary and secondary schools.

In March 2017, I presented at the Wellbeing Australia Conference on how child rights-based approaches in education and care help to promote respectful relationships and resilience, and contribute to the protection of children's rights in Australia. In July 2017, I presented at the National Suicide Prevention Conference on 'creating safety: building respect, resilience and relationships using children's rights'.

Raising awareness about the impact of family and domestic violence on children

Over the reporting period, I gave a number of presentations concerning the impact of family and domestic violence on children and young people.

In August 2016, I presented at the International Congress on Child Abuse and Neglect in Calgary, Canada. My presentation focused on the intersection of intentional self-harm among children and their experiences of family and domestic violence, outlining key findings, policy and research implications, and areas of promising practice. I recommended a public health approach to family violence that prioritises the unique needs and rights of children.

In November 2016, I presented on the Children and Family Violence Panel of the Sydney Children's Hospital Network. I discussed the findings of my 2015 examination into the impact of family and domestic violence on children and young people, and outlined current initiatives to promote the rights and wellbeing of children exposed to violence in the home, highlighting areas where further action is required.

Also in November 2016, I participated as a panellist on a Commonwealth Bank discussion raising awareness of the impact of family and domestic violence on families, women, children and the workplace. I highlighted the unique and significant impacts that family and domestic violence has on children and young people as witnesses, bystanders and direct victims of violence in the home. I also raised the lack of nationally consistent and disaggregated data about children affected by family and domestic violence.

I have also raised awareness of the impact of family and domestic violence on children through my involvement in meetings, forums and initiatives.

In February 2017, I attended a meeting with members of Goodstart's Early Learning & Care Reference Committee. Goodstart is Australia's largest early learning provider, providing services to almost 70,000 children, and is driving a program to Enhance Children's Outcomes (EChO). Under this program, 40 centres have been selected to provide preventive and early intervention support for children aged up to five years from disadvantaged families, including those who may be vulnerable to family and domestic violence. The aim of the EChO approach is to increase children's learning, development and wellbeing.²⁴ Goodstart's Family and Domestic Violence Project is looking into the best support for children and families who are experiencing or have experienced domestic and family violence. The aim of the project is to determine new and better ways to connect children and families to wider support services and information.

In November 2016, I stood alongside domestic violence prevention advocates Rosie Batty and Jimmy Bartel for the 1800RESPECT's Stand Together Against Domestic and Family Violence and the 16 Days of Action campaign launch in Melbourne. The campaign was launched in conjunction with 1800RESPECT's Frontline Workers Toolkit, which will equip frontline workers across Australia with information to help identify the signs of family and domestic violence and respond appropriately.²⁵

On 14 February 2017, members of the Commission and I met with the United Nations Special Rapporteur on Violence Against Women during her visit to Australia. This followed a submission that the Commission made to the Special Rapporteur to inform her visit, which provided general background information on violence against women in Australia, recent policy developments in Australia relating to violence against women, and the Commission's work on violence against women. During her visit, some of the topics discussed, were the experiences of violence amongst women and girls who face multiple intersecting forms of violence, feedback on the National Plan to Reduce Violence Against Women and their Children, and the Commission's report on domestic and family violence death review mechanisms.

I will continue to emphasise the importance of understanding children's experiences and needs in relation to family and domestic violence as distinctive and separate to the experiences of adults.

(d) Self-harm and suicidal behaviour

In my Children's Rights Report 2014, I examined the issue of intentional self-harm, with or without suicidal intent, in children. Reflecting on what was known about intentional self-harm and suicidal behaviour in children in Australia, I became acutely aware of the gaps in our knowledge base, and continue to advocate for improvements in data, research and policy focus.

The Australian Bureau of Statistics (ABS) reports that, in 2016, suicide was the leading cause of death of children between five and 17 years of age. In 2016, the age-specific rate of suicide of children in this age group was 2.3 deaths per 100,000.²⁶

In July 2017, I presented at the National Suicide Prevention Conference on how child safe organisations can create an environment that promotes child wellbeing and safety and protects children from harm, including self-harm. My main message was that respectful, safe environments and cultures constitute a protective factor in preventing self-harm and suicide. Organisations that recognise children's right to be heard enable children to feel empowered to speak up about their concerns, and this reduces rates of self-harm.

In August 2017, the Australian Institute of Family Studies (AIFS) released the seventh edition of its *Longitudinal Study of Australian Children (LSAC) Annual Statistical Report*, presenting findings on self-harm and suicidal behaviour of young people aged 14–15 years old.²⁷ This national study, involving 3,318 teenagers, found that ten per cent of 14–15 year-olds reported that they had self-harmed in the previous 12 months and five per cent had attempted suicide. Girls were at greater risk of self-harm and suicide than boys. Certain teens were more at risk of self-harm than others, including those who reported being same-sex attracted, bisexual, or unsure of their sexuality; those with depression, anxiety or general feelings of unhappiness; and those who reported being threatened or feeling victimised by their peers because of their health, skin colour, sexual orientation, language, culture or religion.

Overall, the findings highlight that interventions and preventive strategies should take place at both individual and school levels. These preventive strategies should be directed towards young people, in order to increase their awareness of risk factors, support services and other resources available. Programs to assist teachers and parents to appropriately assess the signs of self-harm and suicidal intent could considerably help to reduce the overall disability burden of self-destructive behaviour by young people.²⁸

(e) Harmful sexual behaviours

In 2017, a working group of representatives from the Australian Children's Commissioners and Guardians (ACCG), of which I am a member, was established on the issue of harmful sexual behaviours among children and young people. The working group has been formed to exchange information on relevant initiatives in each jurisdiction, and may recommend the ACCG conduct joint work or resource development in this area. The working group is developing a discussion paper for consideration by ACCG members.

1.4 The opportunity to thrive

The opportunity to thrive involves promoting the health and wellbeing of all children and young people in Australia and, in particular, addressing the unequal life opportunities that exist for vulnerable groups of children and young people.

Children who experience poverty, marginalisation and discrimination are especially vulnerable to abuses of their rights. In my work, I pay particular attention to promoting the rights of these children.

(a) Identity documents for children and young people in out-of-home care

Children and young people receiving statutory child protection services often face difficulties accessing identity documents, stemming from the lack of birth registration or access to a birth certificate; the complexity of citizenship and passport requirements; and the limited communication and information sharing between jurisdictions and portfolio agencies. This can mean that children and young people in OOHHC do not receive timely treatment for health conditions, have difficulties enrolling in school, and miss out on school excursions, sporting and cultural opportunities. Families may be prevented from taking overseas holidays together.

This kind of differential treatment raises significant human rights issues for children, including violations of their rights to be recognised as Australian citizens,²⁹ access health services and income support,³⁰ and be treated without discrimination.³¹ It also significantly impacts on children's sense of identity and belonging and the quality of their relationships with carers.

I am pleased to report that this issue is now under active consideration at a national level by the Identity Documents Working Group (IDWG). The IDWG was established in August 2016 to identify opportunities and practical solutions across state, territory and Commonwealth governments to simplify the process of accessing identity documents for children and young people receiving statutory child protection services. The IDWG is chaired by the Commonwealth DSS in partnership with the National Children's Commissioner. The IDWG will report directly to the Children and Families Secretaries Group.

The IDWG is currently exploring opportunities for reform to help children involved in child protection obtain a passport, and is in the process of documenting current barriers and opportunities in this area.

(b) Creating safe digital environments for children and young people

During the past year, I have continued to engage in discussion about the creation of safe online spaces for children and young people.

A key avenue for this aspect of my work is my membership of the national Online Safety Consultative Working Group (OSCWG), chaired by the eSafety Commissioner. In November 2016, the Senate Environment and Communications References Committee released its report on *Harm being done to Australian children through access to pornography on the Internet*.³² On 20 April 2017, the Australian Government responded to the Senate report and asked the eSafety Commissioner to establish an expert panel from the OSCWG to assist with shaping policy measures in response to the Senate report.³³

On 4 April 2017, I participated in an eSafety Expert Panel Meeting and consultation with children and young people, chaired by Justice Jennifer Coate and Commissioner Bob Atkinson from the Royal Commission. The purpose of the meeting was to discuss how to prevent online child sexual abuse in institutions, as well as institutional responses to online child sexual abuse. Our consultation sought the views of children and young people on risks, prevention, responses, and child safe institutions in the context of e-safety.

One unintended consequence of the explosion of digital technology is the proliferation of online child exploitation material and increased opportunities for child sex offenders to connect with other offenders. This is the central finding of Anti-Slavery Australia's report, *Behind the Screen: Online Child Exploitation in Australia*,³⁴ which was launched in May 2017. This report is the first comprehensive summary of Australia's response to online child exploitation and identifies the critical need for decisive and urgent action. As a member of the Child Cybersex Crime Research Project Advisory Board, I provided guidance on the development and implementation of recommendations for this report.

The report brings together data and statistics previously unavailable to the public, provides expert commentary from interviews with representatives from leading law enforcement and non-government agencies, and draws on primary and secondary research to provide a comprehensive summary of Australia's legal response to the issue of online child exploitation. The report recommends the establishment of a peak national body with representatives from government departments, law enforcement agencies and key stakeholders to streamline our response to this issue. This could build on the important work of the eSafety Commissioner and others who are already turning their minds to addressing the online exploitation of children.

(c) Supporting improved outcomes for Aboriginal and Torres Strait Islander children and young people

In Australia, Aboriginal and Torres Strait Islander children and young people continue to face greater barriers to accessing their rights than their non-Indigenous peers and consistently experience lower levels of health, education and socio-economic status.³⁵

A corollary of this is that Aboriginal and Torres Strait Islander children and young people are significantly overrepresented in the care and justice systems.³⁶

Justice Reinvestment

In the *Children's Rights Report 2016*, I reported on the Just Reinvest NSW campaign, and my support for the campaign as a Justice Reinvestment Champion.³⁷ Justice reinvestment is a data driven, place-based approach to reduce offending and imprisonment and increase community safety. It is about re-orienting investment from costly tertiary services, like prisons, police and child protection systems, to prevention and diversionary-focused actions, services and programs in communities.

In September 2016, KPMG published a report, *Unlocking the future*, providing a comprehensive overview and preliminary assessment of activities undertaken during the first two years of justice reinvestment in Bourke, NSW, up to June 2016. The report shows the strength in the approach taken in Bourke by the Maranguka Justice Reinvestment Project in reducing incarceration rates for Aboriginal young people. The Maranguka Justice Reinvestment Project is the first major justice reinvestment project occurring in Australia.³⁸

On 10 August 2017, Just Reinvest NSW launched the first of its policy papers, *Key Proposals #1 – Smarter Sentencing and Parole Law Reform*, at NSW Parliament House. The paper details key proposals to reduce the rising prison population in NSW, with a particular view to addressing the level of Aboriginal overrepresentation.³⁹

On 14 August 2017, I attended the second Maranguka Cross-Sector Leadership Group in Dubbo convened by The Hon Brad Hazzard, Minister for Health and Medical Research. Senior representatives from government, non-profit and philanthropic organisations and the Bourke community came together to continue their commitment to creating the conditions needed to achieve the goals of the Maranguka Justice Reinvestment Project: to reduce youth offending and incarceration, build alternate pathways and create a safer community.⁴⁰

As in previous years, in August 2017 I also visited Bourke Primary School to consult with the students about their rights—what they know about their rights, what their ideal community would look like, and what rights are important to them.

(d) Children involved in the family law and child protection systems

Many families seeking to resolve parenting disputes face complex issues, including emotional, sexual and physical abuse, family violence, substance abuse, and mental health issues. Some of these families are assisted by relationship support services and/or court processes that cross both the care and protection and family law systems.⁴¹

Concerns about the impact of the family law system and its related processes on children, and the system's capacity to protect children's rights, have been raised consistently with me throughout my term.

On 30 June 2016, the Family Law Council delivered its final report to the Attorney-General, *Families with complex needs and the intersection of the family law and child protection systems*.⁴² The report focuses on opportunities to enhance collaboration and information sharing within the family law system, such as between the family courts and family relationship services, as well as between the family law system and other support services including child protection, mental health, family violence, drug and alcohol, Aboriginal and Torres Strait Islander and migrant settlement services. The report is a major contribution to identifying solutions to the challenges facing Australians involved in the family law and child protection systems.⁴³

In the *Children's Rights Report 2016*, I reported that the AIFS has been commissioned by the Attorney-General's Department to undertake the project, *Children and young people in separated families: family law system experiences and needs*. This project is designed to build on existing research on separated families to develop a better understanding of the direct experiences of children after the separation of their parents, and the extent to which their needs are being met by the family law system.⁴⁴

The AIFS has advised me that the project will involve interviews with children between ten and 17 years of age, together with a short separate interview with one parent of the child. The interviews canvas issues including:

- the services and supports that children find to be of assistance in dealing with parental separation
- the issues of importance from the perspective of children when parenting arrangements are made
- the nature of children's experiences where their families have used family law system services (including their acknowledgement and participation in decision-making)
- the characteristics of effective professional practice from the perspective of children.

The fieldwork for the project will conclude on 31 December 2017, with the final report due to the Attorney-General's Department on 28 February 2017.

Over the reporting period, I met with children affected by family and domestic violence to discuss their experiences of the family law system. The children raised with me a number of issues about these experiences, including the following:

- They felt they had no rights, they were not properly listened to, and their voice wasn't important.
- They didn't feel they were believed, and they felt an adult's word was taken over theirs.
- Court processes and the ways that they could participate were not properly explained to them.
- They felt that being involved with courts over many years is really bad for children.

I have included a poem titled 'From Sunshine to Darkness' that a child who went through a family law experience wrote, and which describes his feelings.

From Sunshine to Darkness

You start off as a little kid thinking everything is sunny and nice the world is an adventure.
There's nothing scary and that everybody is good and you don't even know what badness is.

Its easy, you make friends and play its all so easy, learnings fun and you don't have to worry
about anything.

Then someone like him comes along and your world goes from sunshine to blackness and
everything goes bad, nothings easy, nothings fun and nobody is good anymore.

I want to live for a really long time because I'm not going to die until everything is like when you
are a little kid again.

In June 2017, I presented at the World Congress on Family Law and Children’s Rights, held in Dublin, Ireland. The World Congress is a leading international forum that brings together those working in family law and children’s rights—including lawyers, judges, academics, politicians, non-government organisations and social scientists—to discuss and deliberate on issues in family law and children’s rights.

(e) Early intervention and prevention

Early intervention and prevention is key to addressing the unequal life opportunities that exist for vulnerable groups of children and young people.

I am pleased to report on some of the projects under the Third Action Plan of the National Framework which prioritise prevention and early intervention efforts.

A key component of Strategy 1 of the Third Action Plan of the National Framework is to raise awareness of effective parenting strategies and the importance of the early years.⁴⁵ One of the projects being delivered under Strategy 1 is the Building Capacity in Australian Parents (BCAP) trial. The BCAP trial aims to evaluate different ways to build parenting skills and strengths-based parenting behaviours in expectant parents and parents whose children are aged up to two years old (the first 1000 days for a child).⁴⁶ It consists of a national-level community awareness raising project, and an opt-in text messaging service for new and prospective parents. DSS has partnered with the Qld Government to deliver the BCAP trial in three sites: Ipswich, Toowoomba and Rockhampton.⁴⁷

Through its ‘Child Aware Approaches National Initiative’, the National Framework also aims to encourage organisations, communities, business and governments to address risk factors for child abuse and neglect. Child Aware projects under this initiative include the Child Aware Approaches conferences, which showcase and disseminate knowledge about current research and innovative practices to address risk factors for child abuse and neglect.⁴⁸ The 2017 conference on ‘Driving national action on child safety and wellbeing’ brought together policymakers, researchers and service providers to focus on strengths and capabilities, and enhance early intervention and prevention approaches.⁴⁹

I continue to participate in the Australian and New Zealand Child Death Review and Prevention Group, which consists of child mortality review teams from Australia and New Zealand. The Group’s annual meeting in April 2017 focused on sudden unexpected infant death, suicide, perinatal deaths, and monitoring and national reporting. I presented at this annual meeting on key priorities for children from my perspective as National Children’s Commissioner, Australia’s upcoming report to the UN Committee on the Rights of the Child, and progress on information-sharing across borders. The work of this group, building a national picture of the nature and causes of child deaths, is critical to effective prevention interventions.

(f) Children transitioning from care into adulthood

As mentioned earlier, during the reporting period I joined forces with the CREATE Foundation to consult with children and young people on the strategies under the Third Action Plan of the National Framework, including Strategy 2 which aims to help young people in OOHC to successfully transition into adulthood. As part of this strategy, the Commonwealth is trialling ways to improve pre- and post-care support to young people by delivering intensive case management, including wrap-around services linking to education, health and housing. All jurisdictions have committed to using the findings to guide future interventions for young people.

One of the projects being delivered under Strategy 2 of the Third Action Plan of the National Framework is the Towards Independent Adulthood (TIA) trial. This three-year trial aims to improve the wellbeing and social and economic outcomes of young people transitioning from care by supporting them to engage with education, training and employment. Implementation of the trial is underway in Western Australia (WA), with Wanslea Family Services, in collaboration with Yorgum Aboriginal Corporation. Young people are referred to the TIA trial by the WA Department of Communities, Child Protection and Family Support. Participants are supported by youth workers employed by Wanslea Family Services who act as personal advisers, providing intensive support to the young people to help them develop skills to live independently, as well as priority access to housing, education, training, employment and specialist support services.⁵⁰ Noting the significant representation of Aboriginal children and young people in the child protection system, one of the key aims of the trial is to contribute to improving outcomes for Aboriginal children, families and communities.⁵¹

I look forward to the evaluation of the trial, especially from the point of view of the young people involved, and the potential scaling up of similar initiatives nationally. A broader goal, however, should be to ensure young people in care continue to be supported after they turn 18 and at least until they are 21, so that they can stay with their families in stable living situations. This is the focus of current campaigns within the non-government sector, including Anglicare's HOMESTRETCH.⁵² These campaigns promote an approach similar to that adopted in the United Kingdom, which introduced a new legal duty to ensure young people can remain with their foster care families until they turn 21.

(g) Asylum seeker children

As at 30 July 2017, there were fewer than five children (aged under 18 years) in onshore closed immigration detention in Australia and 200 children living in community immigration detention. There were also 43 asylum seeker children in Nauru.⁵³

On 21 April 2017, the Senate Legal and Constitutional Affairs Committee published a report following its inquiry into serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre, and any like allegations in relation to the Manus Regional Processing Centre.⁵⁴ I wrote to the Committee on 15 May 2017, welcoming its report. In particular, I support recommendation 5 that the Australian Government undertake to work with the Government of the Republic of Nauru to establish an independent children's advocate who would have both the jurisdiction and authority to advocate for the rights of children being held in the Republic of Nauru. I will continue to monitor any developments in this area.

On 21 May 2017, the Australian Government announced a new deadline of 1 October 2017 for asylum seekers in the 'Legacy Caseload' to apply for a protection visa. This applies to those asylum seekers who arrived in Australia by boat between 13 August 2012 and 1 January 2014. Those who do not apply for protection by this deadline will no longer be eligible to receive government income support. I have been informed that over 3,000 of the people affected by this announcement are members of family units with children.

On 28 June 2017, I wrote to the Secretary of the Department of Immigration and Border Protection seeking information regarding the possible impacts of this announcement on families with children. Specifically, I asked whether any assistance will be provided to families with children to help them apply for protection in a timely manner. I also asked whether the Department has considered measures to protect the best interests and ensure the welfare of children whose families will no longer be eligible for income support. The Department responded to my letter on 10 July, advising that families will have access to funded interpreting and migration assistance. The Department also advised that those who do not meet the deadline will still have permission to work, access to Medicare and education for school-aged children, while they make arrangements to leave Australia. However, I am concerned that the response did not make any mention of income support. If the parents are unable to find work, families who have missed the deadline might not receive any form of income. I will continue to monitor this issue.

(h) Access to services for isolated children

Some children live in families and communities that are isolated, whether geographically, socially, culturally or economically. These include some children in rural and remote communities, children from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander children and children from low income families. Equal access to services for children experiencing isolation is essential to ensuring their right to health, wellbeing and development.

Mobile Children's Services, supported by the peak body Mobile Children's Services Association (MCSA), are early learning services 'on wheels' that aim to deliver access to early learning and care services where centre-based delivery is not readily available.⁵⁵ These services play an essential role in reaching isolated, disadvantaged and vulnerable children, families and communities that may not otherwise have access to services for children.⁵⁶

In March 2017, I was a keynote speaker at the 2017 Mobile Meet, a professional development event bringing together a range of Mobile Children's Services. I presented on my work to promote children's right to be heard and educational resources that have been developed by the Commission to help practitioners implement human rights in their workplaces and communities.

(i) Young workers

A first job can be an exciting time for a young person. However, young workers, due to their lack of experience, may be unaware of their rights and entitlements in the workplace. Employers may also be unaware of the vulnerabilities and needs of young workers, and how they can best support them.

In 2017, I provided advice to the Fair Work Ombudsman on guides they are currently developing for young workers and businesses employing young workers. The guides will set out:

- the legal requirements for employing young workers
- what young workers should expect from their employers and how they can thrive in the workplace
- how employers can best support and engage young workers and create a safe work environment that is free from bullying, harassment and discrimination.

1.5 Engaged citizenship

Promoting engaged civics and citizenship through education and awareness raising is one of my core functions as the National Children's Commissioner. I achieve this through presentations at conferences, forums and other public engagements and my advocacy on children's rights issues in the media.

I also support the work of the Australian Human Rights Commission to promote awareness of and respect for children's rights, through the development and distribution of human rights education resources for children and young people.

(a) Encouraging human rights education

In 2016, the Commission developed its first series of early childhood educational resources. This series of resources, called *Building Belonging*, focuses on encouraging respect for cultural diversity and addressing racial prejudice in early childhood education and care settings. It is a comprehensive toolkit of resources which includes an ebook, song with actions, educator guide, posters and lesson plans. I launched these resources at the Early Childhood Australia national conference in October 2016.⁵⁷ As at September 2017, the toolkit had been viewed over 44,000 times and downloaded over 27,000 times.

(b) Children's Week 2017

Children's Week is an annual event celebrated in Australia in October. The theme of Children's Week in 2017 was article 29 of the CRC on the aims of education. Article 29 provides that education should be directed to:

- the development of each child's full potential
- the development of respect for human rights and fundamental freedoms
- the development of respect for the child's parents, and cultural identity
- preparation for responsible life in a free society
- the development of respect for the natural environment.

Article 29 positions education as the key to influencing how a child views and treats others, and understands themselves as part of their community and society.

As National Ambassador for Children's Week in 2017, my message focused on children's mental health needs, school connectedness, feelings of belonging, and having a voice as key factors for their overall wellbeing in the school setting. Consistent with the emphasis in article 29 on the holistic development of each child, families, schools and communities each play a role in encouraging and facilitating children's participation in decisions that affect them. Providing children with meaningful opportunities to be heard is both safeguarding and empowering, and supports their preparation for an active, engaged and responsible life in a free society.

1.6 Action and accountability

During the year, I have promoted action and accountability in relation to children's rights through my:

- participation in key government and non-government forums
- submissions to inquiries
- ongoing advocacy to improve the monitoring of child wellbeing in Australia.

My participation in government and non-government forums between 1 July 2016 and 30 September 2017 is listed in Appendix 3.

Making submissions to government and other inquiries is another important way that I hope to ensure children's rights are taken into account in policy development. Between 1 July 2016 and 30 September 2017, the Australian Human Rights Commission made a number of submissions to government and other inquiries which included consideration of children's rights. These submissions are noted at Appendix 5.

Additionally, I continue to advocate for the development of accessible and child-friendly complaints mechanisms that allow children and young people to seek redress if their rights have been contravened.

The Australian Human Rights Commission's Investigation and Conciliation Service is an example of a complaints service that allows children and young people to claim their rights. Under Australia's federal anti-discrimination and human rights legislation, the Commission can investigate and conciliate complaints of discrimination, harassment and bullying based on a person's sex, disability, age and race. The Commission can also investigate and conciliate complaints alleging sexual harassment, racial hatred and breaches of human rights by the Commonwealth, including the rights set out under the CRC.

Complaints handled by the Australian Human Rights Commission involving children

In the 2016–2017 reporting year, the Investigation and Conciliation Service at the Australian Human Rights Commission received **157 complaints** involving children (that is, complaints by a child or on behalf of a child, or raising an issue concerning a child). This represents around nine per cent of all complaints received during this period.

As was the case last year, the main area of complaint involving children was **complaints alleging disability discrimination in the provision of education**.

The following is an example of a complaint of disability discrimination in education that was conciliated by the Investigation and Conciliation Service.

The complainant is blind and uses Braille to read and record information. He attended Year 11 at a public high school and claimed he was denied reasonable adjustments to accommodate his disability during final exams, including additional time.

The relevant educational authority noted it had provided the complainant with a number of adjustments to enable him to complete examinations on the same basis as other students without disability.

Following discussion of the complainant's situation and disability-related needs, the complaint was resolved with an agreement that he would be provided with a number of adjustments to accommodate his disability during examinations, including additional time.

(a) Monitoring the wellbeing of children in Australia

As highlighted in my previous Children's Rights Reports, there are significant gaps in the way Australia monitors and reports on child wellbeing, which reduces our accountability in relation to children and young people. Intentional self-harm, with or without suicidal intent, and children's exposure to family and domestic violence are two areas where these gaps are evident.⁵⁸ Other areas include information on children and young people's educational outcomes, physical and mental health, prevalence of disability, participation and civic engagement, and safety and wellbeing. It continues to be difficult to obtain data which can be disaggregated between different age ranges and cultural and socio-economic backgrounds.

The many data gaps relating to Australia's children prevent us from building an effective picture of child wellbeing in Australia, and hamper our ability to understand when and how best to intervene in ways that will support all children to thrive. This also means that in many domains relating to children we are unable to compare ourselves internationally. Progress in this area will be critical to the preparation of Australia's report on its implementation of the CRC and its Optional Protocols, to be submitted to the UN Committee on the Rights of the Child in 2018.

To this end, I highlight below a number of research and measurement projects designed to assess and promote child wellbeing and where Australia has an opportunity to build its information base in relation to child well-being.

The World Health Organisation Health Behaviour in School-aged Children study

The World Health Organisation Health Behaviour in School-aged Children study (HBSC) is the world's longest running cross-national study in the area of adolescent health, since begun 1982. This international cross-sectional study takes place in 45 countries and is concerned with the social determinants of young people's health and wellbeing. The study examines early adolescents' views on their physical, mental and sexual health, wellbeing, relationships, bullying, school engagement, and family, social and economic circumstances.

HBSC's findings show how young people's health changes as they move from childhood, through adolescence into adulthood. Member countries and stakeholders at national and international levels use this data to monitor young people's health, understand the social determinants of health, and determine effective health improvement interventions. Those working in child and adolescent health view HBSC as an extensive databank and repository of multidisciplinary expertise, which can support and further their research interests, lobby for change, inform policy and practice, and monitor trends over time.⁵⁹

Until recently, the study has primarily focused on Europe and North America, but is now moving to a global study with China, Hong Kong and a number of other OECD countries. It has never been conducted in Australia and, as a result, Australian data is missing from many comparative analyses that use the study. Participating in this study would provide valuable insight into the wellbeing of children across Australia as compared with children internationally.

National Collaborative Network for Child Health Informatics

In 2017, the Australian Digital Health Agency partnered with eHealth NSW and the Sydney Children's Hospitals Network to establish the National Collaborative Network for Child Health Informatics (the Network). The Network's objective is to identify and scope four to five strategic national projects and initiatives, aimed at achieving positive health and wellbeing outcomes for Australian children and young people, made possible through patient-centred and clinician-friendly digital systems and capabilities.

Through a number of collaborative workshops held in June 2017, the Network identified 41 potential digital health initiatives to support children's health and wellbeing, and five priority initiatives:

1. Child Digital Health Record
2. Integration of School Immunisation Programs with Australian Immunisation Register
3. Child Digital Health Checks
4. Digital Pregnancy Health Record
5. Research.

As at September 2017, a project outline for the first priority initiative is being developed for the Network Steering Committee and the Australian Digital Health Agency Board. This project aims to produce a child-owned longitudinal digital health record from preconception through to adulthood, supporting a child's healthy development and growth. It provides the starting point for a lifelong electronic health record. It offers a significant opportunity to drive meaningful use of digital health technology at a national level, and will lead to significant population health and economic benefits in the longer term.

I am involved in providing advice to the Network on the development of these projects.

Report on youth mental health and homelessness

In 2016, Mission Australia co-authored the *Youth mental health report* with the Black Dog Institute, reporting findings on the mental health of young people in Australia over the past five years based on data collected in the Youth Survey.⁶⁰

Building upon this, in August 2017 Mission Australia released a new national report on the relationship between mental illness and homelessness in young people in Australia. The report found that young people with a probable serious mental illness are 3.5 times more likely to have spent time away from home than those without a probable serious mental illness.⁶¹ The report also found that homelessness increases as family functioning decreases, and having a probable serious mental illness greatly increases this risk. An alarming 57.7% of those with a probable serious mental illness who rated their family functioning as poor had spent time away from home, as compared to 37.0% without a probable serious mental illness.⁶²

The report demonstrates the strong links between mental illness, family functioning and the risk of homelessness, and provides key recommendations for improving mental health and decreasing homelessness among young people.

Growing Up in Australia: The Longitudinal Study of Australian Children (LSAC)

Growing Up in Australia is a large scale longitudinal study that documents the development experiences of 10,000 Australian children and their families.⁶³ The study commenced in 2004 and is a joint initiative of the DSS, the AIFS and the ABS.⁶⁴

The study tracks the experiences of two cohorts of children over time and investigates the impacts of various social, economic and cultural environments on the children's wellbeing and development trajectories. The findings provide data on factors influencing child development, which can assist in formulating policies and strategies to support children and families.⁶⁵

In 2016, the LSAC Annual Statistical Report presented research on the experiences of older children. Amongst the issues addressed, the report examined adolescent alcohol consumption, self-harm and suicidal behaviour in young people, and maternal age and family circumstances of firstborn children.

The value of this longitudinal study for monitoring and policy development purposes is extremely significant. To this end, given the cohorts of children are now in adolescence and above, it is important to give consideration to including a new wave of children in their early years. This would ensure we capture contemporary influences on children's lives, such as new and evolving technologies, respectful relationships education, and early childhood quality reforms.

Australian Youth Development Index

The Australian Youth Development Index (YDI) is a composite index that measures progress in youth development through the comparison of data across Australian states and territories. The project is an initiative of the Commonwealth Youth Programme, which aims to increase focus on youth development through presenting and collecting relevant data.⁶⁶

The YDI includes 16 indicators that measure youth development in the five key areas of health and wellbeing, education, employment and opportunity, civic participation, and political participation.⁶⁷ The YDI is an important tool for analysis, policy development and evaluation as it provides a holistic overview of progress across these key areas. The YDI report findings also provide important insights on trends, gaps and disparities in development progress between and within jurisdictions.

In 2016, the YDI report found that while all Australian states and territories (except for Tasmania) have experienced improvement in their overall YDI scores over the past decade, there is significant variation in performance between and within states and territories.⁶⁸ Notably, there are regional disparities as well as disparities in performance between urban and rural youth and between Indigenous and non-Indigenous youth across the development indicators.⁶⁹ For example, there are 'stark divisions in education and employment opportunities between youth living in rural and urban areas', revealing a large developmental gap for rural youth.⁷⁰ The NT was the jurisdiction with the greatest disparity in opportunities for rural youth.

The report also found that there are large variations in performance within each state and territory between the different areas measured. For example, Tasmania performed poorly in the areas of wellbeing and health, and employment and opportunity. However, it had positive results in the area of political participation.⁷¹

Australia's National Research Organisation for Women's Safety

Australia's National Research Organisation for Women's Safety (ANROWS) is an independent initiative established under Australia's *National Plan to Reduce Violence against Women and their Children 2010–2022*.⁷² ANROWS' mission is to deliver research to better understand and improve knowledge about violence against women and children and its effects.⁷³

In June 2017, ANROWS published a report on the effects of inter-parental conflict and domestic and family violence on parenting, parent-child relationships, and children's wellbeing. The findings of the study show that both inter-parental conflict and domestic and family violence have negative impacts on children's physical, social and emotional wellbeing. The study found that children from families experiencing inter-parental conflict are more likely to have poorer physical health, socio-emotional adjustment and academic achievement than other children. These findings were consistent across different ages of children and across a range of measures from different sources.⁷⁴ The research also found that the negative impact of domestic and family violence on the mother's mental and physical health adversely affected the child-mother relationship as well as the mother's ability to care for the child.⁷⁵

This research, alongside ANROWS' broader research program, provides insights into the effects of family violence on the wellbeing of children, and helps to inform policies, programs and services to reduce violence against women and children.

1.7 Progress towards Children's Rights Report Recommendations

Each year I review any progress the Australian Government, state and territory governments and other bodies have made towards implementing the recommendations contained in my annual Children's Rights Reports. To this end, every year I seek information from Ministers, government departments and others in relation to my recommendations. This information is included in the following sub-sections on each year's report. A full list of respondents is provided in Appendix 6.

I have included updates on recommendations that continue to be relevant and where some progress has been reported. Recommendations not included here are those that have been implemented, and which I have previously reported on. Others have been overtaken by other initiatives, or there has been no substantive progress reported to me.

(a) Recommendations made in the Children's Rights Report 2016

Recommendation 2: That all jurisdictions commence stocktakes of how their existing systems of monitoring and inspection meet the criteria laid out in the OPCAT, and amend their legislative frameworks accordingly.

On 9 February 2017, the Australian Government committed to ratify OPCAT by December 2017, working closely with states and territories.⁷⁶ Currently, work is underway to establish NPMs at the national, state and territory levels through an Intergovernmental Agreement between the Commonwealth, states and territories. This will set out arrangements for ratifying and implementing OPCAT in Australia.

The **NSW Government** advised me that the timeframes for ratifying and implementing the scheme are yet to be settled.

The **NT Government** advised me that implementation is anticipated to commence in 2018.

The **SA Government** advised me that once the NPMs have been established and the responsibilities of the Commonwealth and state and territory governments are confirmed, it 'will seek legal advice as to whether any legislative amendments are required to our Youth Justice Administration Act to align with the national mechanism'.

The **Tasmanian Government** advised me that its Department of Justice has established an inter-agency working group to examine OPCAT obligations and to advise on options for implementation. Children and Youth Services, within the Department of Health and Human Services, is represented on this group to provide input on how potential arrangements relate to young people detained at Ashley Youth Detention Centre. The Ashley Youth Detention Centre is now subject to oversight by the office of the Custodial Inspector, which was recently established under the *Custodial Inspector Act 2016* (Tas).

The **Victorian Government** advised me that Victoria has been participating in the Commonwealth-led process to implement OPCAT. However, it is not yet in a position to assess how existing systems meet the criteria laid out in OPCAT, as the Intergovernmental Agreement is not yet finalised, nor is the framework for implementation agreed. Upon agreement and finalisation, standards and principles will be able to be developed and an assessment framework prepared. Victoria will soon begin the process of seeking a Victorian Government position on their NPM. The Victorian Ombudsman is currently undertaking an own motion 'OPCAT-style' investigation which will be used to inform Victoria's work on the actions required to implement OPCAT.

The **Qld Government** advised me that it is working closely with other jurisdictions to implement OPCAT. It noted that jurisdictions will use their best endeavours to settle a model for ratification and implementation.

The **ACT Government** notified me that it has introduced the *Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2017*, which will facilitate visits by the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, should OPCAT be ratified. The ACT has considered its existing oversight arrangements and will continue this exercise as the Commonwealth refines its definition of 'primary places of detention'. The ACT is finalising the model for the Inspectorate of Custodial Services, which will determine the ACT's ultimate NPM arrangements. As such, the ACT's final NPM is likely to be different from those recommended in my *Children's Rights Report 2016*.

Recommendation 3: That the Australian Institute of Health and Welfare (AIHW) and the Australasian Juvenile Justice Administrators (AJJA) work together in 2017 to develop a reporting framework to meet OPCAT requirements over time.

Recommendation 4: That the Australian Institute of Health and Welfare (AIHW) and the Australasian Juvenile Justice Administrators (AJJA) work together in 2017 to generate additional publicly available data on characteristics of detainees, their treatment and conditions.

Recommendation 5: That the Productivity Commission, the Australian Institute of Health and Welfare (AIHW) and the Australasian Juvenile Justice Administrators (AJJA) work together in 2017 to progress the collection of 'outcome' based data for children and young people in the youth justice system.

The **Department of Health** provided the following updates:

The AIHW, AJJA and the Productivity Commission (PC) have agreed to further discuss and work together on these recommendations. As NPM components are agreed, the development of a nationally agreed reporting framework, and relevant indicators and data items on the characteristics, treatment and conditions for these young people, required for recommendations 3 and 4 will become possible.

The AIHW has implemented a comprehensive reporting framework for child protection services and intervention indicators for mental health services (eg restraint and seclusion indicators), which could readily be used to inform work on recommendations 3 and 4 for the youth justice sector.

The AIHW and PC report annually on longitudinal analysis of rates of return to youth justice supervision. The AIHW is also building the capacity to link data across relevant sectors to enable various outcomes analyses, including:

- a study linking data on young people under youth justice supervision who also receive a homelessness services (in collaboration with state and territory departments responsible for homelessness services)
- measuring subsequent imprisonment rates for these young people (in collaboration with the ABS and funded by the Department of Prime Minister and Cabinet).

The AIHW told me that it is currently reviewing state and territory health department data holdings on the health status, risk behavior and health service usage of young people under youth justice supervision. This project is expected to provide recommendations for a national data collection on health services provided in detention facilities and linking of the national youth justice data with national health services. A data linkage project is currently underway linking youth justice data with alcohol and other drug treatment services data.

AJJA informed me that it noted the contents and recommendations of the *Children's Rights Report 2016* at its meeting on 31 January 2017. AJJA has established OPCAT as a standing agenda item for its face-to-face meetings to ensure discussions continue as work advances to implement OPCAT across jurisdictions.

Recommendation 9: That the age of criminal responsibility should be raised from 10 years to 12 years in the first instance, with preservation of *doli incapax*.

The **NSW Government** advised me that it has no plans at this stage to review the minimum age of criminal responsibility, noting that the current arrangements in NSW are consistent with all other Australian jurisdictions.

The **SA Government** said that it considers national consistency on the age of criminal responsibility to be important, and that any change to the current minimum age should be by national agreement. It suggested writing to the Commonwealth Attorney-General to request this issue be put on the agenda for his next ministerial meeting with state and territory counterparts.

The **NT Government** advised me that it is not currently considering changing the age of criminal responsibility, and is awaiting the final report of the NT Royal Commission, which may include recommendations relevant to the issues raised in my Children's Rights Report 2016, and which will inform the NT Government's reform program.

The **Victorian Government** advised me that they do not intend to raise their current age of criminal responsibility from ten to 12 years, as this would put it out of alignment with the other Australian jurisdictions.

The **ACT Government** informed me that changing the age of criminal responsibility should reflect a nationally consistent approach, be informed by community consultation, and consider the measures to support and supervise young children who would otherwise be dealt with by the youth justice system.

Recommendation 11: That the Council of Australian Governments resource a national strategy to reduce the overrepresentation of Aboriginal and Torres Strait Islander children and adults in detention under the Close the Gap Framework, including:

- a) Strategies to address underlying social and economic causes of children and young people coming into contact with the criminal justice system.
- b) Establishing justice targets and strategies aimed at significantly reducing the number of Aboriginal and Torres Strait Islander children and young people in detention.
- c) Developing a commitment to working in genuine partnership with Aboriginal and Torres Strait Islander communities, leaders and representative bodies.
- d) Investing sufficient resources to ensure practical implementation.

The **Minister for Indigenous Health, the Hon Ken Wyatt AM, MP**, and the **Minister for Indigenous Affairs, Senator the Hon Nigel Scullion**, advised me that all Australian governments are committed to working with each other and with Aboriginal and Torres Strait Islander Australians to refresh the Closing the Gap agenda. On 9 June 2017, COAG welcomed early work focusing on a strength-based approach that supports Indigenous advancement in partnership with Aboriginal and Torres Strait Islander peoples. COAG has asked this work to continue over the remainder of 2017, informed by broad engagement with Indigenous Australians and the wider Australian community. COAG will consider a refreshed agenda, targets and implementation principles at its last meeting in 2017.

The Ministers advised me that several jurisdictions have already established justice targets, including the NT, Victoria, SA and the ACT. They advised that it is a priority for the Commonwealth Government to work collaboratively with states and territories to identify practical actions to help achieve their targets and reduce Indigenous offending, victimisation and incarceration.

According to the Ministers' advice, the Commonwealth Government's focus is 'firmly on investing in activities at the local level to tackle the drivers of offending, victimisation and incarceration for Aboriginal and Torres Strait Islander peoples, including alcohol and drug misuse, low parenting skills and poor educational and employment outcomes'. In 2017–18, approximately \$264 million is available through the Indigenous Advancement Strategy's Safety and Wellbeing Programme for activities which aim to:

- prevent young people from engaging in offending or antisocial behaviour and divert them away from the justice system
- change offending and antisocial behaviour, including intensive support for people exiting detention
- reduce alcohol and substance misuse
- improve social and emotional wellbeing through connection to culture and community.

The Minister for Indigenous Affairs reported that the Commonwealth is also working closely with state and territory governments and Indigenous communities to implement actions in response to COAG's *Prison to Work Report* and break the cycle of recidivism, by supporting Aboriginal and Torres Strait Islander people exiting prison into jobs.

The Minister for Indigenous Health reported that a cross-portfolio working group, led by the Department of Health, was established in early 2017 to develop approaches to address the social and cultural determinants of Indigenous health and prepare recommendations for the Commonwealth to consider. This work will inform the next iteration of the Implementation Plan of the National Aboriginal and Torres Strait Islander Health Plan, due in 2018.

Recommendation 12: That mandatory sentencing for children and young people should be discontinued in all jurisdictions that are currently using it.

The **NT Government** advised me that it is actively working towards implementing this recommendation, including options for the repeal of all mandatory sentencing provisions in NT legislation.

(b) Recommendations made in the Children's Rights Report 2015

Recommendation 4:

Data about a child's experience as a victim of family and domestic violence should be recorded as a separate entry in the Australian Bureau of Statistics National Data Collection and Reporting Framework, and not just part of an adult entry.

The **ABS** and the **Treasurer** reported that, under the National Data Collection and Reporting Framework (DCRF), information about a child's experience of family and domestic violence can be recorded where a child is a victim in their own right. Child victims can then be identified via the 'Date of birth' data item. Any future reviews of the DCRF by the ABS will consider whether the need to create a separate record for a child victim should be explicitly stated in the DCRF.

The **Minister for Social Services, the Hon Christian Porter MP**, advised me that the ABS's DCRF does not collect data; rather, it should be viewed as a guide for organisations to improve current data capture and recording practices. When fully implemented by 2022, the DCRF will support consistent monitoring and reporting of family, domestic and sexual violence in Australia by organisations and governments. Data users will be able to create demographic and economic profiles, see family relationships, the types of violence and frequency of events, as well as look at resulting outcomes including court proceedings, need for medical treatment or use of services.

In addition, the ABS has developed a directory of family and domestic violence statistics (Cat. No. 4533.0). This directory contains a number of datasets that include information about a child's experience as a victim of family and domestic violence. The ABS is also working with police, courts and corrective services to add family, domestic and sexual violence flags to their datasets.

DSS is funding a number of other initiatives to improve our understanding of children's experience of family violence. These include:

- the Personal Safety Survey (PSS)
- the Australian Catholic University's Institute of Child Protection Studies' research into the experience of violence by Indigenous children
- work with the National Centre for Longitudinal Data to introduce family and domestic violence questions in Wave 8 of the Longitudinal Study of Australian Children
- the AIHW's development of a national minimum dataset on child protection.

In addition, the **AIHW** have informed me that it is preparing the first ever national report on family and domestic violence. Its Family and Domestic Violence Project plan focuses on collating and reporting available data, understanding and documenting the degree of comparability, and outlining possible future data development and associated standard development work that could be useful. The current committed funding will enable, among other things, a compilation report of the most recent data, for release in December 2017 and December 2018, and progress on the addition of family, domestic and sexual violence flags to datasets for which the AIHW is the data custodian.

The AIHW's first report will include data available about children from the following sources/areas:

- family and domestic violence and homelessness in children
- the ABS Personal Safety Survey on the number of women who reported their children seeing or hearing domestic violence
- the PATRICIA project showing the number of children from three jurisdictions that have been reported to child protection authorities for domestic violence concerns
- child protection data on sexual abuse
- the limited domestic violence data from the various longitudinal surveys.

Recommendation 6:

The Annual Progress Reports of the National Plan to Reduce Violence against Women and their Children should detail how the Australian Bureau of Statistics Personal Safety Survey is working towards surveying adequate sampling sizes across vulnerable groups.

The **ABS** advised that it is currently in the process of re-designing the current statistical collections, methodologies, products and services in order to deliver a more sustainable statistical program that extracts greater value from all available data. However, at this stage it is not known how this will affect the sample size for vulnerable groups in the Personal Safety Survey.

The **Treasurer** and the **ABS** told me that, due to the sensitive nature of the content being collected in the PSS and the special procedures involved, it is difficult to collect data from vulnerable population groups. However, the PSS 2016 introduced new field procedures to better understand the characteristics of those not participating in the survey. Proxy interviews (interpreters or family members) have been implemented in special circumstances where respondents are unable to answer for themselves (eg those who have severe disabilities or language barriers). The proxy interview only covers compulsory components of the survey (eg language, education, disability status, health, employment, income).

Furthermore, broad indicators of family and domestic violence for National and Aboriginal Torres Strait Islander population groups will be collected for the first time in the National Aboriginal and Torres Strait Islander Health Survey 2018–19. The collection of this data is expected to address a data gap around experiences of violence amongst Aboriginal and Torres Strait Islander population groups which the PSS was previously unable to collect. This data is expected to be published in late 2019 to early 2020.

Recommendation 8:

The data linkage study currently being conducted in the Northern Territory by Menzies School of Health Research (Improving the development outcome of Northern Territory children: a data linkage study to inform policy and practice in health, family services and education) is supported by the Australian Government Department of Social Services after its National Health and Medical Research Council grant expires in 2017.

The **Minister for Social Services, the Hon Christian Porter MP** advised that the DSS has not received a request from the Menzies School of Health Research to support the data linkage study after the National Health and Medical Research Council grant expires.

Recommendation 9:

The Council of Australian Governments prioritise the development of a policy framework for responses to family and domestic violence affecting children.

The **Minister for Social Services, the Hon Christian Porter MP** informed me that the Commonwealth considers that this recommendation is addressed through the National Plan. The Third Action Plan of the National Plan incorporates the Commonwealth's policy framework on responses to family and domestic violence, including violence affecting children. The Third Action Plan includes a new priority area that focuses on responding to children living with violence. A Children and Parenting Working Group has been established to undertake research to inform policy and services responses to children and share best practices related to this new priority area.

Recommendation 11:

The Australian Bureau of Statistics Personal Safety Survey should extend its collection of information from men and women aged 18 years and over about their experiences of abuse from the ages of 0–15 years to the ages of 0–17 years.

The **ABS** and the **Treasurer** reported that the PSS 2016, which is due for release later this year, collected information from women and men aged 18 years and over about their experience of violence since the age of 15. It also collected some information from the same respondents about their first experiences of sexual and physical abuse before the age of 15. Data were captured about men and women who experienced physical and sexual assault at the ages of 15, 16 and 17. It was collected as part of the violence module.

Additionally, for PSS 2016, the following new data items relating to experiences of abuse were collected for the first time:

- relationship to all perpetrator(s) of physical and/or sexual abuse before age 15
- whether witnessed violence toward mother by a partner before age 15
- whether witnessed violence towards father by a partner before age 15.

Development of the 2020 PSS will begin early in 2018. The ABS will take into consideration this recommendation when developing content for the next survey. This will need to be discussed with the Survey Advisory Group, as it would result in a conceptual change to the 'Abuse before the age of 15' module, and would have broad impacts to be considered for the key prevalence estimates for violence experienced since the age of 15, due to overlaps in age.

Recommendation 13:

Options for data collection on screening for family and domestic violence during pregnancy through the National Perinatal Data Collection are progressed by the Australian Institute of Health and Welfare.

In the *Children's Rights Report 2016*, I reported on the work being done by the AIHW on the National Maternal Data Development Project. The **Department of Health** advised me that discussions with jurisdictions are ongoing to build on work already undertaken in this area and to determine the feasibility of collecting data on the proposed three domestic violence indicators:

- a screening indicator to indicate whether screening was conducted
- a disclosure indicator to indicate whether domestic violence was disclosed
- an item to capture whether additional follow-up was indicated if domestic violence is disclosed.

(c) Recommendations made in the Children's Rights Report 2014

Recommendation 1:

Establish a national research agenda for children and young people engaging in non-suicidal self-harm and suicidal behaviour through the new National Strategic Framework for Child and Youth Health. This should be supported by the soon to be established National Centre for Excellence in Youth Mental Health.

The **Department of Health** reported that, in line with the 2015 National Strategic Framework for Child and Youth Health, Orygen, the National Centre of Excellence in Youth Mental Health, has developed a working draft of the *National Research Priorities Framework* for youth mental health research in Australia for ongoing review and revision. One of Orygen's ongoing research programs covers suicide prevention. The program evaluates the efficacy, safety and acceptability of interventions specifically designed for at-risk young people. It also has a strong focus on informing and evaluating national and state-based, suicide prevention policy.

The Department of Health advised that, since June 2016, the Australian Government has invested in a range of national suicide prevention leadership and support activities that specifically target those who may be at high risk of suicide. The investment includes funding for:

- 12 suicide prevention trials that will bring together the best evidence-based strategies and models to better target people at risk of suicide
- a National Suicide Prevention Leadership Support Program that will support a range of projects including suicide prevention research and anti-stigma and awareness campaigns and front line support services
- a Suicide Prevention Research Fund.

Recommendation 2:

Strengthen and develop surveillance of intentional self-harm, with or without suicidal intent, through:

- a. The Australian Government funding an annual report on deaths due to intentional self-harm involving children and young people aged 0–17 years using the agreement reached between the Australian Bureau of Statistics; the Registrars of Births, Deaths and Marriages; and state and territory coroners on the dissemination of unit record data.
- b. The Australian Institute of Health and Welfare including a section using disaggregated data about hospitalisations for intentional self-harm involving children and young people aged 0–17 years in its regular series on hospitalisations for injury and poisoning in Australia.
- c. The Australian and New Zealand Child Death Review and Prevention Group continuing its work in relation to the development of a national child death database, in conjunction with the Australian Institute of Health and Welfare, and providing an annual progress report.

The **ABS** reported that there has not been specific Australian Government funding set aside for an annual report on deaths due to intentional self-harm involving children and young people. However, the ABS produced a short paper on intentional self-harm as part of the 2016 release of *Causes of Death, Australia, 2015*.⁷⁷ This paper includes a section on suicide deaths of children. It is expected that the next release of the Causes of Death publication will have updated information on this topic.

Important work is being conducted by the **National Committee for Standardised Reporting of Suicide**, which is seeking to develop a National Minimum Data Set for suicide. This work is being led by **Suicide Prevention Australia** with the ABS, AIHW and the National Coronial Information System providing guidance and support.

SPA advised that this data set is still in development and will be made available to states which have yet to establish their own suicide registries. This work will also examine opportunities and barriers to capturing suicide attempt data. Currently there is no mechanism for collecting such data.

The **Australian and New Zealand Child Death Review and Prevention Group** reported that it has continued its discussions about the best ways to monitor, compare and analyse information about child deaths nationally, but is still examining the legislative complexities associated with sharing data across jurisdictions, and the practicalities of effectively comparing different data sets. The surveillance of intentional self-harm with or without suicidal intent has not been raised as part of these discussions. The AIHW continues to provide expert advice to the group.

However, the majority of states and territories in Australia report annually on the deaths of children and young people that have been attributed to suicide. Some comparative statistics about these deaths are also published in the Qld Family and Child Commission's Annual Report.

I am concerned that information about the nature and prevalence of self-harm collected through hospitals is not readily available. I understand that responsibility for such data holding rests with Primary Health Networks. I will take up the issue of access to regular nationally consistent information on self-harm among children with the Health Minister to ensure that responsibility for this data collection is given to the AIHW, as recommended.

Recommendation 3a:

Collect national data on children and young people who die due to intentional self-harm through the use of the standardised National Police Form, in all jurisdictions, by 2015. This should include an electronic transfer to the National Coronial Information System. A plan to monitor the outcomes of all jurisdictions using the standardised National Police Form should be developed, and the possibility of incorporating a range of demographic, psychosocial and psychiatric information specific to children and young people should be investigated.

The **National Coronial Information System (NCIS)** advised me that it has continued to be involved in facilitating and encouraging adoption of the National Police Form for Reporting a Death to a Coroner, by all Australian jurisdictions. The jurisdictions that are using a version of this national form as at 31 July 2017 are ACT, NSW, Qld and Tasmania. This remains the same status as at 30 June 2016.

The NCIS advised that it has made recent enquiries and had initial discussions with coronial and police representatives about adopting the national police form for the notification of death in Victoria and WA, but little measurable progress has been made. The NCIS will continue to liaise with jurisdictions which are not yet using this national form to encourage its adoption in full or in part.

SPA reported that the Qld State Coroner and State Police Commissioner agreed that staff from the Coroners Court in Qld will lead the development of a standard form, including assessing the acceptance of incorporating a range of demographic, psychosocial and psychiatric information specific to children and young people.

Consultation between police authorities around the country has taken place, as well as analysis of the forms in use to identify similarities, differences and opportunities for improvement. The next steps over 2017 will involve the development of an Options Paper to consider similarities across current forms as a basis for standardisation, and identify opportunities for greater consistency.

Recommendation 3b:

Collect national data on children and young people who die due to intentional self-harm through the Standing Council on Law, Crime and Community Safety putting the issue of standardisation of coronial legislation and/or coronial systems on its agenda. Standardisation should require that where all state and territory coroners find a death under investigation to be caused by an action of the deceased, the coroner must make a further finding of intent, based on the evidence, to clarify whether the deceased intended to take the action which caused his or her death; the deceased lacked capacity to recognise that his or her action would cause his or her death but death was a reasonably foreseeable consequence of the action; or it is not clear from the evidence whether the deceased intended to cause his or her death.

SPA advised that, in late 2016, the State Attorneys General considered a proposal from the National Coronial Information System to improve the legislative framework with regard to reporting intent. However, they did not support a change at this time. Subsequent discussion on a national guideline to assist in improving coronial reporting of intent has unfortunately not progressed either. State Coroners identified a need for further research to ascertain whether and to what extent the improvements in data reporting over the last ten years have addressed the issue.

The **NCIS** advised that, in 2016, the Law, Crime and Community Safety Council considered and acknowledged the consultation by the NCIS on a legislative proposal arising from the Coronial Council of Victoria's report, *Suicide Reporting in the Coronial Jurisdiction* (June 2014). However, no further actions have resulted for NCIS.

(d) Recommendations made in the Children's Rights Report 2013

Recommendation 5:

That the Australian Government establishes relevant data holdings and analytics covering all the key domains of children's rights outlined in the *Convention on the Rights of the Child*, including comparable data across jurisdictions, which the National Children's Commissioner can use to monitor the enjoyment and exercise of human rights by children in Australia.

The **ABS** advised that it would be happy to provide data on any of the key domains of children's rights for which data exists. Work would need to be done across a range of government agencies to identify suitable indicators across these domains, and data sources to support them.

The **Department of Health** advised that the AIHW has assessed the domains in the CRC and has noted that there are some reporting gaps in various domains, for example in the domain of civil rights and freedom. The Australian Health Ministers' Advisory Committee has approved the mapping by the AIHW of national indicators from existing data sources (such as the Children's Headline Indicators) to the *Healthy, Safe and Thriving: National Strategic Framework for Child and Youth Health*. This work has not yet commenced. The AIHW will need to conduct a gap analysis to determine if any other indicators that would be readily available can be used.

The **Minister for Social Services, the Hon Christian Porter MP**, advised that the Australian Government would be happy to work with me to identify areas for improvement in data holdings. He advised that the Government is committed to improving national reporting on the welfare of children, including through the ABS. In addition, the Government funds *Growing Up in Australia: The Longitudinal Study of Australian Children*, as well as the AIHW and AIFS to report on a range of matters relevant to children's rights, including healthcare, education and child protection.

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The National Children's Commissioner discussing children's rights with students from Bourke Primary School.

Chapter 2:

Child rights
in legislation
and court
proceedings

2.1 Introduction

This chapter of my report describes how the Parliamentary Joint Committee on Human Rights (PJCHR) considered the compatibility of children's rights with Bills introduced into the federal Parliament between 1 July 2016 and 30 June 2017. It also refers to relevant Senate Committee scrutiny of this legislation and written submissions made by the Australian Human Rights Commission.

The chapter includes a case study on the human rights of children who experience gender dysphoria and who are seeking approval for stage two treatment through court proceedings.

2.2 Consideration of children's rights by the Parliamentary Joint Committee on Human Rights

The *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) requires that all Bills introduced to federal Parliament contain a Statement of Compatibility with Human Rights (Statement of Compatibility) and be examined by the PJCHR for human rights compatibility.¹ This Act and the work of the PJCHR function as a significant safeguard mechanism within the Australian Parliamentary system.

The Statement of Compatibility is included in the Explanatory Memorandum accompanying every Bill introduced into the federal Parliament. For a Government Bill, the Explanatory Memorandum is prepared by staff from the department developing the Bill and requires approval from the Minister. For a private member's Bill, the statement is prepared by the member submitting the Bill.

For the purposes of the Statements of Compatibility and the PJCHR, human rights are defined as the rights and freedoms contained in the seven core human rights treaties to which Australia is a party, including the *Convention on the Rights of the Child* (CRC).²

The PJCHR has published two Guidance Notes about human rights assessments and the requirements for Statements of Compatibility,³ as well as a *Guide to Human Rights*,⁴ which provides an overview of the key rights the PJCHR considers when examining legislation.

There are ten members of the PJCHR, five from the Senate and five from the House of Representatives. The list of current members can be found on the Committee membership website.⁵

When analysing the compatibility of Bills with Australia's human rights obligations, the PJCHR considers the examination of Statements of Compatibility as essential. The PJCHR may seek additional information if it finds that a Bill limits a human right and where the Statement of Compatibility does not include a reasoned and evidence-based assessment.⁶

When it finds that a Bill does not raise human rights concerns, this may be because the Bill does not engage or promote human rights, and/or permissibly limits human rights.

Reports by the PJCHR are tabled in both Houses of Parliament and can be found on the Committee reports website.⁷

2.3 Bills that engage children's rights

In this section, I report on Bills with a potentially significant impact on children's rights, followed by Bills with a more limited impact.

(a) Bills with a potentially significant impact on children's rights

The PJCHR considered eight Bills introduced into federal Parliament during my reporting period that had a potentially significant impact on children's rights.

Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2016 (Cth)

The Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2016 (Cth) was reintroduced into the House of Representatives on 1 September 2016, after lapsing at prorogation on 15 April 2016.⁸

The purpose of this Bill, among other things, was to introduce key elements of the Jobs for Families Child Care Package announced in the 2015–2016 Budget.⁹

Under the Bill, the existing child care payments were to be replaced by a single, means-tested subsidy, the Child Care Subsidy (CCS), supplemented by the Additional Child Care Subsidy (ACCS). The CCS was to be subjected to an income test and more stringent activity tests. It also halved the number of child care hours available to all families from 24 to 12. The ACCS provided a short term, higher rate of assistance than CCS, in order to reduce the possibility of the cost of child care being a barrier to children at risk of serious abuse or neglect, from either entering or remaining engaged with child care. The provisions of the Bill included the cessation of the Child Care Benefit (CCB) and Child Care Rebate (CCR).¹⁰

Further, under the proposed arrangements, parents would need to work or study at least eight hours a fortnight to be eligible for 36 hours of subsidised child care per week. Families earning less than \$65,000 per annum would be refunded around 85% of fees. The subsidy rate would reduce as income increases, with families on an income of more than \$350,000 being ineligible for any subsidy. Previously, parents could access 24 hours of subsidised care, without having to meet a work or study test.

The Statement of Compatibility accompanying the Bill suggested that the measures were compatible with human rights as they decreased the complexity and difficulty of the previous system's navigation requirements, and were in line with our international obligations.¹¹

The Bill was referred to the Senate Education and Employment Legislation Committee for inquiry on 15 September 2016.¹² In its submission to that inquiry, the Australian Human Rights Commission expressed concern that vulnerable and disadvantaged families may not receive the support they need to access early childhood education and care services, and that the complexity of the activity tests could also hinder access to these services, particularly for parents in insecure or unpredictable work.¹³

The Commission recommended that:

- the Bill be amended to ensure that all eligible families are able to access at least two days (24 hours) of early childhood education and care services per week

- the Australian Government consider ways of further simplifying the activity tests or expand the exemptions to the activity test to cover parents in insecure and unpredictable work
- the Australian Government reconsider assessment arrangements for eligibility for the ACCS for at risk children, ensure the eligibility requirements are simplified and include children who are vulnerable but not in contact with child protection systems
- before the Bill is passed, additional modelling and research is undertaken to better understand the impact of the new measures on disadvantaged families, particularly for those groups who are unable to access early childhood education and care services under the proposed package or whose access to these services is reduced
- the Australian Government commit to reviewing the impact of the new measures introduced on vulnerable families and children.¹⁴

In October 2016, the Senate inquiry recommended that this Bill and the Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2016 be passed.¹⁵ Further, in October 2016, the PJCHR considered that the Bill did not raise any human rights concerns.¹⁶

The Bill passed both Houses of Parliament on 27 March 2017.¹⁷

Commencement of amendments proposed in the Bill has been delayed until late July 2018, as announced in the 2016–2017 Budget.¹⁸

Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017 (Cth)

The Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017 (Cth) (Omnibus Bill) was introduced into the House of Representatives on 8 February 2017.¹⁹

This Bill sought to amend various provisions of the *A New Tax System (Family Assistance) Act 1999* (Cth), the *Social Security Act 1991* (Cth) and the *Paid Parental Leave Act 2010* (Cth).

It included proposals to:

- increase the Family Tax Benefit (FTB) Part A fortnightly by \$20.02 for each eligible child in the family up to 19 years of age
- remove the entitlement to FTB Part B for single parent families from the year their child turns 17
- extend the ordinary waiting period for benefits for those under 25 to four weeks
- move 22 to 24 year olds to the lower rate of Youth Allowance
- phase out FTB A and B supplements, to be withdrawn by 1 July 2018
- introduce a Jobs for Families Child Care Package aiming to provide greater access to education and child care for working families
- cease the CCB and child care rebate and introduce a CCS which is subject to both an income and activity test in addition to other amendments.²⁰

The Statement of Compatibility accompanying this Bill stated that the schedule of payment rates was compatible with human rights as it aimed to deliver families more timely assistance with day-to-day living expenses. The Statement of Compatibility concluded that the limitations on the rights of families with older children were reasonable and proportionate.²¹

On 9 February 2017, the Senate referred the Bill to the Senate Community Affairs Legislation Committee for inquiry and report.

The Committee noted that it had previously provided comment on various measures that had been reintroduced in this Bill from the Fairer Paid Parental Leave Bill 2016. The Committee highlighted that the Omnibus Bill sought to increase the period of government-funded paid parental leave from 18 to 20 weeks.²²

Concerns were also raised about the proposed reduction to FTB Part B payments as children grow older, but the Committee suggested that these measures provided incentive for parents to re-engage with the workforce.

The Australian Labor Party provided a dissenting report and recommended that:

- the Senate reject the Omnibus Bill
- the Government de-couple the child care changes from unrelated income support cuts
- the Government remove the cuts to pensions and income support from the Bill
- the Government amend the proposed child care changes so vulnerable and disadvantaged children can continue to have access to two days of early education a week, and Indigenous and country services are protected.²³

A dissenting report by the Australian Greens criticised the Bill and noted particular concerns for vulnerable young people, low-income families, children and single parents who would be affected by the measures. The Australian Greens recommended that the Bill not be passed.²⁴

The final report by the Committee recommended that the Bill be passed.²⁵

Given the concerns about the range of measures contained in the Omnibus Bill, the Australian Government subsequently separated out the measures relating to child care.

This Bill was discharged from the Notice Paper on 23 March 2017 and is no longer proceeding.²⁶

Social Services Legislation Amendment Bill 2017 (Cth)

The Social Services Legislation Amendment Bill 2017 (Cth) was introduced into the Senate on 22 March 2017.

According to the Explanatory Memorandum, the Bill sought to amend the *Social Security Act 1991* (Cth) to:

- maintain income free areas (the threshold before payment is affected) for all working age allowances and parenting payment single (sole parents), and means test thresholds for student payments
- pause indexation for three years relating to various benefits and allowances
- extend the ordinary waiting period for youth allowance and parenting payments to one week
- amend the *A New Tax System (Family Assistance) Act 1999* to maintain FTB child rates for two years in the maximum and base rate of FTB Part A and the maximum rate of FTB Part B.²⁷

The Bill also aimed to introduce stronger compliance and participation measures, and automate income stream review processes.

The schedule to the Bill also sought to tighten waiver provisions to the new waiting period for payments by requiring evidence of a ‘personal financial crisis’ in addition to ‘severe financial hardship’. The Bill also proposed removing the ability of claimants to serve concurrent waiting periods.

In May 2017, the PJCHR considered that the proposed amendments to the ordinary waiting period limited the rights to social security and an adequate standard of living, as well as the rights to equality and non-discrimination. It concluded these amendments seem to be a backward step for the purposes of international human rights law.²⁸

The PJCHR sought further advice from the Minister for Social Services on the necessity of the limitation on the rights to social security, equality and non-discrimination. The Minister responded by drawing attention to the waiver in the Bill for persons, particularly women, who are unable to wait for the duration of the extended ordinary waiting period. The PJCHR was satisfied with the safeguards proposed by the Minister and concluded that the Bill appeared likely to be compatible with human rights.²⁹

The Bill passed both Houses of Parliament on 29 March 2017.³⁰

Criminal Code Amendment (Firearms Trafficking) Bill 2016 (Cth)

The Criminal Code Amendment (Firearms Trafficking) Bill 2016 (Cth) was reintroduced to the Senate on 15 September 2016.

The Bill proposes amendments to the *Criminal Code Act 1995* (Cth) to set new mandatory penalties for the offences of firearm trafficking in and out of Australia and to impose mandatory minimum and maximum sentencing of five to twenty years imprisonment.³¹

The mandatory minimum penalty amendments proposed in this Bill do not apply to minors and will continue to allow the judicial system to take into account minors’ particular circumstances. However, if the age of the defendant is thought to be under 18 years, the onus of providing evidential proof of age sits with the defendant.³²

The Statement of Compatibility concluded that the Bill is compatible with human rights and that any limitations on rights or freedoms are reasonable, necessary and proportionate.³³

On 13 October 2016, the Senate referred the Bill to the Legal and Constitutional Affairs Legislation Committee for inquiry and report. The Committee had previously considered this Bill and raised concerns regarding the treatment of minors within these amendments. The Committee was satisfied that the Bill would take into account the individual’s circumstances where appropriate and allow courts flexibility to do this. The Committee recommended that the Bill be passed.³⁴

The Australian Labor Party and the Australian Greens provided dissenting reports to the inquiry and highlighted their concerns about introducing mandatory minimum sentencing. They recommended that this Bill not be passed.³⁵

In November 2016, the PJCHR assessed the compatibility of human rights with this Bill and sought advice from the Minister for further clarification on how mandatory minimum sentencing would apply under the Bill. The PJCHR concluded that the Bill is incompatible with human rights, particularly the right not to be arbitrarily detained and the right to a fair trial.³⁶

The Bill passed the Senate on 13 February 2017 following a number of amendments.

The Bill is currently before the House of Representatives.³⁷

Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 (Cth)

The Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 (Cth) was introduced into the House of Representatives on 8 November 2016.

The Bill seeks to prevent unauthorised maritime arrivals and transitory people (referred to as the designated regional processing cohort) from applying for any Australian visa if they arrived in Australia by boat, were over 18 years of age at the time of arrival, and were taken to a regional processing country after 19 July 2013. According to the Explanatory Memorandum accompanying the Bill, the key objectives of this permanent bar are to maintain the integrity of Australia's lawful migration programs and discourage hazardous boat journeys to Australia.³⁸

The proposed amendments may result in the separation, or continued separation, of a family unit where a non-citizen has family members in Australia. The Minister for Immigration and Border Protection will have discretion to lift the bar where the Minister thinks it is in the public interest to do so.³⁹

The Bill proposes to expand Ministerial discretion to deny members of the designated regional processing cohort from making a valid visa application, rather than the applicants being considered on a case-by-case basis. The authority of the Minister would also be expanded to prevent certain members from being granted special purpose visas.⁴⁰ The visa application restriction does not apply to persons who were under 18 at the time they were taken to a regional processing centre.

The Bill recognises the limitations on the right of the child to make their own decisions due to the decisions made on their behalf by parents who have travelled to Australia to seek asylum.⁴¹

In November 2016, the PJCHR indicated that a permanent lifetime ban on a cohort will have a disproportionately negative effect on affected persons. The Committee noted that the proposal to permanently ban this cohort from making a valid visa application to Australia is a 'severe and exceptional step'.⁴² The Committee also noted that the Bill is not compatible with the rights to equality and non-discrimination and requested further advice from the Minister for Immigration and Border Protection.⁴³

The PJCHR further highlighted that the Bill limits the right to protection of the family and the rights of the child due to the likely separation of families.⁴⁴ It notes the Minister's discretionary powers in the context of the scheme, in relation to the protection of families, to lift the visa ban where the Minister thinks it is in the public interest to do so. The PJCHR considered that the exercise of the discretionary safeguard had the potential to relieve some of the harshness of the visa ban. However, it noted that the default position, without the Minister's intervention, would likely be for families to remain separated.⁴⁵

The PJCHR sought further advice from the Minister regarding the rational connection between the limitation and the stated objective (ie evidence that the measure will be effective) and whether the limitation could be considered to be reasonable and proportionate (are there other less rights-restrictive ways to achieve the stated objective).⁴⁶

The Bill was referred to the Senate Legal and Constitutional Affairs Committee for inquiry in November 2016. In its submission to this inquiry, the Australian Human Rights Commission said that the Bill would limit human rights without appropriate justification, as a permanent non-reviewable bar on visa applications does not appear to be necessary, reasonable or proportionate. It recommended the Bill not be passed.⁴⁷

The Commission was also concerned that the visa bar could lead to the prolonged separation of family members. Further, the Commission noted that the Minister's discretionary powers under the Bill are to be guided by a broad public interest test only, without a requirement to have regard for Australia's international obligations, or the best interests of children and families.⁴⁸

The Bill is currently before the Senate.⁴⁹

Criminal Code Amendment (Protecting Minors Online) Bill 2017 (Cth)

The Criminal Code Amendment (Protecting Minors Online) Bill 2017 (Cth) was introduced into the House of Representatives on 30 March 2017.

The Bill sought to amend the *Criminal Code Act 1995* (Cth), the *Crimes Act 1914* (Cth) and the *Telecommunications (Interception and Access) Act 1979* (Cth) for the purpose of criminalising the preparation or planning of activities that cause harm to, or procure the engagement of sexual activity with, a person under the age of 16 years. It aimed to improve the protection of minors from online predators by allowing early intervention of law enforcement prior to harm or sexual activity taking place.⁵⁰

The Statement of Compatibility concluded that the Bill's aim of preventing harm and sexual exploitation of children warranted some human rights limitations identified in the Bill, and that those limitations are reasonable, necessary and proportionate.⁵¹

In May 2017, the PJCHR indicated that this Bill did not raise any human rights concerns.⁵²

The Bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee in March 2017 and was reported on in June 2017.

That Committee concluded that, unlike previous bills, the proposed amendments achieved the correct balance between protecting minors from online predators, and safeguarding the rights of all Australians. The Committee recommended that this Bill be passed.⁵³

A dissenting report by the Australian Greens raised concerns about the breadth of the offence and considered that the Bill established liability too early in the criminal process.⁵⁴

The Bill passed both Houses of Parliament on 15 June 2017 and received Royal Assent on 22 June 2017.⁵⁵

Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016 (Cth) (Carly's law)

The Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016 (Cth) was introduced into the Senate on 12 October 2016 as a private member's Bill. The Bill was in response to representations by Sonya Ryan, the mother of Carly Ryan who was murdered by a paedophile who groomed Carly online by misrepresenting himself as a young person.

The purpose of this Bill is to amend the *Criminal Code Act 1995* (Cth) to make it a criminal offence for a person of 18 years or over to misrepresent their age to a person who is 16 years or under, with the intent of arranging a physical meeting or committing an offence.

In November 2016, the PJCHR commented that the Bill does not require additional comment as it did not raise human rights concerns.

This Bill is unlikely to proceed given that it has been superseded by the *Criminal Code Amendment (Protection of Minors Online) Act 2017* (Cth).

Australian Citizenship Legislation Amendment (Strengthening the Requirement for Australian Citizenship and Other Measures) Bill 2017 (Cth)

The Australian Citizenship Legislation Amendment (Strengthening the Requirement for Australian Citizenship and Other Measures) Bill 2017 (Cth) was introduced into the House of Representatives on 15 June 2017.⁵⁶

The Bill seeks to amend the *Australian Citizenship Act 2007* (Cth) and the *Migration Act 1958* (Cth) to implement stricter requirements to become an Australian citizen. The amendments propose to impose additional requirements on people who seek to obtain Australian citizenship by conferral, centralising discretionary power in the Minister for Immigration and Border Protection to decide who should be an Australian citizen, and reduce the ability of vulnerable people (particularly children) to qualify for citizenship.⁵⁷

If passed, the Bill would mean that the ‘ten year rule’ no longer applies to several groups of children who were born in Australia. The *Australian Citizenship Act 2007* (Cth) currently provides that if a child is born in Australia and lives in Australia for ten years, the child becomes an Australian citizen on his or her tenth birthday.

The Bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee on 22 June 2017. In its submission to this inquiry, the Australian Human Rights Commission raised concerns that the Bill will mean that the following groups of children will have a reduced ability to qualify for citizenship:

- children born in Australia to asylum seeker or refugee parents, even after those children have been lawfully in Australia for up to 10 years
- children born in Australia to parents who had a valid visa but overstayed the visa before the child’s tenth birthday
- certain children who are found abandoned in Australia
- children as young as 10-years old that the Minister considers are not of good character.⁵⁸

The Commission also raised concerns that new proposed powers to be given to the Minister to revoke citizenship could be used in a way that would render children stateless. The Commission recommended that this Bill not be passed in its current form.

The Committee reported on the Bill in September 2017,⁵⁹ and recommended the Senate pass the Bill.

However, the Committee also recommended that the Australian Government:

- clarify the standard for English-language competency required for citizenship, noting that the standard should not be so high as to disqualify from citizenship many Australians who, with a more basic competency in the English language, are valuable members of the Australian community

- reconsider the imposition of a two-year ban on applications for citizenship following three failed attempts
- introduce transitional provisions for those who have held permanent residency visas on or before 20 April 2017 so that current residency requirements apply to this group of citizenship applicants.

Dissenting reports were provided by the Australian Labor Party, the Australian Greens and by the Nick Xenophon Team that the Bill not be passed or not be passed in its present form.

The Bill is currently before the Senate.⁶⁰

Update on Guardian for Unaccompanied Children Bill 2014 (Cth)

In my 2015 report, I considered the Guardian for Unaccompanied Children Bill 2014 (Cth) which proposed to amend the *Immigration (Guardianship of Children) Act 1946* (Cth) and the *Migration Act 1958* (Cth). The Bill proposes to establish an independent statutory office of the Guardian for Unaccompanied Non-citizen Children to advocate for the best interests of non-citizen asylum seeker children who arrive in Australia without their parents or another responsible adult.⁶¹

The Bill was introduced into the Senate on 16 July 2014 by Senator the Hon Sarah Hanson-Young. It was considered in August 2014 by the PJCHR, which concluded it was compatible with human rights.⁶²

The Bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee in August 2014. In their final report, the Committee recommended that the Bill not be passed.⁶³ The Australian Labor Party and the Australian Greens provided dissenting reports and recommended further consideration and suggested amendments before the Bill be passed.

The Bill lapsed at prorogation on 17 April 2016 and again at dissolution on 9 May. It was restored to the Notice Paper on 15 September 2016.⁶⁴

As noted in my 2015 report, the PJCHR indicated the Bill promoted the rights of children and is compatible with human rights.

In April 2017, the Senate Legal and Constitutional Affairs Committee published a report following its inquiry into serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre.⁶⁵ The Australian Human Rights Commission supports recommendation 5 of this report, that the Australian Government undertake to work with the Government of the Republic of Nauru to establish an independent children's advocate who would have both the jurisdiction and authority to advocate for the rights of children being held in the Republic of Nauru.

The Australian Human Rights Commission continues to be concerned about guardianship of unaccompanied children being vested in the Minister for Immigration and Border Protection, and recommends that an independent guardian be appointed for all unaccompanied children in immigration detention

The Bill is currently before the Senate.⁶⁶

(b) Bills with a limited impact on children's rights

Enhancing Online Safety for Children Amendment Bill 2017 (Cth)

The Enhancing Online Safety for Children Amendment Bill 2017 (Cth) was introduced to the House of Representatives on 9 February 2017.⁶⁷

The Bill proposed to expand the functions of the Children's e-Safety Commissioner to Australians generally, rather than only children. This expanded role includes functions in relation to persons at risk of family violence, victims of non-consensual sharing of intimate images, and safe use of the internet by older Australians. It would also allow the Commissioner to share a broader class of information to specified Commonwealth authorities.

The Bill amends the name of the Children's e-Safety Commissioner to the e-Safety Commissioner to reflect these broader functions. The cyber-bullying complaints system administered by the Commissioner continues to concern children only.⁶⁸

On 16 February 2017, the PJCHR commented that the Bill did not raise any concerns with human rights.⁶⁹

The Bill passed both Houses of Parliament on 19 June 2017.⁷⁰

Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Bill 2017 (Cth)

The Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Bill 2017 (Cth) was introduced into the House of Representatives on 14 June 2017.⁷¹

The Bill proposed, among other things, to prevent Australians listed as reportable offenders on the states and territories Sex Offender Register, from sexually exploiting or abusing children in countries where legal frameworks are weaker and these activities are not monitored.

The Bill also mandates that the Minister for Foreign Affairs will be required to deny a passport to a reportable offender when requested by a competent authority.⁷² A competent authority is defined in section 12 of the *Australian Passports Act 2005* (Cth), and section 13 of the *Foreign Passports (Law Enforcement and Security) Act 2005* (Cth), and will generally be the relevant state or territory authority – a court, sex offender registry, or police.

The Statement of Compatibility accompanying the Bill stated that the measures in the Bill are consistent with the principles underpinning the fundamental rights and freedoms in the CRC. It does this by promoting the best interests of the child and the right of the child to be protected from all forms of sexual exploitation and abuse.⁷³

The Statement concluded that this Bill is compatible with human rights as it is specifically intended to protect vulnerable children, domestically and overseas, consistent with our international obligation under the CRC to cooperate in improving the living conditions of children in developing countries.⁷⁴

The PJCHR deferred consideration of this Bill until the winter break at which time additional information was sought from the Minister. However, the Bill passed both Houses of Parliament on 20 June 2017.⁷⁵

Australian Education Amendment Bill 2017 (Cth)

The Australian Education Amendment Bill 2017 (Cth) was introduced into the House of Representatives on 11 May 2017.⁷⁶

The Bill proposed, among other things, to amend the *Australian Education Act 2013* (Cth) to retain the Schooling Resource Standard. The Bill primarily proposed changes to the funding of non-government and government schools and the indexation and allocation of these funds.⁷⁷

The accompanying Statement of Compatibility acknowledged that the Bill engages article 16 (privacy) and articles 28 and 29 (education) of the CRC but that it does not limit them. The Statement concluded that the Bill promotes the right to education for all children by removing inequities in funding between government and non-government schools.⁷⁸

The Bill was referred to the Senate Committee for Education and Employment for inquiry and report. The Committee noted that the Bill satisfied its aim of distributing funds on a needs basis equally across schools, states and sectors, paying particular attention to rural and remote student populations in some states. It recommended that the Bill be passed.⁷⁹

In June 2017, the PJCHR considered the Bill and concluded that it did not raise any human rights concerns.⁸⁰

The Bill passed both Houses of Parliament on 22 June 2017.⁸¹

Marriage Legislation Amendment Bill 2016 (Cth)

The Hon Bill Shorten MP introduced the Marriage Legislation Amendment Bill 2016 into the House of Representatives on 12 September 2016.⁸²

The purpose of the Bill was to amend the *Marriage Act 1961* (Cth) to allow couples to marry, regardless of sex, sexual orientation, gender identity or intersex status, and have their marriage recognised. This proposed amendment would allow any two people to marry. While the CRC is not specifically referenced, the Bill stated that it promotes the best interests of the child by expanding the stability embodied in a marriage relationship to all families.⁸³

The Bill recognised that the proposed amendments did not affect existing marriage consent laws for minors.

The Bill included a minor amendment to Part III of the Schedule to the *Marriage Act 1961* (Cth) which recognises that in the future minors may be adopted by any couple consisting of two people. Intended to ensure that the current rules regarding consent for a minor who is an adoptive child continue to operate, the Bill also recognised the common responsibilities of parents in the upbringing and development of a child.⁸⁴

In November 2016, the PJCHR noted that the Bill was consistent with the right to respect for the family under international human rights law through its application to a range of family structures.⁸⁵

The Bill was removed from the notice paper on 21 March 2017 and is not proceeding.⁸⁶

Fairer Paid Parental Leave Bill 2016 (Cth)

The Fairer Paid Parental Leave Bill 2016 (Cth) was introduced into the House of Representatives on 20 October 2016.

The Bill proposed to change the *Paid Parental Leave Act 2010* (Cth) to remove so-called 'double dipping' from the federally funded paid parental leave (PPL) scheme. The Bill sought to prevent parents from claiming from both the Australian Government scheme and any employer funded scheme they might have access to. Under this proposal, Centrelink was to consider the number of weeks available to an employee under an employer scheme, and if under 18 weeks, the Australian Government scheme would pay a top-up amount up to 18 weeks at a rate equivalent to the national minimum wage. Payments would be made directly by Centrelink.

On 10 November 2016, the Senate referred the provisions of the Bill to the Community Affairs Legislation Committee for inquiry and report by 15 February 2017.⁸⁷

The Committee highlighted that the provisions put forward in the Bill were similar to those put forward in the Omnibus Bill.⁸⁸

The Explanatory Memorandum to the Omnibus Bill states that the Fairer Paid Parental Leave Bill 2016 (Cth) would be withdrawn following the introduction of the revised PPL scheme arrangements contained in the Omnibus Bill.⁸⁹

This Bill was discharged from the Notice Paper on 10 May 2017 and is not proceeding.⁹⁰

VET Student Loans Bill 2016 (Cth)

The VET Student Loans Bill 2016 (Cth) was introduced into the House of Representatives on 13 October 2016.⁹¹

The Bill sought to introduce a new student loans program to replace the VET FEE-HELP loan scheme. The Bill provided that student loans are approved only for eligible students, limited course eligibility, imposed stronger eligibility requirements for qualifications, banned brokers or agents from negotiating student loans, and increased monitoring and penalty provisions.

The amendments proposed, among other things, to establish a VET student loans Ombudsman. The Ombudsman would monitor approved course providers who would be subject to regulation, information sharing and reporting requirements. The proposed amendment stipulated that the Ombudsman scheme would come into effect on 1 July 2017.⁹²

The Bill was referred to the Senate Education and Employment Legislation Committee on 13 October 2016 for inquiry and report. A recommendation of the Committee was that the Australian Government establish a VET Ombudsman and that once established, there be a program of active promotion of the Ombudsman and its role to ensure that VET students are fully informed about their rights.⁹³

In November 2016, the PJCHR concluded that this Bill did not raise any human rights concerns.⁹⁴

The Bill passed both Houses of Parliament on 1 December 2016.⁹⁵

Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2017 (Cth)

The Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2017 (Cth) was introduced into the House of Representatives on 30 March 2017.⁹⁶

The purpose of this Bill is to amend the *Australian Federal Police Act 1979* (Cth), the *Crimes Act 1914* (Cth) and the *Criminal Code Act 1995* (Cth) through a range of measures intended to clarify and strengthen Commonwealth justice arrangements.⁹⁷

The Bill proposes, among other things, to remove an obsolete reference to the death penalty. Section 20C(2) of the *Crimes Act 1914* (Cth) states that

Where a person under the age of 18 years is convicted of an offence against a law of the Commonwealth that is punishable by death, he or she shall not be sentenced to death but the court shall impose such other punishment as the court thinks fit.⁹⁸

The Statement of Compatibility accompanying this Bill indicates that by removing section 20C(2) of the *Crimes Act* there will be no restriction on the right to life or limitation on the protection for children against the death penalty. It explains that the section is obsolete as it was a provision within the *Crimes Act 1914* (Cth) before Australia abolished the death penalty for all persons.⁹⁹

In May 2017, the PJCHR raised the concern that our international obligations under the *International Covenant on Civil and Political Rights* prohibit States Parties that have abolished the death penalty from exposing persons to the death penalty in another state. In 2009, the UN Human Rights Committee raised concerns that Australia has not taken adequate steps to ensure that a person would not be exposed to the death penalty in another state, despite having abolished the death penalty.¹⁰⁰

The PJCHR requested further advice from the Minister for Justice regarding the compatibility of the measure in relation to the right to life and the existence of relevant safeguards for the prohibition on torture and cruel, inhuman and degrading treatment and punishment.¹⁰¹

The Minister for Justice submitted that, where information provided to an international organisation would lead to a potential death penalty, the Australian Federal Police (AFP) would apply:

- the *Privacy Act 1988* (Cth)
- the AFP National Guideline on international police to police assistance in death penalty situations
- the AFP National Guideline on offshore situations involving potential torture or cruel, inhuman or degrading treatment or punishment.¹⁰²

The PJCHR concluded that, to fully assess the compatibility of the Bill with human rights, it would need to examine the guidelines and has requested copies of these.¹⁰³

The Bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee in May 2017 for inquiry and report.¹⁰⁴ In its submission to the inquiry, the Australian Human Rights Commission recommended the Explanatory Memorandum be amended to clarify information-sharing practices to enable proper assessment of whether the new provisions provide sufficient safeguards to protect the right to privacy.¹⁰⁵

In their final report, the Committee recommended that the Bill be passed, subject to the following:

- updating the Explanatory Memorandum to include a more extensive analysis of the privacy implications of the proposed amendment to the *Australian Federal Police Act 1979* (Cth)
- a more extensive explanation of ‘reasonable steps’ in section 23H(1) of the *Crimes Act 1914* (Cth).¹⁰⁶

The Australian Labor Party Senators provided additional recommendations that the phrase ‘reasonable steps’ be removed, and that an obligatory requirement to notify Aboriginal legal assistance of individuals taken into custody be established.¹⁰⁷ The Australian Greens Senators raised additional concerns about the sufficiency of the definition of ‘reasonable steps’.¹⁰⁸

The Bill is currently before the House of Representatives.¹⁰⁹

2.4 Children with gender dysphoria – a case study

(a) Gender dysphoria

In a medical context, gender dysphoria refers to a condition in which a person experiences clinically significant distress or impairment as a result of a marked incongruence between their gender identity and sex assigned at birth.¹¹⁰

Gender dysphoria is one of many factors that can contribute to the high rates of anxiety, depression and suicidal ideation experienced by trans and gender diverse young people.¹¹¹ Other contributing factors include bullying, harassment, abuse, discrimination and isolation.¹¹² Trans Pathways, a 2017 Australian study involving more than 800 trans young people, found that trans young people experience depression at a rate almost ten times higher than the general Australian young population and anxiety at 10 to 13 times the national average for young Australians.¹¹³

The Australian Standards of Care and Treatment Guidelines for Trans and Gender Diverse Children and Adolescents (the Treatment Guidelines) explain that the optimal model of care for trans and gender diverse adolescents involves a coordinated, multidisciplinary team approach. This may include child and adolescent psychologists, paediatricians, paediatric endocrinologists, clinical psychologists, speech therapists and general practitioners.¹¹⁴

The number of young people in Australia seeking access to treatment for gender dysphoria from specialist services has increased significantly over the past decade. The Royal Children’s Hospital Melbourne has reported more than a 200% increase in new referrals to its Gender Dysphoria Service since 2003.¹¹⁵

Research has consistently demonstrated that treatment for gender dysphoria leads to improvements in psychological functioning, wellbeing and social development for young adults.¹¹⁶ Individuals receiving cross-sex hormones have better mental health outcomes and lower levels of depression, anxiety and stress.¹¹⁷

(b) Access to treatments

‘Stage 1’ treatment refers to the administration of medication to suppress puberty. ‘Stage 2’ treatment refers to the administration of gender affirming hormones (oestrogen and testosterone) for the treatment of gender dysphoria. The Australian Standards of Care and Treatment Guidelines for Trans and Gender Diverse Adolescents set out the criteria for adolescents to commence Stages 1 and 2.¹¹⁸

As of September 2017, the Family Court of Australia has found that Stage 2 treatment is a type of ‘special medical procedure’ which requires court authorisation under section 67ZC(1) of the *Family Law Act 1975* (Cth). Consequently, transgender young people in Australia can only access Stage 2 treatment with the authorisation of the Family Court, even where the young person, their parents or guardians and medical team agree that the young person is competent to give consent and that the treatment is in the young person’s best interests.¹¹⁹ Australia appears to be the only country in the world that requires court authorisation in these circumstances.¹²⁰

The Family Court approval process can result in psychological and financial harm to young people and their families.¹²¹ While the Family Court has endeavoured to reduce delays between filing and issuing orders, families must still seek legal advice and wait while experts prepare reports. The average delay in gaining access to treatment as a result of the court approval requirement is eight months.¹²² Delays in treatment can exacerbate a young person’s anxiety, depression and dysphoria.¹²³ In addition, the legal fees associated with obtaining a court order can cost up to \$30,000.¹²⁴

The former Chief Justice of the Family Court, Diana Bryant, has also noted the ‘difficult and stressful’ nature of the process,¹²⁵ and other members of the Court have queried whether the Court adds value to the assessment of competency, where parents and medical practitioners are in agreement.¹²⁶

(c) A children’s rights approach to the issue

In November 2017, the UN Human Rights Committee called on Australia to:

consider ways to expedite access to stage two hormone treatment for gender dysphoria, including by removing the need for court authorisation in cases featuring uncontested agreement among parents or guardians, the child concerned and the medical team, provided that the treatment is provided in accordance with the relevant medical guidelines and standards of care.¹²⁷

This reflects Australia’s obligations under several international human rights instruments, including the CRC, to protect the human rights of transgender young people. Provisions of the CRC relevant to access to Stage 2 treatment for transgender young people include:

- non-discrimination¹²⁸
- best interests of the child¹²⁹
- right to be heard¹³⁰
- preservation of identity¹³¹
- right to health¹³²
- right to survival and development.¹³³

In addition, the *Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity* call on States to take all necessary measures ‘to fully respect and legally recognise each person’s self-defined gender identity’.¹³⁴

Consistent with this approach, a young person with gender dysphoria should be entitled to make an informed decision about their own medical treatment, including Stage 2 treatment, where they have been assessed by medical practitioners as being competent to consent. Where the child is not competent to consent, an informed decision should be made in the child’s best interests by their parents or guardians, in consultation with medical practitioners, taking into account the views of the child and their duty to respect the child’s gender identity and rights to health and development. In both these circumstances, given the potentially serious consequences for the child’s physical and psychological health in delaying treatment and the significant burden of going to Court, the Court should step back and allow these decisions to be made by those directly involved – the child, their parents or guardians, and their medical team.

(d) *Re Kelvin*

The Australian Human Rights Commission has the function of intervening in proceedings that involve human rights issues, where the Commission considers it appropriate to do so and with the leave of the court hearing the proceeding, subject to any conditions imposed by the court.¹³⁵

In 2017, the Commission intervened in the case of *Re Kelvin* in the Full Court of the Family Court. This case deals with the question of whether court authorisation is required for therapeutic hormonal treatment for children with gender dysphoria, where parents, medical practitioners and the young person agree with the proposed treatment.

The Commission had previously intervened in cases involving applications for treatment for gender dysphoria, including in *Re Alex*,¹³⁶ *Re Bernadette*,¹³⁷ and *Re Jamie*.¹³⁸

This is an important matter that needs to be addressed and resolved to ensure respect for the rights of children and young people with gender dysphoria across Australia.

2.5 Conclusion

Over this reporting period a number of Bills, that either passed both Houses of Parliament or are not proceeding, were considered for their impact on children's rights.

The scrutiny provided by the PJCHR and other Parliamentary committees enhances our understanding of the impact that legislation has on children's rights. These are important mechanisms that will improve our parliamentary processes to better protect and promote the rights of children.

Statements of Compatibility, which accompany Bills introduced into Parliament, are also important mechanisms for engaging federal policy and law makers with human rights and enhancing their knowledge and understanding of the impacts of laws on children.

Despite these positive measures, I am concerned that our attention to human rights issues comes far too late in the legislative process, at the drafting of Bills stage. I remain of the view that such consideration should occur as a routine part of policy and legislative development, as well as of ministerial considerations at an early stage. In addition, and as I have previously recommended, I consider that all major national frameworks relating to children should be regularly evaluated with respect to the extent to which they advance or limit children's rights and interests, in line with our international commitments.

In my capacity as National Children's Commissioner and as part of the Australian Human Rights Commission, I look forward to continuing to work with the PJCHR on the advancement of children's rights and on building knowledge and capacity in the development of Statements of Compatibility in relevant departments.

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A selection of photos from the national roundtables, on issues facing young parents and their children, held throughout Australia in 2017

Chapter 3:

Young parents and their children

3.1 Introduction

Other than the crippling self doubt I experienced as a young mum, the judgement from other people, including strangers, was soul destroying. Stereotyping needs to stop, and we need to start celebrating young women who go on to be great parents, whether they finish a uni degree and buy a house, or have ten kids who they love and provide for with everything they have. Young women are strong and each one is capable. All it takes is a few people to believe in you. (Young mother, who had her baby at 15 years)

This chapter focuses on my project on the rights and needs of young parents and their children, which I undertook throughout 2017.

It describes:

- young parenthood as a human rights issue
- why and how I conducted a project on young parents and their children
- findings from the project, including what available research, data, submissions, roundtable discussions and young people themselves tell us about the needs of young parents and their children
- recommendations to improve the current situation faced by young parents and their families.

In doing this work, I spoke with many young parents who told us about the struggles, stigma and barriers they face. Despite this, overwhelmingly, the young people I spoke to are motivated to be great parents, to provide the best care for their children, to get an education and do well in life. I hope that the findings of this investigation will help to identify the supports young families need at different points in time.

Throughout this chapter, I make a number of recommendations to government to ensure that young parents and their children have their rights fulfilled, are included in decisions affecting policy and programs for young parents and are respected as rights-holders in Australian society. I recommend a range of monitoring and data collection mechanisms, and reviews of government policies and practices, to ensure that young parents have their specific needs met. Many of these recommendations have been situated within national initiatives, councils or frameworks, including:

- The *National Framework for Protecting Australia's Children* (2009–2020) (Recommendations 14, 15, 16)
- The Council of Australian Governments' Health Council (Recommendation 11)
- The Council of Australian Governments' Attorneys-General Council (Recommendation 13)
- The Council of Australian Governments' Education Council (Recommendations 8, 9, 12).

As will be seen, the realisation of young parents' and their children's rights requires an integrated approach across a range of government initiatives. This integrated approach should be informed by the views of young parents, and recognise their need for support across a range of services. In this context, I suggest that the Minister for Social Services take a lead role in advancing a coordinated cross-portfolio policy approach in relation to young parents and their children.

3.2 Why conduct a project on young parents and their children?

Young parents and their children are particularly vulnerable to breaches of their rights to health, education and care, and are at risk of long term disadvantage and welfare dependency.

While the rate of teenage fertility in Australia has declined over the last few decades, the number of births to young mothers continues to be significant. According to the Australian Bureau of Statistics (ABS), in 2015 there were 8,574 births to mothers aged 19 years and under.¹

Young people who become parents at an early age are likely to experience significant obstacles and disadvantage in their lives. Higher rates of teenage pregnancy are associated with family histories of teenage pregnancy, unstable housing arrangements, socio-economic disadvantage and sexual abuse in childhood.²

Particular groups within the youth population more likely to become young parents include Aboriginal and Torres Strait Islander peoples and young people living in rural and remote areas and from low socio-economic backgrounds.³

The challenging personal circumstances of many young parents are further compounded by the social, financial, medical, education and employment difficulties of raising a child. Young parents frequently face negative consequences such as poverty and long term welfare dependency,⁴ poor emotional health and wellbeing,⁵ and inability to complete study or gain secure employment.⁶

Children of young parents are also at greater risk of experiencing poorer life outcomes. According to the Australian Institute of Health and Welfare (AIHW), children born to teenage mothers are 'at greater risk of low birthweight and increased morbidity during their first year of life, tend to develop more behaviour problems than children of older mothers and are more likely to be born into, and continue to live in, social and economic disadvantage.'⁷ Children of vulnerable young parents are often at risk of being removed into the care and protection system, and are also more likely to become young parents themselves.⁸

Despite the clear intergenerational disadvantages faced by young parents and their children, there are a number of gaps in the research literature about how to best support these vulnerable families. Further research is needed to understand and respond to the unique needs, experiences and trajectories of particular groups of young parents, such as Aboriginal and Torres Strait Islander young parents, young parents from culturally and linguistically diverse backgrounds, and young parents who have been in out-of-home care or the youth justice system.⁹ Research on the experiences of young fathers is also lacking. Much of the information available about young parents focuses on young mothers. The impacts on young mothers are different to those of fathers, particularly in relation to physical and mental health needs through the experiences of pregnancy and childbirth. Our consultations suggest that young women are more likely than young men to be the primary and sole carers of their child, with subsequent impacts on their lives. More needs to be understood about how young fathers can play a role in parenting and how they are in turn impacted by the birth of a child. Additionally, there is a lack of evidence and evaluation of interventions and support programs for young parents that effectively improve their social, health, education and employment trajectories.¹⁰

In the Department of Social Services' Baseline Valuation Report, young parents were identified as a group worthy of further investigation in order to understand what early interventions would improve their probability of becoming self-reliant in the future, assisting them to break free from entrenched welfare dependence.¹¹

3.3 Young parenthood as a human rights issue

International human rights treaties set out the human rights of all children and young people, including those who are parents or are pregnant, and the children of young parents. This section describes some of the rights that are particularly relevant to young parents and their children.

Under the *Convention on the Rights of the Child* (CRC), the best interests of all children, including young parents and their children, and pregnant girls, must be a primary consideration in all matters concerning them.¹²

The primacy of the family unit is also an important consideration in the implementation of the CRC. As noted in the preamble of the Convention, the family unit is considered:

the fundamental group of society and the natural environment for the growth and wellbeing of all its members and particularly children, [and as such,] should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.

The United Nations Committee on the Rights of the Child has emphasised the need for support for young parents and their children, in light of their particular vulnerability. In its General Comment on the implementation of the rights of the child during adolescence, the United Nations Committee on the Rights of the Child has commented that:

Articles 24 and 27 of the Convention require that adolescent parents and caregivers be provided with basic knowledge of child health, nutrition and breastfeeding, and appropriate support to assist them in fulfilling their responsibilities towards the children they are responsible for and, when needed, material assistance with regard to nutrition, clothing and housing. Adolescent caregivers need extra support in order to enjoy their rights to education, play and participation. In particular, States should introduce social protection interventions at key stages of the life cycle and respond to the specific requirements of adolescent caregivers.¹³

Under the CRC and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), young parents and their children have the right to accessible education, enjoyment of the highest attainable standard of health, an adequate standard of living, and assistance in the performance of their child-rearing responsibilities.¹⁴

As a party to these treaties, the Australian Government must respect and ensure these rights to all young parents and their children, as well as pregnant girls, within Australia, without discrimination of any kind.¹⁵ The Australian Government must take appropriate measures to ensure that children are protected against all forms of discrimination on the basis of the child's status, or the status of the child's parents.¹⁶

(a) Education

All children, including those who are parents or are pregnant, have the right to universal, quality and inclusive education and training, pursuant to articles 28 and 29 of the CRC.¹⁷ Secondary education must be available and accessible to all.¹⁸ The Committee on the Rights of the Child notes that education is ‘the single most important policy investment that States can make to ensure the immediate and long term development of adolescents’.¹⁹ Low levels of educational attainment affect long term employment prospects and living standards for young mothers.²⁰

The Committee on the Rights of the Child has also noted that the exclusion of pregnant school girls and young mothers from school is discriminatory.²¹ It recommends that States Parties introduce comprehensive and proactive measures to ensure that young mothers and pregnant girls can participate in school or have opportunities to complete their education if they have left.²²

The *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) also requires appropriate measures to be taken in order to ensure equal access to education for women and girls, including opportunities for access to continuing education programs.²³ The United Nations Committee on the Elimination of Discrimination Against Women has recognised that female student drop-out rates are often a result of premature pregnancy.²⁴ CEDAW specifically requires States Parties to take measures to reduce female student drop-out rates, and to organise programs for girls who have left school prematurely.²⁵

(b) Survival and development

Under article 6 of the CRC, States Parties must ensure the survival and development of all children to the maximum extent possible.²⁶ The ICESCR also requires States Parties to take steps to ensure the healthy development of the child.²⁷ To this end, States Parties must create ‘an environment that ensures the holistic development of every child’.²⁸ Full respect for the survival and development of the child must also be ensured in the assessment and determination of the child’s best interests.²⁹

The Committee on the Rights of the Child in its General Comment on the implementation of the rights of the child during adolescence has noted that:

[T]he foundations laid down during adolescence in terms of emotional security, health, sexuality, education, skills, resilience and understanding of rights will have profound implications, not only for their individual optimum development, but also for present and future social and economic development.³⁰

Policies designed for children who are parents or pregnant must support the healthy development of the parent and child to the maximum extent possible.³¹

(c) Health care

All children, including young parents and their children, and pregnant girls, have the right to enjoy the highest attainable standard of health, in accordance with article 24 of the CRC.³² In facilitating the right to health of young parents, States Parties have specific obligations to ensure access to sexual, pre- and post-natal health care, and to provide guidance to young parents in the form of family planning education and services.³³

The Committee on the Rights of the Child has emphasised the importance of providing access to health services that are sensitive to the particular rights and needs of young mothers.³⁴ This includes access to counselling and pre-conception care as well as general maternal health services.³⁵ The Committee recommends the adoption of comprehensive sexuality and gender-sensitive sexual and reproductive health policies for adolescents³⁶ to assist them in making autonomous and informed decisions on their reproductive health.³⁷ The Committee urges States Parties:

(a) to develop and implement programmes that provide access to sexual and reproductive health services, including family planning, contraception and safe abortion services where abortion is not against the law, adequate and comprehensive obstetric care and counselling; [and] (b) to foster positive and supportive attitudes towards adolescent parenthood for their mothers and fathers.³⁸

The right to health, the best interests of the child and the right to information³⁹ also require that adolescents are provided 'with access to sexual and reproductive information, including on family planning and contraceptives, [and] the dangers of early pregnancy'.⁴⁰ The Committee on the Rights of the Child notes that unequal access to such information, commodities and services amounts to discrimination.⁴¹ It notes that access to sexual and reproductive health services, information and education must be available to all adolescents on a non-discriminatory basis, both online and in person.⁴²

CEDAW also requires that States Parties ensure access to health services related to family planning and in connection with pregnancy,⁴³ as well as specific education, information and advice on family planning.⁴⁴ The Committee on the Elimination of Discrimination Against Women notes that:

In order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10 (h) of the Convention.⁴⁵

The Committee on the Rights of the Child has also commented on the importance of targeting family planning, health care information and services towards young men. It advises:

Taking into account that boys and men are crucial to planning and ensuring healthy pregnancies and deliveries, States should integrate education, awareness and dialogue opportunities for boys and men into their policies and plans for sexual, reproductive and children's health services.⁴⁶

The Committee on Economic, Social and Cultural Rights notes that fulfilling the right to health requires that access to public sexual and reproductive health services is available in rural areas.⁴⁷ Article 14 of CEDAW also explicitly requires States Parties to ensure that rural women have the right to access adequate health care facilities, including information, counselling and services in family planning.⁴⁸

(d) Adequate standard of living

Article 27 of the CRC guarantees to every child a standard of living adequate for the child's physical, mental, spiritual, moral and social development.⁴⁹ The right to an adequate standard of living is also set out in the ICESCR, and encompasses the rights to food, water, clothing and housing.⁵⁰ The CRC expressly requires that material assistance and support programs are provided to parents where necessary.⁵¹

The Committee on Economic, Social and Cultural Rights has indicated that the right to housing requires the availability of affordable and accessible housing for all, and requires governments to develop strategies and policies that prioritise the housing needs of vulnerable groups.⁵² Accordingly, particular consideration should be given to young parents in order to meet their housing needs, and priority given to young families living in unfavourable or unstable conditions.⁵³

(e) Early childhood education and care services

Under article 18(2) of the CRC, States Parties must provide appropriate assistance to parents, including young parents, in the performance of their childrearing responsibilities, and ensure the development of institutions, facilities and services for the care of children.⁵⁴ The Committee on the Rights of the Child has commented that '[s]pecial measures should be taken to promote community and workplace support for mothers in relation to pregnancy and breastfeeding, and feasible and affordable childcare services'.⁵⁵ Early childhood education and care support is one special measure that may influence the ability of young parents to exercise their rights to education, work and participation.⁵⁶

Article 11 of CEDAW requires States Parties to take appropriate measures:

To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities.⁵⁷

(f) Indigenous parents and their children

The Committee on Economic, Social and Cultural Rights notes that under ICESCR, 'indigenous peoples have the right to specific measures to improve their access to health services and care'.⁵⁸

The Committee on the Rights of the Child has commented that steps should be taken to ensure the ease of access to health care services by indigenous children.⁵⁹ It recommends that specific strategies be considered to ensure access to sexual and reproductive information and services that are culturally appropriate and responsive to the particular needs of indigenous children and adolescents.⁶⁰ It notes further that measures should be taken to ensure that indigenous children and families receive information on breastfeeding and pre- and post-natal health care.⁶¹ It also emphasises the importance of ensuring access to health care services for indigenous communities living in remote or rural areas.⁶²

Articles 21 to 24 of the *United Nations Declaration on the Rights of Indigenous Peoples* concern the rights of indigenous peoples to health and development, and to the improvement of their economic and social conditions.⁶³ Article 22 requires special measures to be afforded to indigenous women, children and young people with a view to achieving the full realisation of the enumerated rights.⁶⁴

3.4 How the project was conducted

(a) Aim and focus of project

The aim of this project has been to identify the gaps in knowledge regarding the experiences and trajectories of young parents, and analyse good practice in early intervention and support services that lead to better outcomes for young parents and their children. This includes identifying the education and employment pathways most likely to lead to long term stability and security.

The project focused on early interventions that could:

- decrease the risk profile of young parents and their children
- influence decisions to delay the birth of a second child
- improve the capacity of young parents for safe and effective parenting
- increase their likelihood of becoming economically secure.

In this project, we paid particular attention to the experiences of vulnerable groups, including Aboriginal and Torres Strait Islander young parents, young parents with experiences of out-of-home care and child protection systems, and young parents involved with the youth justice system.

(b) Methodology

Over eight months, I hosted a series of expert forums across Australia, received submissions, ran consultations with young parents, and conducted a survey of young parents. In parallel, I made a number of requests for information about programs for young parents and their children, sourced relevant data, and undertook a review of relevant literature and research. The project involved:

- 69 submissions from government, non-government agencies and individual experts (Appendix 7)
- four roundtables, held nationally, with a total of 61 participants (Appendix 8)
- seven individual agency consultations
- consultations with 77 young parents through individual and group consultation sessions
- a national survey of 89 young or expecting parents.

Review of research and other information

The review of available research involved an analysis of the statistics regarding young parenthood in Australia: who the young parents are; their socio-economic circumstances; and the geographic location of young parents across Australia. Research exploring the reasons young people became young parents and their immediate and long term health, education and economic outcomes was also reviewed.

As part of my investigation, I identified areas where there was a gap in information and data on young parents, and requested additional information from a range of sources. The following list covers sources of data and information specifically requested for the purposes of this project:

- The ABS, the AIHW and the Australian Institute of Family Studies (AIFS,) in relation to demographic data about young parents
- Department of Social Services (DSS), in relation to income support payments to young people

- Australian and New Zealand Child Death Review and Prevention Group (ANZCDR&PG), about deaths of children of young parents, and of young parents themselves
- yourtown (Kids Helpline), in relation to young people who make contact with the helpline about parenthood or pregnancy
- *Longitudinal Study of Australia's Children* (LSAC), the *Longitudinal Study of Indigenous Children* (LSIC) and the Household, Income and Labour Dynamics in Australia (HILDA) Survey, in relation to survey information collected about young parents
- Productivity Commission
- state and territory government information, in relation to children of young parents in jurisdictional child protection systems, and education policies relating to the inclusion of pregnant or parenting teenagers in Australian public schools.

Written submissions, roundtables and individual consultations

To inform the project, I sought submissions from a range of experts across Australia, on how to decrease the risk profile of young parents and their children, influence decisions to delay the birth of a second child, improve the capacity of young parents for safe and effective parenting and increase their likelihood of becoming economically secure.

For governments (state, territory and Commonwealth), I also asked about programs and policies in relation to young parents and their children, and, in particular, details of education, health and welfare policies, programs and services relating to young parents and their children, as well as any evaluations of these.

I received 69 written submissions, listed in Appendix 7. The submissions can also be viewed online at <https://www.humanrights.gov.au/publications/childrens-rights-report-2016>.

I would like to thank everyone who made submissions, which were valuable contributions to my understanding of the issues that young parents face.

I also held a number of roundtables and individual consultations. Roundtables were held in Brisbane, Perth, Sydney and Melbourne, with 61 participants overall. They included presentations by practitioners and academics working in the field, and explored the following questions:

- Do you think that current policies and programs for young parents and 'at risk' teens are adequate and effective? If not, how do you think they could be improved?
- Are there any particular examples of early interventions that decrease the risk profile and trajectory of young parents, young parents-to-be and their children? If not, what early interventions are likely to achieve this result?
- Are you aware of any particular examples of early interventions that improve young parents' capacity for safe and effective parenting? If not, what early interventions are likely to achieve this result?
- Are you aware of any particular interventions that increase young parents' likelihood of becoming economically secure? If not, what early interventions are likely to achieve this result?

Consultations and surveys with young parents

The project included a number of consultations with 77 young parents overall. These consultations with young parents were critical to understand the needs and concerns of young parents and what supports are most effective for them. These are detailed in Appendix 9. In addition, 89 surveys were completed by young parents and expecting young parents.

3.5 Research and other information about young parents

(a) Review of available research

Locality and demographics of young parents in Australia

The teenage fertility rate has gradually declined over the past 30 years. In 2015, 15–19 year olds were the age group with the lowest fertility rate, with 11.9 births per 1000 women or 2.8% of overall births in Australia.⁶⁵ This converts to 8,574 births to mothers aged 19 years and under out of a total 305,377 births in Australia.⁶⁶ The teenage birth rate in Australia is at an historic low.⁶⁷

Despite this gradual decline in numbers, the teenage birth rate is inconsistent across the country — geographically and socially.⁶⁸ Teenage pregnancy is experienced more frequently by people in lower socio-economic circumstances, Aboriginal or Torres Strait Islander peoples, and people in remote or rural locations.⁶⁹ Notably, the teenage birth rate in remote or rural Australia is more than four times that of the general population (57 births per 1000).⁷⁰

Figure 3.1 demonstrates the numbers of births to teenage parents across each jurisdiction. Figure 3.2 shows the correlation between remoteness and birth rates. As can be seen, the number of births per 1000 women in 2015 was greater in regional areas than in major cities, and even greater in remote areas. This applied to both Aboriginal and Torres Strait Islander teenage mothers and non-Indigenous teenage mothers.

Figure 3.1: Number of births to teenage mothers (aged 15–19) by state and territory in 2015⁷¹

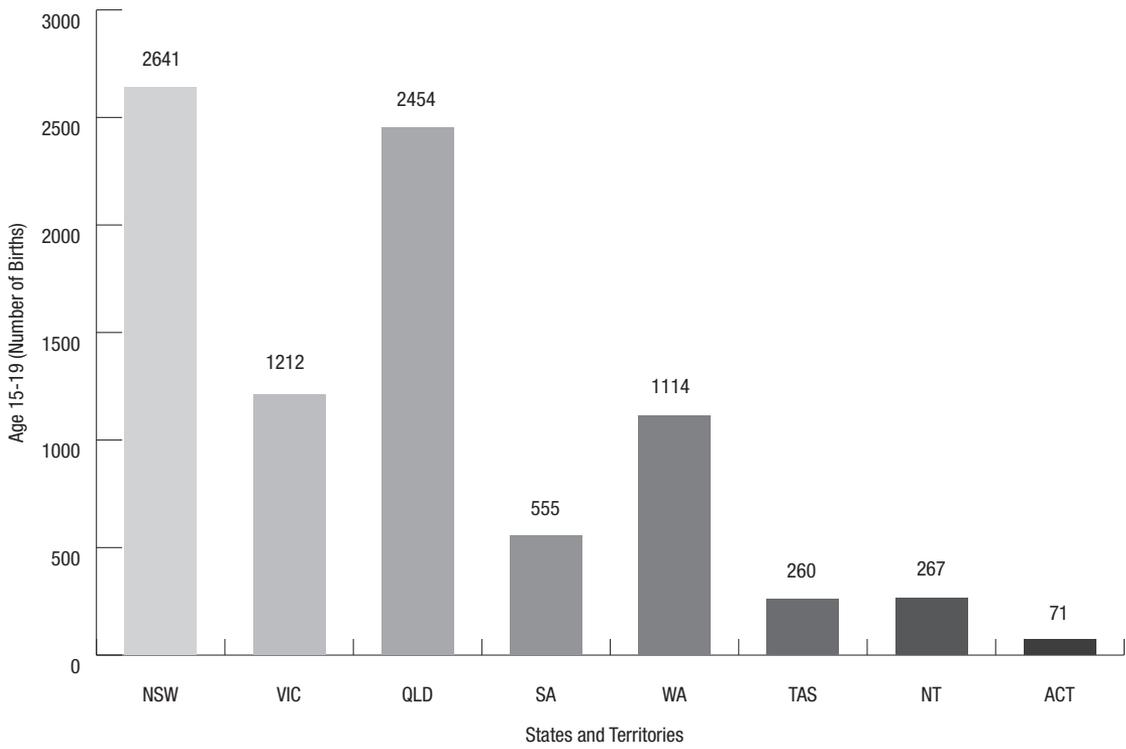
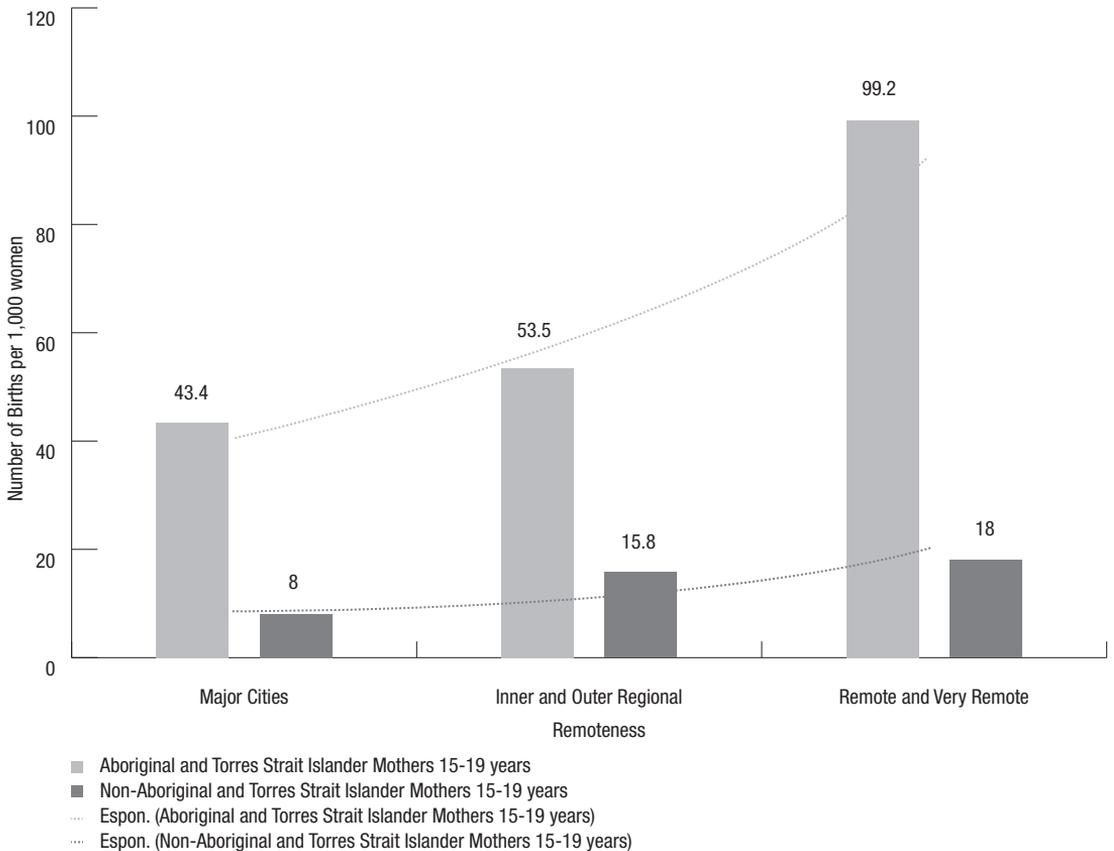


Figure 3.2: Comparison of Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander birth rates in 2015 by remoteness⁷²



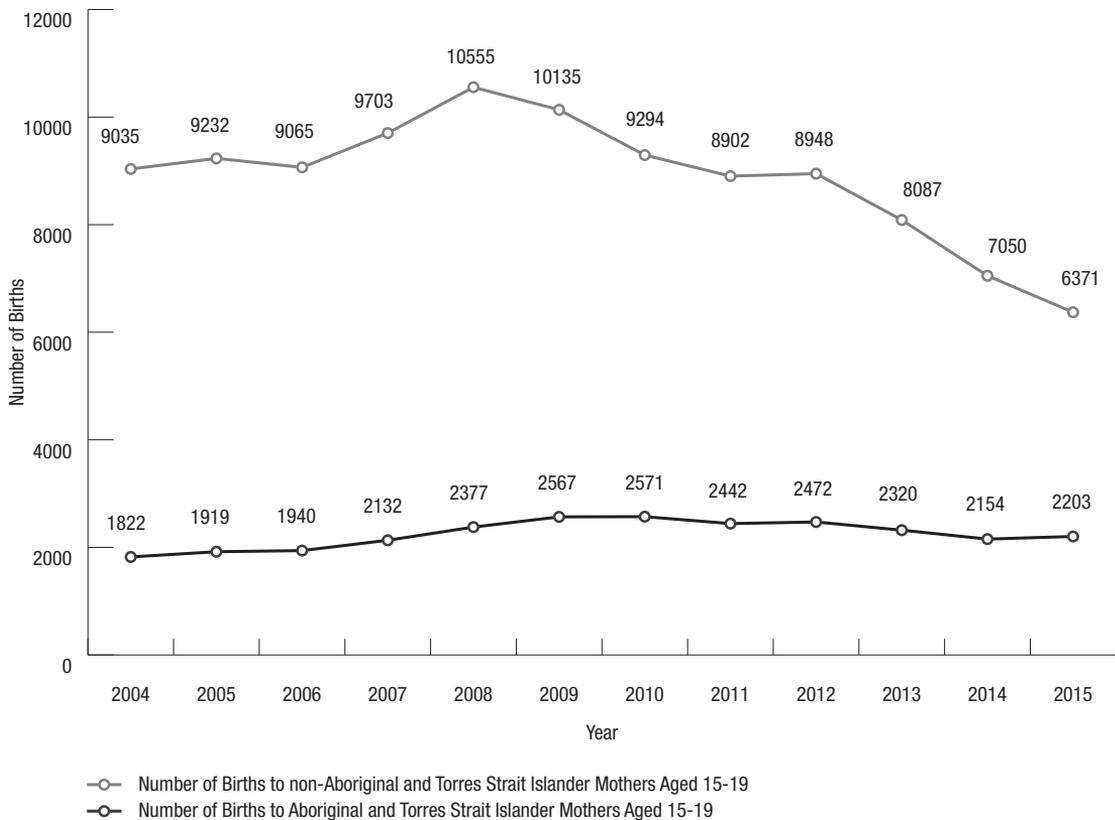
For mothers aged 15–19, the NT has the highest fertility rate of 35.9 births per 1,000 women, and the Australian Capital Territory (ACT) has the lowest rate of 6.2 births per 1,000 women.⁷³ These rates equate to 267 births to teenage mothers out of 4,004 total births in 2015 in the NT, and 71 births to teenage mothers out of 5,542 total births in the ACT.

Young Aboriginal and Torres Strait Islander parents

Aboriginal and Torres Strait Islander peoples have ‘extraordinarily high rates of teenage fertility compared with the national average’.⁷⁴ Various factors, such as the concentration of Aboriginal and Torres Strait Islander peoples in remote Australia, associated health and health service access issues, and the overall disadvantage experienced by Aboriginal or Torres Strait Islander peoples may account for these high statistics.⁷⁵

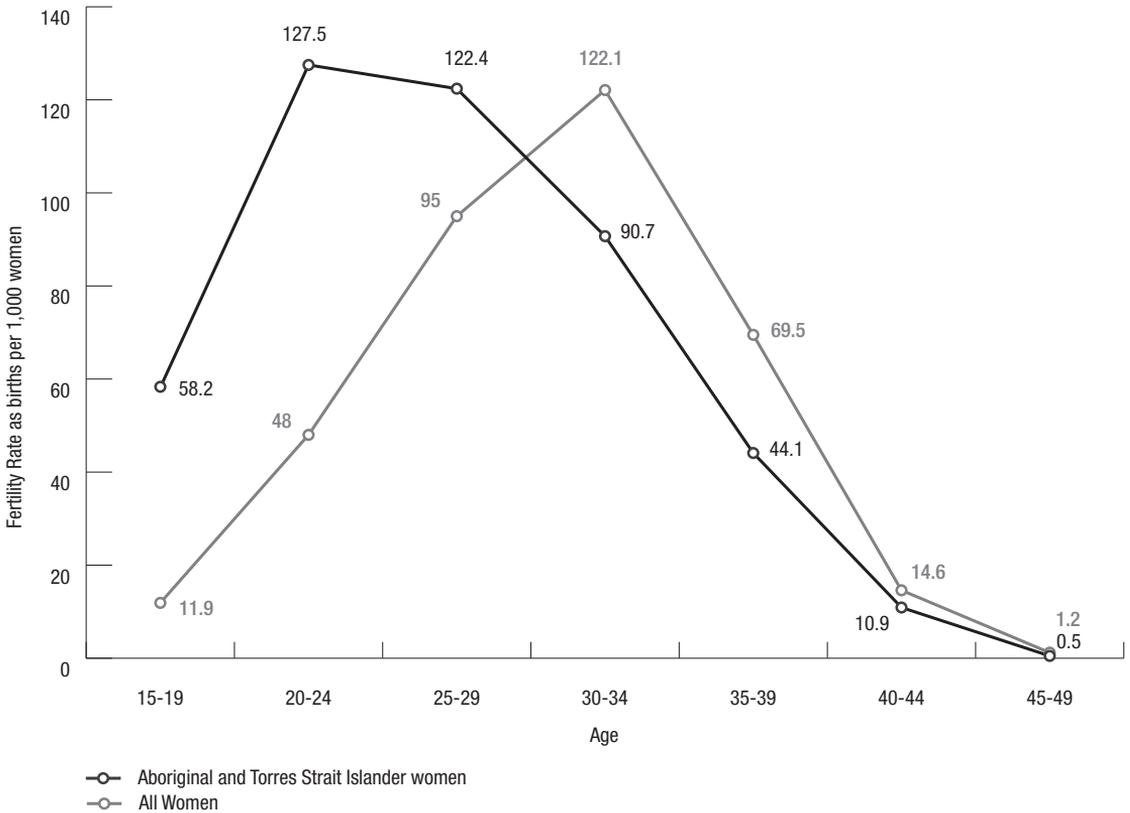
In 2015, births to Aboriginal and Torres Strait Islander young mothers aged 15–19 was at a rate of 59.3 births per 1000.⁷⁶ That is, 2,203 out of 8,574 total births to all Australian mothers aged 15–19 years (25.7% of total births for this age group).⁷⁷ Figure 3.3 shows the birth rate trends for Aboriginal and Torres Strait Islander mothers aged 15–19 and non-Indigenous mothers of the same age group over the past ten years.

Figure 3.3: The number of births from 2004-2015 to Aboriginal and Torres Strait Islander mothers and non-Aboriginal and Torres Strait Islander mothers aged 15–19⁷⁸



As seen in Figure 3.4, Aboriginal and Torres Strait Islander women have a higher fertility rate than all other women in Australia until the age of 30 when the fertility rates intersect.⁷⁹

Figure 3.4: Comparison of fertility rates per age group for Aboriginal and Torres Strait Islander women and all women in 2015⁸⁰



Historically, the collection and monitoring of data on Aboriginal and Torres Strait Islander population trends, including fertility rates, has been poor.⁸¹ Today, there are two main national data collections – the ABS Birth Registrations Collection, and the National Perinatal Data Collection (NPDC) collected by the AIHW.⁸²

These datasets are neither comprehensive nor comparable across jurisdictions and as such do not paint a complete picture.⁸³ Importantly, NPDC data on the Indigenous status of mothers only became comparable nationally in 2005, and the Indigenous status of babies has only become comparable across some jurisdictions since 2012.⁸⁴ These datasets are quite recent, providing researchers with limited insight into the long term population and fertility trends of Aboriginal and Torres Strait Islander peoples.

Recommendation 1: The Australian Institute of Health and Welfare and the Australian Bureau of Statistics should work with state and territory governments to ensure that national data on fertility rates consistently record age, sex, indigeneity and remoteness.

In the NT— the jurisdiction with the highest Indigenous teenage fertility rate — the collection of population and fertility trends is considered more accurate than in other jurisdictions.⁸⁵ Even so, limitations remain. Similar to the national datasets, NT datasets are largely dependent on individuals' 'self-identification of [I]ndigenous status'.⁸⁶ There are also issues relating to the way that births are recorded.⁸⁷ The datasets are unable to reveal the differences between rural and urban population trends.⁸⁸

Despite these shortcomings, the available data shows that Aboriginal and Torres Strait Islander women in the NT are highly likely to have their first child as a teenager, with the probability of teenage pregnancy being much greater in rural and remote areas than urban centres.⁸⁹ Similarly, participation in employment (and, to a limited degree, education) is less likely to affect the fertility rate of teenage mothers in rural and remote locations of the NT in comparison with urban areas.⁹⁰ It is worth noting that the ABS defines all areas of the NT outside of Darwin as 'remote' or 'very remote'.⁹¹

Commentators note that programs to support Aboriginal and Torres Strait Islander mothers and their children, as well as parenting programs, need to be culturally appropriate in order to be effective.⁹² The Healing Foundation has identified the need for programs to acknowledge the impact of intergenerational trauma and the 'collective trauma' that Indigenous communities experience.⁹³ Adopting an 'Indigenous spin' on Western health models and programs is generally considered to be unsuccessful.⁹⁴ Instead, empowerment-based approaches to healing and community engagement are recommended as a strategy to re-connect individuals to community, including in relation to parenting programs.⁹⁵

Young parents in the justice system

Data regarding the number of young parents within the juvenile justice system nationally is not readily available in any jurisdiction. Further, the number of children affected by parental (in particular, maternal) incarceration in Australia is unknown.

Data from NSW's *2009 Inmate Health Survey* for women offenders found that 49% of women offenders are mothers of children aged 16 or under, 32% were in care as children, and 45% left school before completing year 10.⁹⁶ However, it is important to note that there is no data available regarding whether current female prison inmates are, or have been, young parents. Similarly, there is no data collected on the parenting status of young people in juvenile detention facilities.

This lack of data restricts government from developing and implementing policy and programs that effectively meet the needs of young parents — both female and male — and their children.

The impact of parental (in particular, maternal) incarceration on children is well documented.⁹⁷ With the female prison population increasing, policies and programs are needed to support vulnerable women and their children prior to and during incarceration.⁹⁸

The Aboriginal and Torres Strait Islander women's incarceration rate is at 34% of the national population incarceration trends.⁹⁹ Preventative programs which facilitate and support 'healthy child-parent relationships' 'may contribute to the prevention of intergenerational incarceration'.¹⁰⁰ An example of a parenting program for incarcerated mothers and their children is the Mothers and Children's Program at Emu Plains Correctional Centre (see Box 1), which enables children to remain with their mothers in custody.

In addition, as recommended by Aboriginal and Torres Strait Islander Social Justice Commissioner June Oscar, alternative sentencing options for suitable young offenders, such as home detention, could enable parents to remain at home with their children and establish stability in their child's life.¹⁰¹

Recommendation 2: The Australian Institute of Health and Welfare should work with state and territory governments to collect nationally-consistent data, over time, on the characteristics and number of young parents in detention.

Recommendation 3: State and territory governments should explore the use of alternative sentencing options, such as home detention, for offenders who are young parents. Where a young parent who is a primary carer is given a custodial sentence, programs which allow them to remain with their children should be made available, when this is in the best interests of the child.

Box 1: NSW Corrective Services, Mothers and Children's Program, Emu Plains Correctional Centre¹⁰²

The Mothers and Children's Program (the Program) at Emu Plains Correctional Centre Jacaranda Cottages, established in December 1996, offers options to female offenders who wish to maintain an active parenting role in the lives of their children while serving a custodial sentence.

The guiding principle of the Program is the best interests of the child and a strong child-centred approach is applied at all times. The Program attracts national and international attention. It is regularly visited by national and international delegates, due to its strong child-centred approach and its ability to support mothers and their children to remain together in custody.

Program features

- The Program has the capacity to house 24 women and up to 32 children at Jacaranda Cottages.

There are two streams available to mothers:

1. **Full-time residential program**, which enables children up to age six to live at the facility full-time.
2. **Occasional residential program**, which enables children up to age 12 to stay with their mother on weekends and/or during school holidays.

Women and children in the Program have access to the following services:

- the parenting program, Mothering at a Distance (Corrective Services NSW (CSNSW))
- community parenting and relationship programs (Wesley Mission, Relationships Australia, Anglicare, Catholic Care)
- access to services provided by Tresillian Family Care Centre – Wentworth
- preschool (external services)
- budgeting (CSNSW and external services)
- domestic violence program (CSNSW and external services)
- cooking and storage of food for infants and toddlers (CSNSW)
- Child Safety In and Around the Home information sessions (CSNSW)
- Child and Family Health Clinic facilitated at Jacaranda Cottages by Nepean Blue Mountains Local Health District
- weekly supported playgroups and child-related activities facilitated at Jacaranda Cottages and off site by the Parent Infant Family Australia and Wesley Mission
- swimming lessons at local pool
- kindy gym.

Consistent with the Program's child-focused lens, support staff and community partners monitor the children's:

- health and wellbeing
- maintenance of relationships with the community, parents, siblings, other family members and significant others
- participation in routine community experiences such as going to the park, shops etc
- participation in religious, cultural or significant family events
- access to age-appropriate activities and education.

At all times, children of women within the Program are considered clients of Jacaranda Cottages.

Data and outcomes

Anecdotally, the Program has not had one child harmed since its inception in 1996, and has one of the lowest recidivism rates of prison programs in NSW.

From 2010 to 2017, 145 women and 229 children have participated in the program in either a full-time or occasional capacity.

Health outcomes for teenage parents and their babies

It is well-documented in research that teenage pregnancy is often connected with poor health outcomes for both mother and child.¹⁰³

As found by Lewis et al, teenage mothers are more likely to experience maternal risk factors such as anaemia and hypertension, and are also more likely to smoke during pregnancy.¹⁰⁴ Smoking during pregnancy is associated with other risk factors such as premature birth and low birthweight.¹⁰⁵ Research has also found that children of teenage parents are more likely to have behavioural and cognitive development problems.¹⁰⁶

Data collected by LSAC, the AIHW and the ANZCDR&PG all indicate that teenage mothers are more likely to smoke while pregnant than other women.¹⁰⁷ Although the percentage of teenage women who smoke during pregnancy has decreased from 42.6% in 2006 to 32.9% in 2014, it is still significantly higher than in the general population.¹⁰⁸ For example, in 2015 only 2.7% of 15–17 year olds in the general population were daily smokers.¹⁰⁹ Further, data from the AIHW in 2014 found that young mothers (under the age of 20) are more likely to smoke in the first 20 weeks of pregnancy than other mothers.¹¹⁰ The AIHW also found that smoking during pregnancy was significantly higher for Aboriginal and Torres Strait Islander women and pregnant women in rural and remote areas.¹¹¹

Researchers Kalb, Jeon and Vu found that teenage mothers had poorer mental and physical health than older mothers, with a higher percentage of teenage mothers receiving the Disability Support Pension (approximately ten per cent compared with three per cent of older mothers).¹¹² Data collected by LSAC also found that teenage mothers were less likely to eat fruit and vegetables, were more likely to be daily smokers and also to engage in binge drinking.¹¹³

Post-natal depression was found to be very common among adolescent mothers with over half of the cohort reported having experienced depressive symptoms within the first three months of motherhood.¹¹⁴ Low self-esteem and loneliness were also common problems reported by young mothers.¹¹⁵ Notably, Jeon, Kalb and Vu's research found that teenage mothers' welfare participation rate increases as their health declines.¹¹⁶ As a result, Jeon, Kalb and Vu recommended that policy focus on improving teenage mothers' health in order to reduce welfare dependence.¹¹⁷

Although there is research and data on the correlation between teenage mothers and poor health outcomes for mothers and babies, Hoffman and Vidal have noted that more research is needed on the causes and implications of these poor health outcomes.¹¹⁸

Welfare dependence and long term socio-economic disadvantage

Women who experience teenage pregnancy generally have low socio-economic outcomes, particularly when compared with older mothers.¹¹⁹ However, the issue of whether there is a causal link between poor long term outcomes and teenage parenthood requires further research.¹²⁰

A substantial body of literature has focused on the disadvantage experienced by young mothers and their welfare participation rate. This is because teenage mothers make up approximately one per cent of all single mothers in Australia but are overrepresented (at three per cent) among recipients of Australia's Parenting Payment (the main income support payment for single mothers nationally).¹²¹

Jeon, Kalb and Vu investigated the welfare participation rate of both teenage mothers and older mothers.¹²² The purpose of their research was to understand the extent of 'welfare dependency' in the two cohort groups, the factors which contributed to dependency and the overall differences between these cohorts across the life cycle (between ages 20 and 62).¹²³ Overall, the research found that teenage mothers have 'less favourable' life experiences than older mothers, across a range of areas.¹²⁴ These included experiencing childhood disadvantage, poorer mental and physical health, unemployment or lower labour force participation, and the higher likelihood of welfare dependence throughout their lifetime.¹²⁵ Of significance in their research was the finding that although poor education outcomes are correlated with teenage pregnancy, the majority of teenage mothers had already left school before they became pregnant.¹²⁶ According to Jeon, Kalb and Vu, although policy makers have been primarily concerned with the relationship between poor education outcomes and labour market participation, low education levels seem to explain only part of the difference between older and teenage mothers' dependence on welfare.¹²⁷

In assessing the factors that determine long term welfare participation rates for teenage mothers and older mothers, Jeon, Kalb and Vu found that both cohorts exhibited 'strong state dependence in welfare participation' at different periods of their lives.¹²⁸ However, for teenage mothers, state dependence played a more significant role in their higher rates of reliance on welfare.¹²⁹ One of the most important predictors of future welfare participation was previous receipt of welfare support. This was relevant for both groups of mothers and continued to be relevant as their children grew up, highlighting intergenerational links in the experience of disadvantage.¹³⁰ Jeon, Kalb and Vu suggest that early intervention techniques designed to prevent welfare dependence may be important in reducing the uptake of welfare payments by teenage mothers.¹³¹

The findings from Jeon, Kalb and Vu's research are consistent with data collected from LSAC in 2006, which also found that teenage mothers tended to be the most socio-economically disadvantaged of all mothers interviewed.¹³² Their disadvantage was associated with poor educational qualifications, their pre-existing socio-economic circumstances, and the impact of raising children as young mothers.¹³³ Similarly, the LSAC data indicated that poor educational status and leaving school early were indicators of longer term socio-economic disadvantage, and were not simply a result of teenage pregnancy.¹³⁴ Of the teenage mothers included in LSAC, only 49% had completed schooling up to year 10 or less.¹³⁵

Relationship status of teenage mothers

According to Kalb, Le and Leung, being in a stable relationship 'can be an important pathway for women to escape from poverty and disadvantage'.¹³⁶ However, research has demonstrated that teenage mothers are equally likely to be disadvantaged in their ability to overcome poverty and intergenerational inequity through intimate partnerships.¹³⁷

This could be due to various factors, such as motherhood and child care responsibilities reducing the amount of time young mothers have to look for potential partners, and the fact that children from previous relationships may discourage interest from future partners.¹³⁸ Research has also shown that the partners of teenage mothers are more likely to be unemployed and poorly educated than partners of older mothers.¹³⁹

According to LSAC in 2006, teenage mothers were more likely than older age groups to be single or in a de facto relationship.¹⁴⁰ LSAC noted that 85% of teenage mothers in their study were single or co-habiting, and when coupled, were the most likely group, compared to older age groups, to report unhappiness in their relationship.¹⁴¹

Education

Research undertaken in Australia has shown that teenage mothers, have significantly lower levels of educational attainment than other mothers and childless women, resulting in lower levels of labour market participation and employment outcomes.¹⁴² Moreover, a high percentage of teenage mothers had either left school or disengaged from school prior to becoming pregnant.¹⁴³ As a result, those teenagers with poor school performance and a lack of interest in school are generally associated in research with teenage pregnancy, and those with more interest in education are considered more likely to terminate pregnancies and stay in school.¹⁴⁴ Thus, while being in school is recognised as a key distinguishing factor between teenagers who become young mothers and those who do not, it is the lack of engagement with school in the lead up to pregnancy that is of critical importance in shaping outcomes for teenage mothers and their children.

In addition to these factors, research has also found that students who remain in school and become pregnant frequently feel discriminated against within the secondary education system, and may leave school early as a result.¹⁴⁵

High quality sex education is widely considered one of the most effective strategies in reducing unintended teenage pregnancies.¹⁴⁶ Many schools throughout Australia deliver excellent comprehensive sex education programs. However, competing priorities and challenges, the interest and skills of staff, school leadership and the availability of resources can limit the degree to which program learning outcomes are met.¹⁴⁷

A further complicating factor is that those who might benefit most from sex education may no longer attend school and may have difficulties accessing this information elsewhere.¹⁴⁸

Research has similarly found that many young people have little knowledge and understanding of contraception and experience various barriers in accessing contraception, because of concerns about confidentiality, including disclosing information about their sexual health to medical professionals and potentially prohibitive costs.¹⁴⁹

Recommendation 4: The Australian Government should commission the development of a mobile enabled e-resource for young people to address their education and knowledge gap on sexual health issues such as contraception, pregnancy and parenting.

Re-connecting young mothers with education following the birth of their baby is considered an effective strategy for those who disengage from school.¹⁵⁰ This is not only because higher levels of educational attainment are linked to better employment outcomes, but also because labour market engagement for teenage mothers increases as their children age.¹⁵¹ Teenage mothers are more likely than other women to complete post-school qualifications rather than complete year 12.¹⁵² According to Evans, this indicates that continuing education outside the school system is often successful for young women with children.¹⁵³ Other research has similarly recommended that 'models of flexible learning' and programs that include vocational training would facilitate the re-connection of more young parents to education.¹⁵⁴

Employment

Employment data collected by LSAC in 2006 indicates that teenage mothers' re-entry into the workforce and opportunities for further education are also affected by the constraints of having a child early, particularly as many of these mothers were sole parents.¹⁵⁵ In the age cohorts interviewed for LSAC, teenage mothers were the most likely to be without a job approximately nine months after the birth of their child, with only 13% having returned to work.¹⁵⁶ However, 27% of teenage mothers in LSAC had post-school qualifications.¹⁵⁷ This finding provides further credence to conclusions made by Evans that post-school education is frequently a successful option for young mothers.¹⁵⁸

In their research, Kalb, Le and Leung argue that early childhood education and care support should remain a primary policy measure to support young mothers to take up employment and continuing educational opportunities.¹⁵⁹ For Aboriginal and Torres Strait Islander teenage mothers, access to early childhood education and care services would be particularly useful in improving their long term outcomes.¹⁶⁰

There is limited research on the employment rates and behaviours of teenage mothers throughout their life trajectory.¹⁶¹ As noted previously, research has found that despite the increase in labour market participation by teenage mothers as their children grow, there is still a significant difference in the earning capacity and employment opportunities for teenage mothers when measured against the opportunities for both older mothers and childless women.¹⁶² It is widely recognised that the lives of teenage mothers are generally characterised by unemployment, intermittent employment and welfare dependency.¹⁶³

Recommendation 5: The Australian Government should commission research into the distinct needs and characteristics of young parents that present barriers to employment pathways, and the kinds of targeted interventions that are most likely to assist in overcoming these.

Housing insecurity

Data collected by LSAC indicates that teenage mothers who live with their parents tend to be better off financially and more likely to complete their education.¹⁶⁴ Of the teenage mothers included in the LSAC survey, only a quarter were living with their parents.¹⁶⁵ However, the available research that has involved speaking directly to young parents confirms the substantial challenges posed by unstable housing.¹⁶⁶

Researchers McArthur and Winkworth found that homelessness or having poor living conditions is a common situation for young mothers — either prior to or during pregnancy or with a young child.¹⁶⁷ Other housing challenges include living in shared accommodation with minimal privacy, or being offered housing in locations where there is limited or no social support.¹⁶⁸ Other issues, including being distrustful of services and being unable to follow the rules of services, also present barriers to young parents (particular young mothers) in accessing shelters and youth homelessness services.¹⁶⁹ As recommended by Kuskoff and Mallett, further research is necessary in order to understand how to deliver housing and homelessness services that more effectively suit the unique needs of young parents and their children.¹⁷⁰

Recommendation 6: The Australian Government should commission research into how to deliver housing and homelessness services that more effectively suit the unique needs of young parents and their children. This research will necessarily involve consulting with young parents and their children themselves.

Access to health care, sexual health and abortion services

Research has found that limited access to sexual health, general health and abortion services may contribute to the higher rates of teenage pregnancy in rural areas.¹⁷¹ Structural issues (eg access, transport and cost) are also likely contributors.

In 2015, Australian researchers interviewed both service providers and young people to understand how to improve young people's access to sexual reproductive health services in rural and regional Queensland.¹⁷² Responses from service providers were heavily weighted on improving structural issues (eg transport, cost, limited operating hours and confidentiality) whereas young people reported that feeling welcome and not judged when utilising services were a greater consideration for them.¹⁷³ This particular study emphasised the importance of interpersonal skills training for service providers, particularly in rural areas.¹⁷⁴ In these areas, although physical access issues are relevant, relationship and attitudinal issues (including ongoing stigma) are also highly influential for young people.¹⁷⁵

Similarly in NSW, another research study in 2003 consulted young people from regional areas on their experience accessing health services.¹⁷⁶ One health concern raised 'almost exclusively in rural areas' was teenage pregnancy.¹⁷⁷ Importantly, this issue was raised by young women themselves and not the facilitators, indicating that pregnancy is a significant concern for them.¹⁷⁸

In this study, young people identified a range of causes of teenage pregnancy, including 'getting drunk, not thinking it would happen to them, girls believing contraception was the boy's responsibility and, for boys, not wanting to use condoms'.¹⁷⁹ Participating in risk taking behaviour, including risky sexual activity, was also cited as an issue for young people in rural areas as 'something to do'.¹⁸⁰

Young people also raised concerns regarding 'confidentiality and visibility' when seeking sexual health advice, contraception and abortion services.¹⁸¹ Other issues, such as the limited number of general practitioners (GPs) in rural areas, especially female doctors, were identified by young women as barriers to accessing sexual health care.¹⁸² Participants also reported that the cost of seeing a doctor in rural areas was high, due to demand.¹⁸³ Further, the research showed that 'rigid societal gender norms', still prevalent in rural areas, were a significant challenge for young women — even more so than the actual consequence of sexual activity.¹⁸⁴

Researchers Marino et al have noted that, although there is more limited access to abortion services in rural and regional areas, throughout Australia there are greater barriers for teenagers in accessing contraceptive and abortion services than the general population, irrespective of the location.¹⁸⁵ Further, young people have identified that confidentiality, challenges in being able to discuss sensitive health issues, and cost, all present barriers to using and purchasing contraception.¹⁸⁶

When analysing fertility rates across the states and territories, researchers have noted the importance of differences in abortion laws across jurisdictions.¹⁸⁷ This is especially important when comparing the ACT and the NT. In the ACT, where abortion has been legal (with some restrictions) since 2002, the rate of teenage pregnancy is the lowest. The NT, which has ‘heavy restrictions’ and barriers for women in obtaining an abortion, has the highest rate of teen pregnancy.¹⁸⁸

South Australia (SA) is the only jurisdiction in Australia that consistently collects abortion statistics and makes these publicly available.¹⁸⁹ In 2014, 4,650 terminations of pregnancy were recorded in SA.¹⁹⁰ The Victorian Law Reform Commission, relying on data from the AIHW, estimated that there were 83,210 terminations of pregnancy in 2004 across Australia.¹⁹¹ This number is similar to the estimate by Chan and Sage, who have conducted the latest national study estimating Australia’s abortion rates.¹⁹² According to Chan and Sage’s estimates, the rate of abortion has increased from 1985 and appears to decline from 1995 and again from 2001.¹⁹³ However, their estimates do not provide specific data on the number of teenage pregnancies that are terminated nationally, nor a complete picture of all abortions in Australia.¹⁹⁴

Domestic and partner violence and teenage pregnancy

Sexual assault and domestic/intimate partner violence are contributing factors to the Australian teenage fertility rate. Taft and Watson found that ‘partner violence is the strongest predictive factor of pregnancy termination among young Australian women’.¹⁹⁵ Taft and Watson also found that young women who reported abortions and other pregnancy outcomes were likely to be poorly educated, would not have private insurance and would have been a ‘victim of violence, especially partner violence’ when compared with women in the same age group who did not report pregnancy.¹⁹⁶

Researchers studying the high Aboriginal and Torres Strait Islander teenage birth rate in the NT have similarly observed that the ‘high rates of sexual assault and domestic violence’ indicate that some teenage pregnancies are unwanted and/or unintended.¹⁹⁷ Accordingly, Taft and Watson suggest that programs and services to assist in the prevention of partner violence may reduce the instances of unwanted and unintended pregnancies in the teenage cohort.¹⁹⁸

Pathways to parenthood

Research on teenage pregnancy in Australia has found that not all teenage births are accidental, unintended or unwanted, and that the pathways leading to motherhood are diverse.¹⁹⁹

As noted by researchers Smith, Skinner and Fenwick, understanding the motivations of teenagers who engage in perceived ‘careless and risky’ sexual behaviour is critical to identifying and understanding the ‘distinctions between intentional and nonintentional behaviour’ (that is, pregnancy, termination or neither).²⁰⁰ Smith, Skinner and Fenwick found that teenagers’ attitudes towards motherhood (either accepting or rejecting it) strongly contributed to their actions and behaviours.²⁰¹ Teenagers who identified as ‘never pregnant’ or ‘pregnancy-terminated’ ‘shared similar desires to postpone parenthood’.²⁰² These teenagers were more accepting of abortion as an alternative to giving birth.²⁰³ On the other hand, ‘pregnant continued teenagers’ described motherhood as ‘something that had rescued them from a life of limited fulfilment or continued involvement in risky behaviour’.²⁰⁴ Some teenagers in this study also referred to their own mother’s experience of teenage parenthood as an explanation for their decision, and their strong reaction against abortion.²⁰⁵

Similarly, Larkins et al's research with Aboriginal and Torres Strait Islander teenage mothers from Townsville, found that motherhood was 'taken very seriously' and that it had a 'transformative potential' for the lives of teenage parents.²⁰⁶ These teenage mothers identified that 'taking responsibility' for their lives, their future and their children meant changing unhealthy behaviours such as drug and alcohol dependence, as well as leaving abusive or unwanted relationships.²⁰⁷

In contrast, interviews with Aboriginal and Torres Strait Islander young people who were not yet parents (including young men) revealed considerable naivety and idealism about pregnancy and parenthood.²⁰⁸ Larkins et al reported that the attitudes of young men towards parenthood affect their attitudes towards, and use of, contraception.²⁰⁹ However, there is little research on young fathers. More research is required to ensure policy and programs can meaningfully include young fathers in this important conversation.²¹⁰

Recommendation 7: The Australian Government should commission research into the factors that lead to parenthood for young fathers and how young fathers can be meaningfully included in education, health and community services programs for parents.

Similarly, research with young mothers who were also care leavers has found that motherhood can be perceived as an 'opportunity and achievement' and, as found by Larkins et al, 'a life-changing event'.²¹¹ This research has commonalities with aspects of 'welfare culture theory', suggesting that motherhood can provide disadvantaged women with an accelerated pathway to adult status.²¹²

Summary

- The Australian teenage birth rate is at an historic low — in 2015 at a rate of 11.9 births per 1000 women for 15–19 year olds or 2.8 per cent of overall births in Australia.²¹³ This converts to 8,574 births to mothers aged 19 years and under out of a total of 305,377 births during 2015.²¹⁴
- Teenagers in rural and remote Australia experience young parenthood at a higher rate than their metropolitan counterparts (57 births per 1000)
- 25.7% of teenage parents identify as Aboriginal and Torres Strait Islander young people.²¹⁵
- Young parents and their children face distinct challenges:
 - When compared with older mothers, young mothers generally have low socio-economic outcomes, higher rates of reliance on welfare and less favourable life experiences.
 - Young mothers also have lower levels of education which lead to poor labour force participation and employment outcomes.
 - Teenage pregnancy is also associated with poorer health outcomes for both the young mother and child. Maternal health risk factors for young mothers include anaemia, hypertension and smoking during pregnancy.
- Sexual assault and domestic/intimate partner violence are contributing factors to the Australian teenage fertility rate.
- Not all teenage parenthood is accidental, unintended or unwanted. For many young people, parenthood can have a transformative impact, particularly in changing unhealthy behaviours and relationships.
- Jurisdictions face challenges in collecting data on the number of young parents in detention and the number of children with parents who are incarcerated.
- The Mother and Child Program at Emu Plains Correctional Facility is a successful model to support incarcerated mothers to maintain contact and keep mothers and their children together.
- Overall, there is a general lack of data to guide policy development and ensure that young parents can be best supported.

(b) Other information related to children of young parents

Mortality trends related to children of young parents

I requested data from the AIHW and the ANZCDR&PG about mortality trends relating to the children of young parents. The two most common causes of perinatal death for children from parents under 20 years of age are maternal conditions (28.7% of all deaths) and spontaneous pre-term birth (20.8% of all deaths).

Figure 3.5 provides a breakdown of the different causes of perinatal deaths.²¹⁶ Perinatal deaths include stillbirth and babies who die within 28 days of birth.²¹⁷ In 2014, the AIHW reported that children of young mothers have the highest perinatal death rate of all maternal age groups — at 14.15 per 1,000 babies.²¹⁸ This compares to 8.31 per 1,000 babies for children of older mothers (aged 30–34), who had the lowest perinatal death rate.²¹⁹ See Figure 3.6 for the different rates of perinatal deaths per maternal age group.

Figure 3.5: Perinatal death causes for children of mothers under 20 years of age in 2014 (in Victoria, Qld, SA, Tasmania, ACT, NT)²²⁰

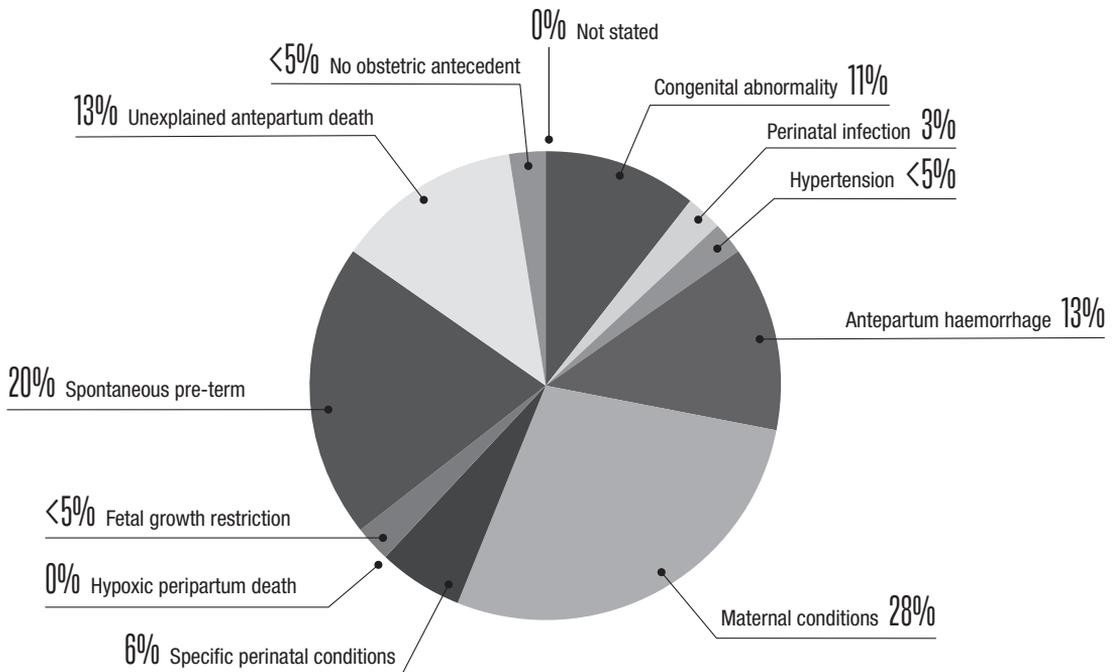
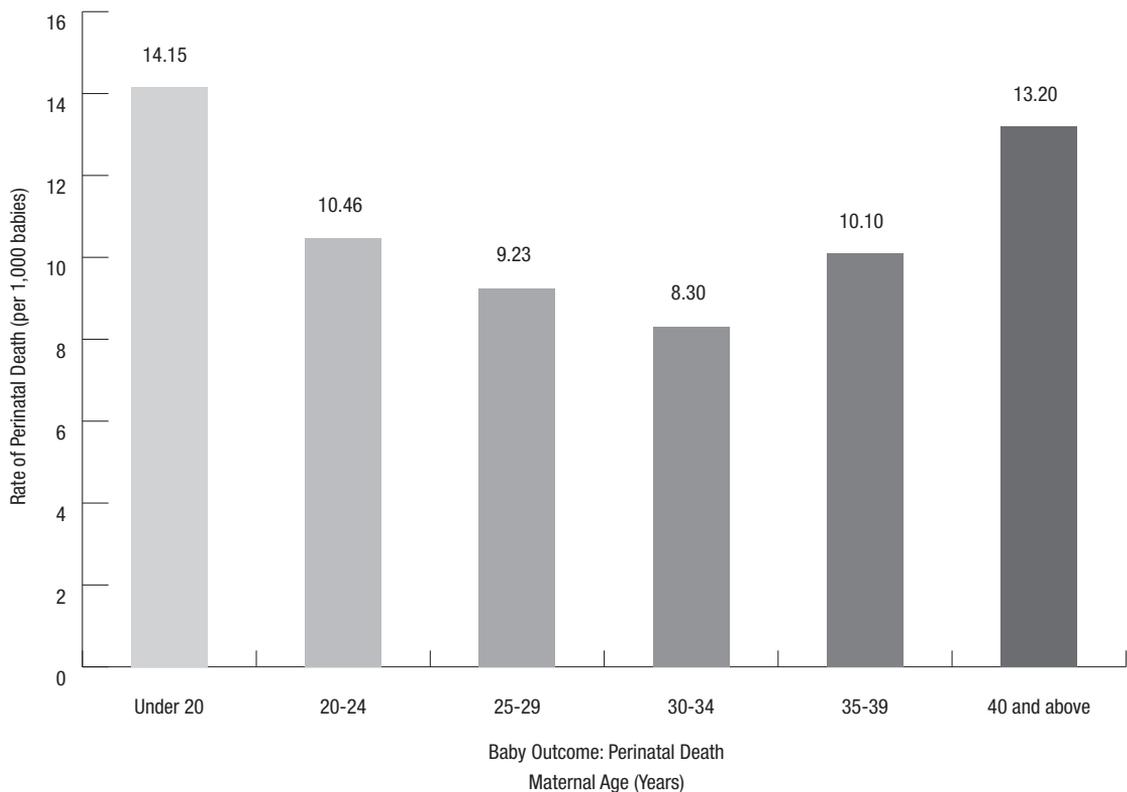


Figure 3.6: Perinatal death rates by maternal age²²¹



Data collected by the ANZCDR&PG in 2015 found that children of teenage mothers have a higher rate of sudden and unexpected death of infants (SUDI) than other mothers.²²² The rate of SUDI for children of women aged under 19 years old was 2.6 per 1,000 births.²²³ This rate is significantly higher than for children of mothers aged 19–25 years old, where the rate falls to 0.7%.²²⁴ The rate further decreases to 0.3% for mothers aged 26 years and older.²²⁵

Premature births and low birth weight

Data collected by the AIHW and the ANZCDR&PG found that babies born to young mothers (under 20 years of age) and to older mothers (over 40 years old) are more likely be pre-term (11% and 12% respectively) than babies born to mothers aged between 20 and 39 years old (8%).²²⁶ The data indicates that babies born to Aboriginal and Torres Strait Islander mothers, mothers who smoke and mothers living in remote locations are also more likely to be pre-term.²²⁷

Similarly, babies born to young mothers (under 20 years old) are more likely to have low birth weight (13%) compared to babies born to mothers aged between 20-39 years old (9%).²²⁸ Low birth weight can be a result of pre-term birth or growth restrictions in the uterus. Growth restrictions in utero increase the likelihood of foetal death and may make babies susceptible to long term health conditions later in life.²²⁹ In addition to young mothers, babies born to Aboriginal and Torres Strait Islander mothers, mothers who smoked while pregnant and mothers living in remote areas are also vulnerable to having low birth weight.²³⁰

Concerns raised with Kids Helpline about teenage pregnancy and parenthood

In response to my request, yourtown provided data from their Kids Helpline service for the period 2012–2016. The data showed that young people call the service about four common concerns:

- pregnancy
- sexual activity
- contraception
- parenting-own children.²³¹

Pregnancy concerns

The most common reason teenagers (aged 15–17 years old) called Kids Helpline, within the category of pregnancy concerns, was to seek advice about the ‘uncertainty’ of pregnancy.²³² The percentage of young people who call Kids Helpline about this has increased from 43% in 2012 to 57% in 2016.²³³ This suggests that there is a considerable need for young people to have access to education informing them of ‘the biology of pregnancy ... its causes and its detection’.²³⁴

A significant issue raised by male adolescents contacting Kids Helpline was in relation to ‘conflict over pregnancy options’.²³⁵ The frequency of this contact from young men suggests that adolescent males experience a ‘relative lack of power and agency’ in relation to making decisions about pregnancy options.²³⁶ It also suggests that adolescent males need further education on the general ‘biology of pregnancy’.²³⁷ Adolescent males are concerned about the impact of pregnancy on their partner’s health and wellbeing, and on both of their lives.²³⁸ This strongly suggests that young men would benefit from pregnancy education, especially if it is tailored to meet their concerns.²³⁹

Approximately 25% of young people who contacted Kids Helpline regarding pregnancy concerns identified as culturally or linguistically diverse (CALD).²⁴⁰ As noted by yourtown, the proportion of contacts from young people who identify as CALD has been increasing throughout 2012 to 2016.²⁴¹ In contrast, approximately 3% of contacts were from young people who identified as Aboriginal or Torres Strait Islander.²⁴²

Sexual activity

Similar to the trend in calls to Kids Helpline regarding pregnancy concerns, interest in gaining information about sexual activity increases for young people aged 13 to 16 and then drops off at age 17.²⁴³ From 2012 to 2016, Kids Helpline has received approximately 440 contacts per year for this category. All of these contacts are from young people under age 18.²⁴⁴ The rate at which CALD identifying young people contact Kids Helpline regarding sexual activity has also increased over the same period.²⁴⁵

The majority of contacts (60%) within this category are from females.²⁴⁶ This is broadly representative of the gender difference in the trend of calls to Kids Helpline generally.²⁴⁷ However, the proportion of calls from male adolescents is greater than for all other concerns — at approximately 30% as compared to 19% for other categories.²⁴⁸ This indicates the importance of providing information to male adolescents about sexual activity. It also demonstrates the need for targeted education concerning sexuality and sexual activity delivered in a safe and youth-friendly manner.²⁴⁹

From 2012 to 2016, the proportion of contacts about risky and future sexual practices declined.²⁵⁰ Concurrently there has been an increase, from 11% to 26% in contacts from young people regarding online sexual activities.²⁵¹

Overall, the fact that young people commonly contact Kids Helpline concerning sexual activity indicates the need for more education regarding sexuality and sexual activities. It also reaffirms the ongoing need for a confidential hotline where children and young people can discuss these issues safely.²⁵²

Contraception

From 2012 to 2016, there were 356 contacts from young people under age 18 about contraception.²⁵³ The number of contacts on this issue is quite small, and has remained unchanged over the previous five years.²⁵⁴ Similar to the proportion of contacts in other categories, young people aged between 13 and 17 reflected the largest number of contacts about contraception. For young people aged 10-14 years, the number of contacts has decreased.²⁵⁵

The proportion of contacts from young people who identify as CALD has increased relative to the contacts from young people of other categories.²⁵⁶ This pattern has also been observed in data collected for contacts related to pregnancy and sexual activity.²⁵⁷ This indicates the need for culturally appropriate education and access strategies targeted specifically to CALD young people.²⁵⁸

Parenting own children

The number of contacts from young people about parenting their own children is relatively small, limiting the reliability of data collection and analysis.²⁵⁹ Females significantly outnumber males when contacting Kids Helpline about this issue.²⁶⁰ Moreover, despite the small numbers, the frequency of contact over the past five years has been increasing for 17 year olds.²⁶¹

For the period 2012 to 2016, the top three sub-categories for which young people contact Kids Helpline in the broader area of 'parenting own children' are:

- practical and informational needs
- identity transformation exploration
- custody, access and family law matters.²⁶²

Findings for this category suggest that young people are reaching out for support in the areas of identity issues, emotional wellbeing and mental health.²⁶³ This knowledge may aid services in adapting interventions to the needs of young parents.²⁶⁴

Income support payment data

I asked the Department of Social Services to provide data concerning the number of young people aged 19 years old and under who are in receipt of the Parenting Payment and the Family Tax Benefit. I asked for information to include variables such as age cohort groups (under 12, 12–13, 14–15, 16–17 and 18–19), gender, postcode, Aboriginal or Torres Strait Islander status, educational status and languages spoken at home.

As at 31 March 2017 there were:

- 7,062 teenagers (aged 13–19 years) in Australia in receipt of the Parenting Payment
- 7,757 teenagers (aged 13–19 years) in Australia in receipt of the Family Tax Benefit.²⁶⁵

Table 3.1: Age breakdown of young people in receipt of the two payments²⁶⁶

Age	Total Parenting Payment	Total Family Tax Benefit
12–13 years	<5	<5
14–15 years	Not provided	Not provided
16–17 years	1,159	1,162
18–19 years	5,825	6,528
Total	7,062	7,757

Parenting Payment

Of those young people in receipt of the Parenting Payment, 32% identified as Aboriginal or Torres Strait Islander.²⁶⁷ This is consistent with the ABS data from 2015, which reported that approximately 25.7% of young mothers aged 15–19 identify as Aboriginal or Torres Strait Islander.²⁶⁸

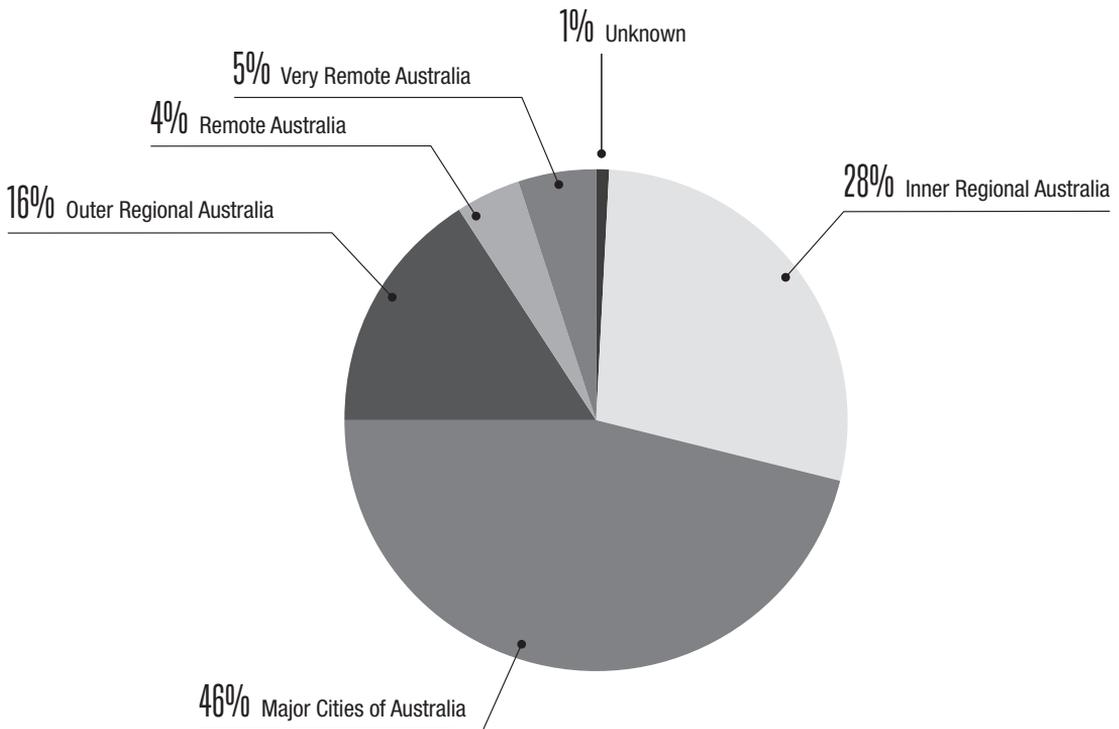
I was advised that Aboriginal or Torres Strait Islander status is not generally recorded separately in data held by the Department of Human Services.²⁶⁹ Furthermore, the identification of Aboriginal or Torres Strait Islander status is voluntary, therefore there may be a degree of underreporting on this measure.²⁷⁰

Overall, of Parenting Payment recipients aged 19 and under:

- 32% are Aboriginal or Torres Strait Islander
- 98% speak English at home
- 99% are female.

As noted in Figure 3.7, 46% of recipients live in a major city, 28% live in 'inner regional' Australia, and 25% live in 'outer regional', 'remote' or 'very remote' Australia.²⁷¹

Figure 3.7: Recipients of Parenting Payment aged 19 years and under by remoteness²⁷²



Family Tax Benefit

The demographic data of young people in receipt of the Family Tax Benefit is similar to that of the Parenting Payment:

- 30% are Aboriginal or Torres Strait Islander
- 98% speak English at home
- 99% are female.

No data was provided to enable comparison to the rate of receipt of Family Tax Benefit measured by remoteness.²⁷³

National education data

I requested data from each state and territory education department concerning young parents and pregnant young people (aged 19 years and under) who were attending primary or secondary education during the 2015/16 financial year. I received responses from WA, Victoria, NSW, Tasmania and Qld. I thank each government for its support in providing information for this investigation.

I was heartened by state and territory government responses to me that indicate they encourage public schools to support the continued education of young pregnant and/or parenting teenagers. However, no jurisdiction systematically collects data on the attendance patterns and inclusion of young parents or pregnant teenagers across their jurisdictional schooling systems.²⁷⁴ For this reason it is difficult to know how many young parents and/or pregnant teenagers are engaged in primary or secondary education nationally.

The responses I received generally indicate that schools are empowered to provide local solutions tailored to individual students' needs. Schools are not required to follow systemic processes to ensure this occurs. Schools provide support on an 'as needs' basis, aligned with a local solutions approach to the needs of their students (see Appendix 10 for a list of state and territory education policies to support young parents).

It is worth noting that two jurisdictions (Qld and Victoria) have specific policies to respond to the needs of pregnant and parenting students.²⁷⁵ However, these policies do not require schools to implement specific programs or responses.

The lack of systemic responses and proactive policies to support pregnant and parenting students in school and to facilitate their right to education is concerning. As noted in article 28 of the CRC, all children have the right to education, and States Parties have the responsibility to ensure that children have the ability to participate and access education 'on the basis of [their] capacity'.²⁷⁶

For this reason, I recommend that the Australian Government work with state and territory governments through the Council of Australian Governments' Education Council, to develop and implement specific policies and processes to address the needs of young pregnant and parenting students. I recommend that education departments systematically collect data regarding the number of young pregnant and parenting young people who are accessing education through the public school system.

Recommendation 8: The Australian Government, through the Council of Australian Governments' Education Council, should work with state and territory governments to develop systemic policies to address the needs of young pregnant and parenting students, including through specific policies and programs.

Recommendation 9: State and territory education departments should systematically collect data on the numbers of young pregnant and parenting young people who are enrolled students.

Summary

- In 2014, children of young mothers had the highest perinatal death rate of all maternal age groups.
- In 2015, children of teenage parents had a higher rate of Sudden and Unexpected Death of Infants than other parents.
- Babies born to young mothers are more likely to have low birth weight.
- Between 2012 and 2016, pregnancy-related concerns were the most commonly cited reason young people contacted Kids Helpline out of the four concerns relevant to parenting or pregnancy (pregnancy-related, sexual activity, contraception and parenting own children).
- Data from Kids Helpline indicate there is a need to provide tailored information and advice regarding contraception and the biology of pregnancy to both teenage girls and boys.
- There is no systematic collection of data on the attendance patterns and inclusion of young parents or pregnant teenagers in schooling systems across Australia. While Australian jurisdictions appear to encourage individual public schools to support the continued education of young parents, there is a lack of specific policies on delivering education to young parents across the Australian schooling system.

3.6 Submissions and roundtables

I asked for written submissions from practitioners, academics, private and non-government organisations on three key issues:

- the types of early interventions likely to decrease the risk profile and trajectory of young parents, young parents-to-be and their children
- the types of early interventions which improve their capacity for safe and effective parenting
- the types of early interventions which increase their likelihood of becoming economically secure.

When hearing about my investigation, a number of organisations and individuals approached me about making submissions. I received 69 submissions.

I also requested information from state and territory First Ministers regarding the broader programs and policies which governments support in each jurisdiction for young parents, pregnant teenagers and their children. I thank all governments for their support in assisting me during this project. A full list of government programs designed specifically for young parents, which have been shared with the me, can be found at Appendix 11.

During 2017, I held four roundtables with 61 experts in young parenthood, and child and youth development and practitioners who work with young parents. Targeted consultations were also held with some organisations and individuals.

The following themes summarise the key issues affecting young parents and their children, which were identified in submissions and roundtables.

(a) Risk factors of young parenthood

Compared with the general population, they [young parents] are more likely to come to this parenting role with a range of underlying vulnerabilities, particularly backgrounds of early trauma, disrupted care and current exposure to conflict and violence in relationships, and a poor understanding of the requirements of parenting.²⁷⁷

In their submission, Fletcher and St George note that it is important to understand the prior challenges and psychological wellbeing of young people before becoming parents.²⁷⁸ From the submissions, I identified a number of pre-pregnancy and birth risk factors for young parenthood. These include:

- **Low socio-economic disadvantage or poverty**²⁷⁹ — this is strongly associated with educational attainment. The submission from the Victorian Aboriginal Child Care Agency (VACCA), for example, suggests lifetime disadvantage as an adverse characteristic associated with young Aboriginal and Torres Strait Islander parents.²⁸⁰
- **Sexual exploitation of vulnerable young women** — especially those in out-of-home care (OOHC) or with an OOHC background.²⁸¹
- **Intergenerational cycle of teenage motherhood** — some submissions noted that daughters of adolescent mothers are more likely to become teenage mothers themselves.²⁸² Similarly, discussions in the roundtables noted that young people who became young parents often came from young parent families.²⁸³

- **Family and domestic violence** — some submissions reported that young women and girls who experience family or domestic violence or intimate partner violence are more likely to become young parents.²⁸⁴
- **Trauma from refugee experience** — the impact of trauma (from war and social unrest) and dislocation can act as a risk factor for young parenthood.²⁸⁵
- **Parental drug and alcohol abuse.**²⁸⁶

As noted by the Advocate for Children and Young People NSW, 'it is not only age but a combination of factors which leads to poorer outcomes for young parents'.²⁸⁷ The psychosocial, economic and familial challenges faced by young parents make it imperative for services to understand the 'multidimensional' nature of young parents' lives in order to improve outcomes for this vulnerable group.²⁸⁸

(b) Stigma, prejudice and discrimination

Stigma and prejudice represent a substantial impediment to young parents accessing services.²⁸⁹ Many young parents experience social stigma and feelings of shame in their interactions with schools, family members, friends, their community, agencies, the rental market and health care professionals.²⁹⁰

Young mothers with an OOHC experience are particularly vulnerable as they frequently bear a double burden of stigmatisation, both as young mothers and as a young person in care.²⁹¹ Participants attending roundtables informed me that young parents often resist asking for help because they feel they will be judged as failing parents.²⁹² Such fear of stigmatisation and discriminatory treatment discourages access to services, resulting in poor access to early intervention services, and exacerbates social isolation for vulnerable young parents.²⁹³

While many [young] mothers share hopes and aspirations for the futures of their children, they also experience high levels of social stigma, which only serves to exacerbate the more common motherhood experiences of tiredness, and being overwhelmed.²⁹⁴

[T]he stigma experienced by young mothers in general makes it difficult for them to feel that they can engage with support services, noting that they often feel judged and 'stereotyped as being irresponsible and immature, languishing on welfare payments and being ignorant and incompetent at raising children'.²⁹⁵

Submissions recommended that a 'culture of support' and a strengths-based approach should be adopted by health services rather than a 'culture of blame'.²⁹⁶ Further, discussions emphasised that reducing stigmatisation is essential to enable young parents to enjoy the parenting process and appreciate parenthood.²⁹⁷ Moreover, it was suggested that services and staff need to provide earlier support and respect for young parents' decisions to raise children, rather than consistently cast doubt on their decisions.²⁹⁸

Negative attitudes towards young motherhood can affect public health policy as well as community perceptions of young mothers.²⁹⁹ It was recommended in the submissions and roundtables that services and organisations should work to develop and foster judgement-free and supportive environments.³⁰⁰ This needs to take place in education and employment settings as well as primary points of contact for young parents, such as general practitioners, schools, early childhood organisations, Centrelink and housing services.³⁰¹ According to the Brave Foundation, adopting stigma-free attitudes towards young parents encourages engagement and retention in accessing early intervention, preventative health and sexual health services.³⁰²

Box 2: Brave parenting pathway plan (Brave Foundation)³⁰³

Brave Foundation equips expecting and parenting teenagers with resources, referral and education opportunities to enable them to develop happy, healthy and skilled families.

The Brave parenting pathways program provides a supported and planned pathway to assist expecting and parenting teenagers throughout their pregnancy and during the first two years of their baby's life.

Key features:

- **building connections:** Brave has established a directory of over 250 services to support expecting and parenting teenagers across Australia and has developed partnerships with relevant organisations to work in conjunction with this project. The program connects expecting and parenting teenagers with a range of health, education and community support practitioners and providers such as general practitioners, perinatal nurses, maternal and child health nurses, education providers and community support hubs and representatives
- **personalised support:** Throughout the young parent's journey as an expecting and parenting teenager, a nominated Brave community champion or Brave hub program manager checks in with the young parent at key pregnancy and post-natal milestones. They also ensure that appointments are attended, provide support and facilitate understanding of what is involved at each appointment or milestone.
- **continuing education:** Brave supports young parents to continue their education and connects young parents with alternative education options such as Technical and Further Education (TAFE), adult education programs, young mum specific education and distance education with socialisation. Young mothers are also supported to continue education at their existing provider, if possible.
- **Brave village hub:** The Brave village hub is a central point of activity and communication in communities to ensure that young parents have a constant point of access and support. Hubs can be virtual or pop up — eg sharing office spaces in relevant organisations. Brave village hub currently supports more than 24,000 teenagers.

(c) Child protection and family and domestic violence

A number of submissions and discussions at roundtables reported that many young parents fear child protection authorities. Because of this fear, they do not access services or seek support as they worry that child protection authorities may become involved and their children might be removed.³⁰⁴

By disengaging from services, problems faced by young parents may escalate, which could ironically result in child protection involvement.³⁰⁵ This self-perpetuating cycle of fear is repeatedly more frequent among young parents from disadvantaged communities.³⁰⁶

According to academics Mendes and Purtell, 'there is speculation and anecdotal evidence that young care leaver parents experience child protection involvement with their own children at higher rates compared with others in the general population'.³⁰⁷

Mendes and Purtell further suggest that child protection authorities have greater access to care leavers' health and personal records than those of the general population, enabling this information to be incorporated into an assessment of their parenting skills.³⁰⁸ However, it is difficult to gauge the extent to which young people who have been in care experience discrimination as a result of information accessible to child protection authorities.

Participants in roundtables said that, despite this background, young mothers with child protection or OOHC experience are often motivated to change their lives and raise their children differently to how they were raised.³⁰⁹ To reduce the risk of child protection intervention and increase engagement with young mothers (with or without an OOHC experience), submissions indicated that parenting programs and programs with embedded health care support and the ability to develop trusting relationships with teenage mothers should be provided to young parents.³¹⁰

A history of childhood physical and sexual abuse is considered a key risk factor leading to adolescent pregnancy and young parenthood.³¹¹ One study suggested that 20% of pregnant teenagers had experienced family or partner violence prior to the age of 16.³¹² Partner violence is considered commonplace for teenagers and for women during young adulthood, with some research indicating that young mothers could be at a higher risk.³¹³

While such abuse has a clear effect on maternal wellbeing, child exposure to family and partner violence may have significant social, psychological and physical effects on child development.³¹⁴ Women who were abused as children may be at more risk of maltreating their own children and more susceptible to becoming victims of intimate partner violence.³¹⁵

Skinner et al suggest that there is a need for further research in order to develop appropriate interventions to address parenting skills, substance abuse and the 'potential for partner violence and child maltreatment in young families'.³¹⁶

Young mothers with a history of childhood abuse or trauma can develop distrust of services, resulting in a reluctance to leave their children with strangers.³¹⁷ This can be exacerbated by mental health issues that may have been brought on or amplified by the birth of their child and can also lead to greater social isolation and increased depression, anxiety and low self-esteem.³¹⁸

Multicultural Youth South Australia (MYSA) described the high rates of adolescent pregnancy in young parents from refugee backgrounds.³¹⁹ The majority of these pregnancies were recorded as unplanned and as occurring outside of stable relationships.³²⁰ MYSA suggest that some of these pregnancies occur in the context of intimate partner violence (IPV).³²¹

MYSA reported that refugee adolescent mothers and girls in contact with their service have increasingly experienced IPV.³²² As noted by other submissions and raised at roundtables, refugee teenagers who experience IPV fear they will lose their child to child protection authorities due to the existence of domestic violence within the family.³²³ For this reason, young mothers with this background are often unwilling to access health care services or seek support.³²⁴

According to MYSA:

Without exception, every young mother who participated in the research had her children removed for no other reason than remaining in a violent relationship... Most of the young mothers received no support for the abuse and their children were removed without them understanding the process or implications.³²⁵

MYSA recommended that a multi-dimensional approach is needed to provide support for young mothers experiencing IPV or domestic violence.³²⁶ They suggested that this approach could include education intervention for minors and young perpetrators with a focus on understanding the multifaceted nature of IPV including its causes and effects, an awareness of Australian laws and safety planning.

For young perpetrators, anger management support and education on maintaining healthy relationships were recommended.³²⁷ In addition, MYSA advocated that community awareness should be raised and mainstream services should be developed to respond directly to the needs of young people.³²⁸

Another policy issue raised in MYSA's submission is that the National Plan to Reduce Violence against Women and their Children (2010–2022) does not consider minors as clients — only as children of those mothers experiencing domestic violence.³²⁹ According to MYSA:

At the program level, IPV support for minors is currently non-existent. They cannot access [domestic violence] DV services established for the general population or multi-cultural communities until they reach 18 years of age. This is despite the fact that the legal age of consent for sexual intercourse is 17 years of age. This service gap places young women and their children at considerable risk as they are unable to access supports.³³⁰

(d) Access to early childhood education and care services

Neither education nor employment is a possibility for most young parents without access to quality affordable child care.³³¹

In submissions to my project, the inability to access affordable 'quality' early childhood education and care is cited as the most significant deterrent for young mothers returning to education.³³² For example, Uniting Communities note that limited access to these services due to financial and other vulnerabilities impact on young mothers' ability to engage in education, training and employment opportunities.³³³

The Association for Women Educators also notes that 'by the time they have completed schooling, their [young parents'] childcare allocation is used up'.³³⁴ Similarly, participants in the roundtable discussions pointed out that challenges arise because young mothers can only get early childhood education and care benefits for two years yet some basic university courses are four years.³³⁵ Other participants mentioned that the high cost of early childhood education and care creates a deterrent to remaining in employment or returning to work.

Young parents consistently say they cannot obtain child care relief when they urgently need respite, nor to allow them to take up opportunities for future study and/or employment.³³⁶

Further, roundtable discussions indicated that under the new child care policy (to be introduced in 2018), young parents are likely to be worse off.³³⁷ This is because the hours available to parents to access subsidised early childhood education and care has been reduced from 24 to 12 hours per week. Parents will also be required to undergo more onerous activity tests which may inadvertently hinder vulnerable families from accessing early childhood education and care services, particularly for those parents in insecure or unpredictable work.³³⁸

Some submissions and roundtable discussions recommended the provision of affordable early childhood education and care services located on the site of educational or training institutions so that young mothers can have close contact with their child and early childhood education and care providers.³³⁹ Some argued that young parents are an obvious cohort that should have free access to early childhood education and care.³⁴⁰

Further, participants in discussions also called for what they referred to as ‘integrated child care’ – a wrap-around model that allows young people to be close to their children by learning, volunteering, working or engaging in other activities in the same premises.³⁴¹ Some agencies in the roundtable discussions advised me that they provide education and care services to young mothers on-site while they attend the school next door or undertake flexible learning online.³⁴²

CCCare in Canberra is one example of this model of educational support with built-in early childhood education and care services (see Box 3). In the roundtable discussions, Diversitat Youth also advised me of their program allowing young parents to bring their children with them every day as they participate in a Year 10 equivalent.³⁴³ For example, in one subject the young parents set up a play group with children and together they learned how to budget. Roundtable participants agreed that providing early childhood education and care at study spaces would make further education more attractive to young parents.³⁴⁴

In their submission, Winkworth and McArthur also emphasised the need for subsidised and/or affordable and accessible early childhood education and care services to facilitate engagement in educational or income generating activities by young parents.³⁴⁵ Another area of need discussed by roundtable participants was early childhood education and care support on weekends.³⁴⁶ One suggestion was that the inclusion of nanny support in early childhood education and care provisions for young mothers would be a helpful option.³⁴⁷ Another suggestion was that educational facilities/providers should consult with teen parents to find out what works for them.³⁴⁸

Box 3: CCCares @ Canberra College Program³⁴⁹

CCCares @ Canberra College is a holistic health, welfare and educational program that supports pregnant and parenting young people. It is an independent program operating within Canberra College, a public school for Year 11 and 12 students.

CCCares provides a flexible learning environment for the delivery of education programs including ACT Year 12 Certificate and certified competency based training.

The *CCCares* program is specifically tailored for pregnant and parenting students from the ACT and surrounding regions aged from the early teens to late twenties. The program is supported by the ACT Government.

Key features:

- **Early Childhood Education and Care:** babies and children are welcome in the *CCCares* environment and young parents are provided with on-site education and care for this purpose.
- **Community and Health Partnerships:** The program has a holistic health service provision partnership with ACT Health and has relationships with external agencies to provide young people with advocacy and support.
- **Transportation Support:** *CCCares* offers transportation to students and their children from home to school and return every school day.
- **Training Opportunities:** The program has partnerships with external registered training organisations, employment agencies and various other government and non-government agencies in order to assist students to plan training pathways and career development opportunities. The combination of learning and training enables students to learn and be assessed at their own pace.
- **Access:** *CCCares* provides students with industry specific courses during the day and on the site of *CCCares*.
- **Costs:** *CCCares* covers all course costs.

(e) Health, sexual health and contraception education

Programs that provide combined sexual health education and access to contraception are generally considered to be the most effective at reducing adolescent pregnancies.³⁵⁰ Combining sexual health education and access to contraception results in a reduction in risky sexual behaviours through the use of effective contraception and fewer sexual partners.³⁵¹ Submissions also recommended that programs combine relationship and sexual health education and that emphasis should be on teaching young people about personal responsibility and developing self-esteem and self-confidence.³⁵² However, submissions also recognised that disrupted school attendance for some young people meant that such educational programs were missed.³⁵³

According to yourtown, the greatest demand for sexual health and contraception education was from young people aged 15 to 17.³⁵⁴ yourtown noted that young people want information about safe sex practices, the probability of pregnancy and to understand the biology of reproduction and puberty.³⁵⁵

Submissions recommended that sexual health programs should offer information relating to contraception, pap smears, pregnancy testing, antenatal and post-natal care.³⁵⁶ Conflict resolution and negotiating consensual relationships was another educational area of identified need, stemming primarily from young women's concern about feeling pressured to have sex.³⁵⁷ For young people in OOHC, peer pressure was a significant factor in earlier engagement in sexual activity.³⁵⁸

Mendes and Purtell noted that adolescents in OOHC often miss sexual health and contraception education at school and without a family support system around them, they continue to lack knowledge about these issues.³⁵⁹ Young people in such care are vulnerable to sexual exploitation and abuse (from both adults and other children) and this vulnerability is exacerbated by limited sexual health knowledge.³⁶⁰ Because of these factors, pregnancy prevention and healthy relationships education is crucial for young people in OOHC.³⁶¹

The need for young people to know more about, and have access to, contraception was a consistent theme in roundtable discussions and in submissions.³⁶² Limited knowledge about contraception was highlighted as a particular issue for Aboriginal and Torres Strait Islander young people.³⁶³ The need for education on pregnancy, including post-natal depression, has also been raised with me by the Aboriginal and Torres Strait Islander Social Justice Commissioner, June Oscar. Commissioner Oscar advised that pregnant teenagers and young mothers need to have a support system around them to teach them about the changes in a woman's body during pregnancy, and to learn how to adapt and respond to those changes safely.³⁶⁴

The roundtables also highlighted that, even when young women had knowledge of contraception, they faced further obstacles, such as the cost of contraception and knowing where to obtain it.³⁶⁵ Further, many young women, in particular those in regional areas, do not have access to abortion services.³⁶⁶ Participants noted that many young people did not feel comfortable using mainstream services to access contraception as these were often not youth-friendly.³⁶⁷

In submissions and in discussions at roundtables, experts suggested that health promotion activities could be directed to encourage young women to use Long Acting Reversible Contraception (LARC) such as inter-uterine devices and hormonal implants (for example, Implanon).³⁶⁸ Australia, compared internationally, has relatively low use of this method of contraception.³⁶⁹ According to the Family Planning Alliance Australia, LARCs are one of the most effective forms of contraception at 99% efficacy.³⁷⁰ Difficulties in accessing this method of contraception include a lack of knowledge of the contraceptive among young people, general practitioners, nurses and midwives.³⁷¹ However, it is also worth noting that research in Australia and New Zealand has found that contraceptive implants, such as Implanon, have side effects such as bruising, bleeding, mood changes, dymenorhoea and weight gain.³⁷² At the time of writing, the impact of such side effects on girls under 16 is unknown and as such, is not available on the Pharmaceutical Benefits Scheme for girls under 16.

Rapid repeat pregnancies were also highlighted as a specific risk to young parents.³⁷³ As a result, a number of submissions recommended that young parents be offered LARCs upon the birth of their child in order to support spacing between pregnancies together with other supports such as outreach and home visiting services.³⁷⁴ Further, free contraception was widely supported as another way to reduce the teenage fertility rate.³⁷⁵

Access to abortion services was highlighted as a challenge for young parents in submissions and at roundtables.³⁷⁶ Participants noted that many young people did not feel comfortable accessing mainstream services for abortion advice and services, as these services were not youth friendly.³⁷⁷

(f) Transport and driver's licences

Transport is fundamental to young parents' access to services and support. Without a reliable form of transport, young parents face very practical challenges in being able to go to work, attend school or other education settings and access health and care services.³⁷⁸

A number of submissions recognised that an inability to gain a driver's licence or access other transport meant a young parent could not attend work. The financial limitations of not working meant they were unable to afford the cost of housing, health care or other basic services.³⁷⁹

At the roundtables, the Healing Foundation also raised concerns that for young fathers, not having a driver's licence was a significant barrier to employment and financial stability.³⁸⁰ The consequences of this included being financially unable to support their family, which could also contribute to relationship breakdowns.³⁸¹

Transport challenges faced by young parents include:

- expensive bus fares
- poor treatment by bus drivers
- narrow and poorly maintained footpaths preventing pram access
- the cost of petrol
- gaining a driver's licence and completing the number of required supervised driving hours without a car or someone to supervise.³⁸²

Submissions pointed out that, due to the many difficulties in using these services, public transport was an unreliable means of accessing early childhood education and care services.³⁸³

[P]articipants identified ... that not holding a driver's licence was a significant barrier in obtaining their individual vocational goals ... accessibility to services is [also] a challenge for many young parents and a driver's licence would assist them to access key services.³⁸⁴

In submissions and roundtables, it was recommended that programs should support young parents to gain their driver's licence or provide alternative transport to enable access to services, early childhood education and care services or employment.³⁸⁵

One example discussed at roundtables was the *Geared2Drive* program through Helping Young People Achieve (HYPA). This program, based in SA, provides free driving lessons for young people with volunteers supervising drivers. Through driving lessons, volunteers are also able to build rapport and trust with young people and provide feedback to the organisation about where referrals and further support are required.³⁸⁶

Box 4: Geared2Drive – Helping Young People Achieve (HYPA), SA³⁸⁷

Geared2Drive is a driver's licence program initiated by HYPA to support young people, aged 16–25 years, to become licensed drivers. The program was introduced in SA where state legislation requires learner drivers to undertake 75 hours of supervised driving with a licensed adult, before sitting their provisional driver's licence test.

HYPA identified that not all young people have access to a licensed adult with whom they can complete their supervised driving hours. This is a significant barrier for many young people in being able to gain their driver's licence.

Geared2Drive provides cars and volunteer supervising drivers to overcome this barrier and give more young people the opportunity to eventually become fully licensed drivers.

(g) Education, employment and economic security

Education is critical for breaking the cycle of poverty and welfare dependency and to increase the chances of new young parents becoming economically secure.³⁸⁸ In particular, education is a pathway to improved employment opportunities and outcomes. According to the submission by National Aboriginal Community Controlled Health Organisation (NACCHO), 'educational attainment is a pre-requisite for improving health outcomes, increasing the likelihood of economic security and breaking the cycle of disadvantage'.³⁸⁹ They further note:

Educational attainment is key to decreasing the risk profile and enhancing the trajectory of young parents and their children, improving the capacity of young people to safely and effectively parent, and increasing the likelihood of such young people to become economically secure.³⁹⁰

Similarly, in the roundtable discussions, I was informed that education is the main way to solve long term welfare dependency.³⁹¹

There are complexities around young parents' engagement with education. For example, young mothers are likely to leave school early. Yet, at the same time, early school leavers have a greater likelihood of becoming young parents.³⁹² As was stated by Ipswich State High School, 'low rates of school completion are associated with the very limited support available to pregnant young women to complete their education'.³⁹³

In the roundtables, there was emphasis on the barriers that young parents, especially young mothers, face to remaining in mainstream schooling.³⁹⁴ Some participants advised me that, even when schools implement an education policy to support pregnancy and parenting, it may be unrealistic to get parenting students back into the mainstream classroom.³⁹⁵ In the roundtable discussions, Professor Daryl Higgins noted that young parents have many 'competing drivers' (including but not limited to parenting, education and employment) that make it hard for them to fit into the mainstream education environment.³⁹⁶

NACCHO noted that mothers' education is 'directly linked to child health outcomes and is probably the single most important determinant of population health outcomes'.³⁹⁷ In the roundtable discussions, participants acknowledged the importance of re-engaging women in the education system, especially to prevent the education gap from deepening — over time and through the generations.³⁹⁸

NACCHO also emphasised the need to strengthen adult literacy programs that can educate young mothers as well as appropriate early childhood programs that can support the long term development of children.³⁹⁹

Some submissions pointed to the desirability for inbuilt flexibility within schools and educational institutions to accommodate the needs of pregnant and parenting young people.⁴⁰⁰ Young parents are far less likely than their peers to complete secondary education or to engage in post-school education and training without interventions that meets their specific needs as new parents.⁴⁰¹

Programs such as the Young Families Connect (YFC) — a collaboration between Mission Australia Communities for Children, Inala to Ipswich and Ipswich State High School — that aim to 'remove barriers to learning for pregnant and parenting young women' are examples of the kinds of flexibility needed to promote young parents' education.⁴⁰² The YFC Program, for example:

supports young parents through both academic and parenting education and facilitates re-engagement into education by targeting the support needs of young families, addressing social inclusion and reducing isolation of disadvantaged families.⁴⁰³

Another important issue related to the education of young parents (especially young mothers), raised by the Association of Women Educators, is that of cancelled enrolments.⁴⁰⁴ They advised me that it is not uncommon for young mothers to have their school enrolments cancelled without recourse to departmental procedures.⁴⁰⁵ This is because young women and their families are often unaware of their rights.

Reasons given for enrolment cancellation can be ambiguous, such as saying the parenting student is 'not suitable'.⁴⁰⁶ As the Association of Women Educators note:

Young mothers are likely to experience discrimination in relation to the resumption or completion of basic education. This is often due to young mothers having disengaged from education prior to school completion, or having had poor outcomes from schooling, often linked to existing disadvantage.⁴⁰⁷

Box 5: Supporting Teenagers with Education, Mothering and Mentoring (STEMM)⁴⁰⁸

STEMM, established in 2008 and based on the Sunshine Coast, is an innovative, wrap-around service model which re-engages pregnant girls and young mothers with education in a safe and non-judgemental environment.

Pregnant students from 12 weeks of pregnancy and young mothers under 24 years old can enrol at STEMM. Each young mum will be given the opportunity to develop life skills, parenting skills, healthy relationship skills and pre- and post-birthing knowledge, as well as vocational education and tertiary pathways programs.

Key features:

- on-site child care (up to age 4)
- flexible education delivery
- community partnerships to provide young parents with wrap-around services as well as educational opportunities
- transport to attend the program
- an emphasis on developing respectful relationships with young mothers through a non-judgmental and supportive approach.

Outcomes:

- no babies of participating mothers permanently placed in OOHC since 2008
- a significant increase in the participation rate of pregnant or parenting students in education
- of 140 young women tracked since leaving STEMM, 51% are working and 34% are studying in tertiary institutions
- from STEMM graduations in 2016–17, five young mothers finished tertiary education and have progressed into employment in the education, health and community services sectors. Further, four young mothers have graduated from a certificate course and have also gained employment. Based on these nine young mothers, STEMM has reported that the program has saved the government in excess of \$4 million in welfare support.

ParentsNext, a national pre-employment program, funded nationally by the Department of Employment, is another example of a program which supports disadvantaged parents to re-engage with education and seek employment pathways (see Box 6).

In 2018, this program will be further expanded to additional locations and specific streams targeted to engage Aboriginal and Torres Strait Islander parents as well as those most disadvantaged parents. At the time of writing, this program does not cater specifically for the needs of young parents, noting also that the most vulnerable young parents live in rural or remote areas of Australia.

Recommendation 10: The Australian Government should develop a specific ParentsNext stream for young parents, in particular for those living in rural or remote Australia.

Box 6: ParentsNext, Department of Employment

ParentsNext is a pre-employment program that provides early intervention assistance to parents with young children. Providers assist parents to identify their education and employment goals and refer parents to local activities and service providers to assist them in achieving goals. In essence, the program is an engagement and referral program.

Since April 2016, ParentsNext has operated in ten locations across Australia. In July 2018, the program will be expanded to operate in all non-remote areas across Australia for people in receipt of the Parenting Payment. The national expansion of ParentsNext will consist of two distinct program streams (i) an intensive stream delivered in 30 locations focused on supporting Aboriginal and Torres Strait Islander parents to prepare for employment; and (ii) another stream focused on assisting the most disadvantaged parents in all 51 employment regions.

Eligibility criteria differ for each stream.

Key features:

- **Tailored assistance** to develop a participation plan that identifies parents' employment and education goals
- **Regular contact** with providers to build rapport and determine individual work goals and family responsibilities
- **Connecting parents** with services in the local community — including child care providers.

(h) Housing

Several of the submissions cited the need for stable and secure housing as a core issue for young parents.⁴¹⁰ As noted by the Department of Family and Community Services (FaCS) in NSW, 'teenage parenting often coincides with temporary, unsafe and unhygienic housing due to lack of affordability'.⁴¹¹ Karinya Young Women's Service (KYWS) specifically cited 'access to suitable properties and security of tenure' as central to addressing other issues and challenges that young parents often face (such as drug and/or alcohol misuse, family and domestic violence and family breakdown).⁴¹² They further note that:

Without the stability of accommodation the young parent is restricted in addressing any other needs and it is fundamental to their future development and that of their child/children. It has been identified that once accommodation is in place then other issues, concerns or requirements can be addressed.⁴¹³

Access to housing was also raised as a significant issue in the roundtables. Participants advised that young people with children tend to go into the social housing system and find themselves living in areas which are often socially and economically disadvantaged. This may contribute to long term poverty, food stress and an inability to move to another neighbourhood.⁴¹⁴

The Advocate for Children and Young People (ACYP) NSW's submission notes that some of the barriers to housing for young parents include: the high cost of rent coupled with low income and unstable employment; poor or no rental history; lack of experience navigating the rental market; and reported discrimination from real estate agents.⁴¹⁵ However, this submission reported that where young parents have case workers advocating on their behalf for housing, they are more likely to be successful.⁴¹⁶

In the roundtable discussions, participants advised that for services to be successful in supporting young people to acquire rental properties, relationships need to be built with local rental agencies.⁴¹⁷ Some agencies told me about their success in obtaining private rental properties for their clients through developing strong relationships with local real estate agents. Zoe Support was one of these, reporting that 30% of young mothers utilising their services are now in private rental rather than public housing.⁴¹⁸

Consequently, when young parents (especially young women) have difficulties accessing stable housing, often without support from their partners or family and friends, they are at a higher risk of homelessness. As Kuskoff points out, young parents constitute an increasingly large proportion of young people (12–24 years) experiencing homelessness.⁴¹⁹ Further, approximately 10,000 young parents (15–24 years) require support from specialist homelessness services each year.⁴²⁰

Homelessness and housing instability can lead to unsafe environments for infants and children and consequent Child Protection involvement including removal of children.⁴²¹

Some participants at the roundtables advised me that for young parents in the OOHC system, there is often nowhere for young mothers and their babies to go while they are still officially in care, as it is difficult to find foster carers who will take both the young parent and their child.⁴²²

I was also advised that in some states, young mothers are not able to remain in OOHC residential services if they have a baby. Consequently, VACCA advocates for access to safe, secure and affordable housing as a critical factor in providing effective services to young parents with vulnerable children.⁴²³ Similarly, in the roundtables some participants suggested refocusing a proportion of homeless refuges to house young parents only, arguing that this would yield positive results.⁴²⁴

Homeless young parents tend to experience multiple social disadvantages such as: financial instability; lower educational attainment; poor training and employment opportunities and outcomes; poor physical and mental health; social isolation, and lack of independent living skills.⁴²⁵ It seems there are few programs for homeless young couples and there is insufficient emergency and ongoing housing support for young parents.

As SYC Limited argued, stable housing can enable young couples to stay together.⁴²⁶ Programs such as SYC Limited Adelaide's HYPA Housing program are aimed at breaking down the 'barriers that lock young people out of the private rental market', providing a safe and secure environment that strengthens young people's rental experiences, including equipping them with the skills necessary to maintain a successful tenancy.⁴²⁷

Kuskoff also notes that, due to the various disadvantages often faced by young homeless parents, 'it is important for support services to have the ability to address multiple issues at once in order to better help vulnerable youth [to] make a sustainable transition out of homelessness'.⁴²⁸

There should be consideration of housing and services access models that provide support for young parents across multiple areas of need, and in particular, provide incentives for ongoing education. The Education First Youth Foyers program in Victoria, funded by the Victorian Government, is an example of an integrated approach to supporting young people who cannot live at home to access education.

Box 7: Karinya Young Mums 'n' Bubs Program⁴²⁹

Karinya Young Women's Service has provided short term crisis accommodation to young women, aged between 13 and 20 years old since 1979. The organisation services the Launceston and greater northern region of Tasmania.

As a separate program, the Karinya Young Mums 'n' Bubs (KYM) program is an early intervention service for pregnant teenagers and young parents aged between 15 and 19 years old. KYM provides accommodation and intensive case management to these young parents. The program prioritises its services for those most vulnerable, such as those young parents who are homeless, at risk of homelessness or with limited family support.

The Karinya Young Mums 'n' Bubs (KYM) program was established in 2012.

Key features:

KYM aims to re-direct young parents and their children from the welfare and child protection systems by achieving three key objectives:

- healthy, skilled, connected and confident young-parent families
- healthy nurtured babies of young mothers
- healthy young parents pursuing the development of their personal potential as productive, socially and economically engaged adults.

Outcomes:

An independent evaluation assessing outcomes generated by KYM from 1 September 2015 to 31 August 2016 found that KYM:

- KYM provides a unique service due to the programs ability to provide continuity of attentive, holistic and family/person-centred care
- KYM effectively engages with other community services to support young parents
- the \$165,600 invested in KYM over a 12 month period (both grant income and in-kind support) is estimated to generate \$470,620 in real economic value for the Tasmanian Government over five years
- key areas of cost savings identified by evaluators included:
 - decreased engagement with child protection, resulting in reduced costs for OOHHC
 - reduced level of engagement in the justice system due to increased housing stability
 - reduced health service engagement as a result of improved health, due to stable housing
 - increase in GST revenue from parental income and expenditure — a result of improved education and employability of young parents
 - reduced education support expenditure by raising healthier and more engaged children.

(i) Cultural safety

Some of the submissions I received advocated positioning cultural safety as a significant issue in the provision of services targeted for young parents. For example, the submission by the Parenting Research Centre and Murdoch Children’s Research Institute argues that there needs to be recognition that ‘young parents, especially those from culturally and linguistically diverse backgrounds, may have unique ways of expressing parenting qualities such as nurturance, warmth, sensitivity, responsiveness and flexibility’.⁴³⁰

The process of cultural transition and resettlement brings with it additional difficulties including missing family and friends left behind; homesickness; difficulty understanding Australian culture and systems; school adjustment problems, often in a context of disrupted education; few friends, lack of peer acceptance, lack of a supportive network, and low social participation.⁴³¹

In relation to Aboriginal and Torres Strait Islander young parents, NACCHO advocated for the ‘priorit[ation] and support of Aboriginal Community Controlled Health Services as the preferred providers of primary health care services to Aboriginal young people and their children’.⁴³² The main contention was that community-based and controlled services are more likely to provide culturally safe and appropriate services and are therefore more likely to succeed in promoting the health, wellbeing and social and economic independence of Aboriginal and Torres Strait Islander young parents.⁴³³

Furthermore, in the roundtable discussions, the Healing Foundation, which provides services in rural and remote Australia, argued that there needs to be consideration of the culturally appropriate nature of education.⁴³⁴ They also advised that in rural and remote areas, discussions about young parenting still do not take into account or prioritise the cultural contexts of how people parent.⁴³⁵

The submission from yourtown noted an increase in the number of young parents from CALD backgrounds ‘contacting the service about pregnancy concerns’ (about 25% of all young people who contacted the helpline for this purpose).⁴³⁶

Some of the roundtable discussions affirmed the importance of addressing the issue of cultural safety in services. Participants pointed out that, for young people from refugee backgrounds, there is often a clash with mainstream parenting beliefs and practices related to divergent cultural values.⁴³⁷

Professor Kerry Arabena, from the Melbourne School of Population and Global Health, suggested that young Aboriginal and Torres Strait Islander women and men should be supported by members of a therapeutic cultural workforce. This would include the help of a multidisciplinary team of trusted professionals from pre-conception to the first two thousand days of a newborn’s life. This support should intensify at key transition points such as at first knowledge of pregnancy, imminent birth, birth and six weeks after birth. The team should be able to shift their focus of support as needed, from health needs of mum and baby, to addressing family violence, and building the skills and capacities of parents.⁴³⁸

Given that culture is a fundamental protective factor for Aboriginal and Torres Strait Islander families, the concept of a therapeutic cultural workforce captures the notion that everyone in the extended family group has a responsibility for the new baby that is derived by the kinship relationships that come from culture.⁴³⁹

Box 8: Ngala Nanga Mai pARenT Group⁴⁴⁰

The Ngala Nanga Mai (We Dream) pARenT Group Program (NNM) is a participatory arts based community health program for parents of Aboriginal children. The program is operated by the Sydney Children’s Hospital and is delivered at the La Perouse Aboriginal Community Health Centre.

NNM is a multi-award winning program established in 2009 to improve the health and wellbeing of Aboriginal children and their parents as well as address parental social isolation. The program adopts a strengths-based, empowerment and community development approach to health literacy and wellbeing.

Key features:

- weekly art sessions
- health education
- connection with tutoring and TAFE enrolment and employment opportunities
- opportunities to exhibit artwork and participate in cultural events
- childcare support and transport to and from sessions
- outreach services including an Aboriginal health worker, early childhood nurse, social worker and paediatric doctors. Young parents are also connected with community-based midwifery services.

Outcomes:

In 2011 and 2012, a quantitative and qualitative evaluation of the health, education and empowerment outcomes of NNM found that parent participation in the program led to:

- improved access to paediatric health care services and, as a result, an increase in early detection of treatable childhood diseases
- support for parents in accessing education and employment opportunities
- a notable increase in individual empowerment and social connectedness
- improvement in maternal and child wellbeing and parenting confidence.

The co-location of the program within the community health centre enabled workers to engage in health promotion and prevention activities with the young parents and their children.

(j) Young fathers

[O]ne valuable contribution to the domain could be a deeper consideration of the role of fathers in young parenthood. Considering adolescent motherhood, the fathers of these children may be adolescent themselves ...⁴⁴¹

Submissions received, as well as roundtable discussions, consistently highlighted that research, policies and programs to support teenage pregnancy mostly exclude young fathers, and that their inclusion is critical for the longer term involvement of young parents with services.⁴⁴²

According to the Association of Women Educators, any 'comprehensive strategy to promote positive outcomes for young parents and their children' needs to take into account of the social, emotional and educational needs of young fathers.⁴⁴³

Fletcher and StGeorge from the University of Newcastle have suggested three approaches which acknowledge and have the potential to improve the social, educational and health outcomes of families. These include addressing:

- the psychosocial wellbeing of young people in the period prior to conception
- parenting interventions to biological and social fathers as well as mothers
- the particular strengths and needs of young Aboriginal fathers.⁴⁴⁴

Similar to the predictors of teenage pregnancy for young women, the indicators of teen fatherhood include multiple factors such as ‘parental separation/divorce in early childhood, exposure to family violence in early childhood, and illicit drug use (ever or in pregnancy)’.⁴⁴⁵ Indeed, teenage fathers’ lives are characterised by a mixture of ‘harsh realities’, which may include pre-existing disability, drug and alcohol use, depression and prior OOHC experience.⁴⁴⁶

At roundtables, I was advised that programs supporting young fathers to share their stories and learn to understand their paternal role, while rare, were very helpful and supportive to teenage parents.⁴⁴⁷ For Aboriginal and Torres Strait Islander young fathers, VACCA recommended that ‘direct support’ should be provided to young fathers at the individual, family and community level.⁴⁴⁸ VACCA additionally advocated that programs should be inclusive of young fathers, as long as the safety of the mother and child is not compromised.⁴⁴⁹

Fletcher and StGeorge observed that ‘father-inclusive practice[s]’ have not improved over the past 20 years.⁴⁵⁰ They argue that the lack of foresight in including fathers wastes resources and can have a destabilising influence on relationships as mothers develop greater parenting knowledge and skills.⁴⁵¹ Reinforcing discussions at roundtables, Fletcher and StGeorge stated that fathers experience poor professional support irrespective of age, race or class but that teenage fathers require specialised services, just like teenage mothers.⁴⁵²

Research and engagement has found that fathers seem to be more likely to use web-based information services than mothers, suggesting that investment should be made to develop dedicated web-based programs to effectively engage young fathers.⁴⁵³

The *Aboriginal Fathers Stayin’ on Track* and *SMS4dads* program (see Box 9) are examples of an innovative approach to engage young Aboriginal fathers. These two tools enable young dads to connect with each other, receive practical information and feel that they are not alone in their fatherhood journey. The use of technology and social media to engage with hard to reach clients – including young mums – was also recommended by Winkworth and McArthur.⁴⁵⁴

Box 9: Aboriginal Fathers Stayin’ on Track and SMS4dads⁴⁵⁵

Stayin’ on Track is an online resource developed by young Aboriginal fathers about Aboriginal men and fatherhood. The website features stories from other young Aboriginal fathers and links to online services.

Another project is *SMS4dads* which enables young fathers to opt-in, either before or after the birth of their baby, to receive text messages that provide information and support to new fathers before and after the birth.

Together, the two programs enable young dads to connect with each other, receive practical information and feel that they are not alone in their fatherhood journey. A key part of the program also involves Aboriginal Mentoring through the ‘Mood Tracker’ and ‘Dad Tracker’ applications that are built into the program. This part of the program enables mentors and support services to check in with fathers and connect with them if required.

The program partners included the University of Newcastle, Microsoft and the Young and Well Cooperative Research Centre.

(k) Lost in transition: Service disconnection

A particular concern raised in the roundtable consultations is a phenomenon that some participants framed as being ‘lost in transition’, referring to the service disconnect when a young parent leaves a service.⁴⁵⁶

Discussions highlighted the lack of follow up with young parents after they leave services, complete programs or no longer meet the criteria required to continue to attend the service.⁴⁵⁷ Based on my investigation, there seems to be limited knowledge of the long term impacts of programs on young parents’ transition when they leave services, due to loss of contact.

A consistent message is that younger mothers have aspirations, hopes and dreams for being the best parent they can be; for higher education; and for meaningful employment. However hopes and dreams are increasingly out of reach for many as primary systems of care (such as income support, health, education, and employment) become too difficult to navigate and do not work together to leverage opportunities for this vulnerable group.⁴⁵⁸

Summary

- Limited or poor access to affordable and quality early childhood education and care services is a significant impediment to sustained educational and employment participation by young parents.
- Experiences or perceptions of discrimination, stigma and prejudice by young parents as well as fear of child protection authorities, including risk of removal of their children, present significant hurdles to their use of various services.
- Programs that combine sexual health education and access to contraception are most effective at reducing adolescent pregnancy, and can result in reduced risky sexual behaviour in young people.
- Young parents face various challenges relating to transportation. These include:
 - difficulties gaining a driver’s licence
 - completing the number of required supervised driving hours
 - access to a car or someone to supervise
 - expensive bus fares
 - poor treatment by bus drivers
 - the cost of petrol.
- Young parents have poorer educational outcomes than their counterparts.
- Secure housing is a core need for young parents.
- Culturally safe programs and services for young parents and their children are more likely to succeed in promoting their health, wellbeing and socio-economic independence.
- Currently, research, policies and programs to support teenage pregnancy mostly exclude young fathers. The inclusion of young fathers is critical for the longer term involvement of young parents with services.



A selection of photos from young parent consultations held throughout Australia in 2017

3.7 What young parents said

(a) Who we spoke with

For this project, I consulted directly with 77 young parents in workshops and individual interviews conducted in NSW, NT, ACT, Qld, Victoria and SA between March and October 2017. The consultations were facilitated by a range of service providers.⁴⁵⁹

Separate to this, 89 young parents or expecting parents from across the country completed surveys, again facilitated by service providers working with the young parents. The questions in the survey were largely based on a previous semi-structured interview and focus group process conducted by the Institute of Child Protection Studies (ICPS) at the Australian Catholic University in 2010, on the experiences and aspirations of young mothers.⁴⁶⁰

I wish to sincerely thank all the young people who participated in the consultations and surveys, and the services who helped facilitate their participation.

Consultations

Of the 77 young parents who participated in workshops and individual consultations, three were currently in juvenile detention facilities and seven mothers were in an adult custodial setting. Fifteen of these young parents were participating in the joint CREATE Foundation and National Children's Commissioner consultations for the development of the Third Action Plan of the National Framework for Protecting Australia's Children (see Chapter 1). Nine of the participants were young fathers. The ages of participants ranged from 15 to 43. This consisted of young parents under 19 as well as some people who were older but who had a child at a young age.

Of the 52 young people under 25 (at the time their first child was born) who provided basic demographic material during the consultations, the average age when they had their first baby was 18 and three months. Of those young people who were 19 or under at the time they had their baby (63%) — the youngest being 14 — the average age that they had their first baby was just under 17 years of age. Twenty five per cent of the total number of participants identified as being from an Aboriginal or Torres Strait Islander background, and 15.4% spoke another language other than English at home. In answer to the question 'who helps you the most in your life now?'; 38% said partner or father of the baby, 35% said family, and 13.5% indicated that a service was the most help. Four young people said no-one helps them, and two of these were young people from an immigrant or refugee background.

In the consultations, young parents were asked to reflect on:

- their feelings and experiences before and after they had their children
- who helped them at the time
- what they found difficult
- what support they most need.

These young parents were also invited to provide advice to other young parents or expecting parents, along with a message to the government. In the course of the consultations, they also gave us some information about their backgrounds.

Surveys

The surveys were mostly completed by young mothers (80.8%). The average age of the young mothers who completed the survey was 17.4 years at the time of the birth of their first baby. The age range was 14 to 23 years.

Almost seven per cent of young mothers who completed the survey identified as Aboriginal and Torres Strait Islander. This is fewer than the proportion of the young parent population reflected in the data we received from the ABS, which indicates that Aboriginal and Torres Strait Islander young mothers make up 25.7% of the teenage parent population.⁴⁶¹ This could indicate that Aboriginal and Torres Strait Islander young mothers are not accessing the services or networks that participated in the survey.

Of the young mothers that completed the survey, 11.1% told us that they were not born in Australia. Fifty per cent of these young mothers stated that they speak a language other than English at home.

Notably, 98.6% of young mothers who responded to the survey listed their 'family' as the most helpful support while they were pregnant. Family support was also identified as something that would help young mothers attain or complete their education.

Box 10: Case study of a young mother⁴⁶²

My name is Jane. I'm 18 years old. I have a baby, Maddy, who turned one this month. I've been in a Juvenile Justice Centre since May.

I grew up in the country. When I was six, I went to live with my grandma after my dad knocked out my mum's two front teeth. After I was taken away from my parents, my mum turned to drugs.

When I was 11, I dropped out of school, left home and moved to Sydney. Sydney was a bad environment for me. I was doing drugs and crimes.

I got pregnant when I was 16. I didn't believe the pregnancy test. I felt really overwhelmed and scared. I didn't know what to do.

I told mum four days after I found out. Mum was quiet. She was more shocked than I was. She was pretty upset, but in the end she supported me. I left it to my mum to tell my dad. Dad gave me a hug and said it was alright. My baby's father didn't believe it until I got an ultrasound. He was surprised and happy.

After I got pregnant I came back to my family and went back to school. My mum was my biggest support. She's still a drug addict. Mum's brothers and sisters were also supportive. They all live in the country.

I gave birth to my baby, Maddy, in the country. Maddy was three weeks premature. After Maddy was born, I was in hospital for two weeks. Maddy wasn't feeding properly. My aunty was the most helpful. She bathed Maddy first — I didn't know how to hold her because she was so small. The hospital staff were also helpful.

The hardest thing about being a mum was when I was tiring myself out. I was staying up really late and getting really anxious. I felt like I wasn't doing it right, but I was. My aunty gave me two nights' break. Maddy and I got sick at the same time. This was the most stressful time for me. My aunty helped me.

Two girls from an Aboriginal community group visited me every week and checked the baby's weight, but I didn't need them after a few weeks because my family was so supportive. My case worker also visited.

The best thing about being a mum was when I first changed Maddy's nappy, and seeing her first smile and her first giggle. I have lots of nephews and nieces, but it's different when it's your own.

Maddy is in care with my aunty now. They want me to do counselling and a parents' program, and stay off drugs.

Maddy is the best thing that ever happened to me because it put me on a straight line. I want to finish year 10 and year 12. I've been studying while in detention, and I get out in September. I want to go to TAFE and become a youth worker. I want my baby to have a good education.

My advice to another young parent: look for help and don't be afraid to speak up.

My message to government: if the community gives me something to do, I won't get bored or turn to my friends.

(b) Education

Most young parents we heard from in consultations and surveys were not in school when they became pregnant. Of the young mothers who completed the survey, 64% were not regularly attending school when they became pregnant, and 79% reported that their baby's father was not regularly attending school at the time. 30.1% said that their school supported their attendance while 33% said that the school did not support their attendance. Of those who were attending school (36%), the majority (76.6%) said that they were supported by their school.

Being a pregnant school student was difficult for most young people. In particular, young people said that others judged them, gossiped about them, pried into their affairs or stared at them. Many said that they were bullied. Other difficulties young parents reported were being sick while trying to study, being tired all the time, being unable to concentrate, the effort to get dressed, getting around the school and being on public transport.

In the survey, young parents who reported that they were supported by their school, told us their school:

- was flexible with schedules, breaks (including for feeding), appointments, home work, and exams
- provided out of school support such as a home visit from a teacher
- had a crèche on site, allowed children in the school, or helped to access external early childhood education and care services
- supplied larger uniforms for when they were pregnant
- provided keys to an accessible lift.

The diversity of experiences with schools was reiterated in consultations with young people. They told us:

I was scared school was going to kick me out because I was pregnant.

The school told me to leave when I got pregnant.

(College) was supportive but I couldn't cope and I couldn't get there so I dropped out.

I was getting hate from other students.

I was at school but by the time I was twenty weeks I left because I was in and out of hospital. I asked school for (home) work but they didn't provide any support.

I am going to try online, because I can't go to school with my baby.

I'm doing a bridging course to go to uni and want to be a midwife. Studying is hard with two kids.

I'm too worried about legal stuff to focus on TAFE.

Some of the ways young people said that school could have helped more included:

- giving information about distance education options
- proactively addressing bullying of pregnant students
- being flexible about child minding and breast feeding after giving birth
- helping young people handle the dual pressures of pregnancy and school work
- allowing the option of taking school work home when unwell.

Twenty two per cent of the young mothers who completed the surveys had completed Year 12.

Of young mothers who completed the survey, 58.3% returned to education after they had their baby, 43% returned to full time education and 30.6% returned to part time education. Of those young mothers who returned to full time education, 77.4% returned to school full time, 12.8% returned to TAFE full time and 9.7% returned to other, non-specified education on a full-time basis.

Of the young mothers in the survey who returned to education on a part-time basis, 18.2% returned to school part-time, 59.1% returned to part-time education at TAFE, 18.2% returned to education through a service and 27.3% returned to non-specified education on a part-time basis.

These results contrast with information collected from young parents in face-to-face consultations. Very few of these young parents returned to school, with the majority continuing education through TAFE or alternative distance education methods.

(c) Employment

Of the young mothers who completed the surveys, 26.4% told us that they were employed at the time of completing the survey.

Of the 19 young mothers we surveyed who were in employment, five were working full-time, and 14 part-time. One mother was working full-time as well as studying full-time. Some 15.3% of young mothers said that they were unemployed, with the majority of these (90.9%) saying that they were actively looking for work. 12.5% of the young mothers who completed the survey said they were not looking for work.

Very few of the young mothers we spoke with in face-to-face consultations had full or part-time jobs. However, many of the young fathers did have jobs. It was particularly hard for young mothers with preschool-aged children and no private transport, to be working as they were focused on caring for their children, addressing their own physical and mental health issues, and securing stable housing. Young parents told us:

I lost my job when they found out I was pregnant, I was only six weeks. They asked if I was pregnant or just putting on weight. I got a text message saying I'd lost my job after they found out.

With employment services, I need somewhere that guarantees a job.

It's hard to get a job because I don't have formal qualifications or experience.

I don't know if I should tell people I was in jail.

I was working when I got pregnant. I was in a good place, but when I became pregnant it just spiralled downwards.

(Goal is to) get a job as disability teacher's aid, get my own home, so I have something to leave my children.

I want to finish my childcare course because I had to stop when I was pregnant.

I would really like to work straight away, when I get out.

(d) Health care and information

Many young parents in consultations and the survey said they received limited helpful information or advice at the hospital prior to or after giving birth. The exception to this was when their baby required special care in the hospital for a period of some days. In these circumstances young people reported more consistent and useful guidance about how to care for their baby.

Some young people reported that they received several home visits over many months after the baby was born, while others reported that they had no visits or one visit only.

The experience of giving birth and care at the hospital varied. Young parents told us:

Midwives were really nice to me and allowed my family to stay.

I was breastfeeding and the midwife ripped my breast from her mouth and told me I wasn't doing it properly.

They (hospital staff) looked at me like I was a bloody idiot.

The hospital staff were really good, I got lots of materials.

They wouldn't let me express. They wouldn't listen to me.

They didn't really help me when I asked for help. They said they had to help other people.

Midwives were pushing me to breastfeed ... I was so anxious I couldn't produce enough milk. My mum went and bought formula and my child was fine.

Some young parents thought the midwives were generally helpful and that they prepared you for birth, taught you how to wrap and bathe a baby, and about pain relief for birth, but that 'sometimes communication was difficult' and 'it's confusing'. Others said:

I was in special care with my baby. I was discharged but stayed as a boarder, with no room and crying babies. I had a new midwife every three hours for eleven days, all with different information and advice, but nothing consistent.

You can have two visits, then they send you to a health clinic.

They think you're immature, no doctors took me seriously.

They gave you information about places to go, but they don't follow up on how you're doing. The visits are about the baby, not about you and the baby.

The midwives gave me basic information but they didn't have time.

Some young people told us they experienced mental health issues and post-natal depression with little support. Others were linked into local mental health services. For example, one young mother told us that she went to Headspace (a mental health service for young people) because she had anxiety coming off drugs and being pregnant.

(e) Stigma, prejudice and lack of respect

In the survey, participants were asked if they are treated differently because they are a young parent. Fifty seven per cent of young mothers responded 'yes' to this question and indicated that they feel judged because of the prejudice they face in public, from service providers and from their friends and family.

Being judged and being treated like a young child were common experiences for the young people consulted. These negative experiences were reported as occurring in mothers groups, school, shopping centres, Centrelink, on public transport, in medical contexts, and sometimes within their own family. For this reason young parents liked being in programs with other young parents who they could identify with.

Some young parents also said that they were teased at school, and that contributed to them leaving school. For example, some told us:

I told my parents and they pretty much disowned me.

Sometimes people say that they are better mothers than me.

My cousin was pregnant when she went to school with me, so I thought it was normal. She wanted to go back to the community because she wasn't judged there.

Others were fearful of reactions in public or on public transport:

One of the hardest things was going around in public. I had my kid at 14. The looks I got going down the street. I would never walk out of the house by myself. One of my biggest fears was the public. Now I don't care.

I want to get my licence because when we were on public transport a man pushed his hand in my son's face ... He was drunk. But no one said anything, they just sat there and that's what made me more angry. I couldn't do anything because he was a man and you're on a bus ... The bus driver knew and he was just sitting there driving when he could have kicked him off the bus, someone could have said something.

Most young mothers described a lack of respect from medical professionals, members of the community and friends through intrusive personal questions and comments on their ability to be a good parent. For example, one young mother reported that a member of the public asked her if all of her children had the same father and if her children saw their father. Young people told us that public judgement and disapproval often results in them feeling criticised for not being in a stable relationship, owning their own home or pursuing a career to support their family. One young mother told us, 'I got told, when people found out I was pregnant, that I would ruin my child's life'.

Other examples of young mothers feeling confronted in public include comments such as 'you're too young to be a mother' and 'you should be in school ... you should be ashamed'. Other examples were:

People feel as though they have the right to ask you personal and intimate questions. Not just you, but often your children too eg why you were so young or is the father around.

The only reason people don't go to mainstream school or don't go to education at all or anywhere like hospitals or anything, it's because there is [a] sense of judgement and people who feel judged don't feel welcome.

Some young parents told us that, at times, doctors and nurses ignored their questions at regular appointments or the birth of their children.

Many young mothers told us they feel unable to ask questions due to fear of being judged or spoken down to in a way that would not occur, in their opinion, if they were older parents.

In the survey, young mothers also said they often feel criticised on their parenting skills because of their age. One young mother described this:

Older parents think that they are better/know more than you because [of] their age even if our children are the same age and look down on you if your parenting differs. My son was ill and I had medical professionals question my abilities due to my age, not due to his health. It went so far that I needed to file a complaint within the hospital.

These experiences of stigma and prejudice could contribute to self-doubt and hinder the ability of young mothers to gain confidence in their parenting skills. Some parenting programs provide safe spaces for parents and offer courses on parenting skills. However, young parent's responses to the surveys and in consultations indicate that some parenting programs and service providers do not make young parents feel comfortable or welcomed. Young mothers told us they feel overwhelmed and judged on their ability to make good decisions and this has led to less participation in these programs. As one young parent said, 'We're being condemned because they don't think we have the skills at all'.

In the surveys and consultations, young mothers told us they feel criticised when choosing not to breastfeed and that assumptions are often made that another person will be raising their baby.

The survey responses suggest that the stigma young parents face can have a serious impact on their mental health. The data collected in the surveys indicates that young mothers feel overwhelmed and isolated because of stereotypes that are held by friends, family and the public. Young mothers describe feeling guilty when choosing to balance their personal time with the time spent with their children. Young parents say they feel isolated and excluded from activities with their friends simply because they are a young parent. As one young father said, 'I think that I don't get invited to as many things as I use to. Like with friends and stuff'.

It is difficult to measure the impact that stigma alone has on the mental health of young parents as there are a number of challenges facing this group. The combination of issues that young parents face, including financial concerns, lack of stable housing, unsafe environments and the feeling of being constantly judged, may all contribute to a deterioration in their mental health and the healthy development of their children.

(f) Affordable early childhood education and care services

A number of services for young parents provided free or subsidised early childhood education and care on site, which was highly valued by the young parents we spoke with. Few of the parents in the consultations used early childhood education and care services outside of those provided on site. Many young parents pointed out the prohibitive cost of available early childhood and care services:

The money for child care is too expensive.

I can afford two days. Just. And then like the problem is that I want to look for a job but then you need money for more day care days, but then you need day care to be able to work.

It helps me. I have time to clean and I don't need to worry.

(g) Accommodation

Finding suitable, stable and affordable accommodation was a significant problem for most young parents. The majority of young parents in consultations and the survey had moved several times since becoming pregnant and many were on waiting lists for public or community housing. Public housing was generally considered unsafe for them and their children, and often was situated in locations far away from family members and services, with limited transport options.

Only seven of the young mothers who completed the survey (9.7%) were in the same living arrangements as they were when they first became pregnant. There were 65 young mothers who reported that they were not in the same living arrangements when they became pregnant. Of these, 38 (52.7%) said they were living with family including parents, aunts and siblings. The main reasons that young mothers changed their living arrangements were:

- safety concerns, particularly in cases of domestic violence
- overcrowding
- affordability of rent
- need for independence
- being kicked out of home.

All of the young father respondents said that they were either living with family or with their partner and child. Similarly, all of the expectant mothers responded that they were living with family or their partner. Most young fathers (75%) responded that they are in different living arrangements than before they had their child.

Of the young mothers who responded to the survey, 47.2% stated they live in private rental accommodation. This was similar to the findings of the 2010 ICPS survey.⁴⁶³ 18.1% said that they lived in public housing. Two young mothers said they were in community housing. Two young mothers responded they lived in Red Cross housing, and another three mothers said they lived in a refuge. As many as 23.6% identified that they had been homeless, and 35.3% of this group fell pregnant whilst homeless.

Of the young mothers responding to the survey, 12.5% identified that they have lived in OOHC, with 44.4% of this group saying they fell pregnant while in OOHC. About half of the young mothers in OOHC had been in more than one type of care, including foster, residential and kinship care.

Further, 22.2% of young mothers responding to the survey had sought help with their accommodation. Of these, 62.5% said that they turned to a service or refuge for help. The remaining young mothers asked for help from a father, friends, boyfriend or school counsellor, while one had moved to a caravan park.

Comments from young parents in the consultations included:

I was homeless. I had to move. It was so stressful and I'm still only in transitional housing.

It's scary, I got punched taking the garbage out once.

There's no protection from the police in those areas ... they pass you off ... I feel like I can't even go out of my house.

You can't be in shelters when you're pregnant.

We had to leave his parents' place cos there was 11 of us staying in the one house and it was four bedrooms, and two of us were pregnant and about to pop.

There was so much stress through my whole birth and pregnancy ... I was stressed because it was pretty much on my due date I had to move. They were like — you have to move — and I was like — I don't have anywhere to move!

Most of us need permanent housing. We only get given a place for a certain amount of time ... I don't think there's a lot of options for young mums.

Housing is probably the most important [right] to us.

The difficulty of accessing private rental with a young child and no rental record was consistently raised. Young parents stressed the importance of services which provide temporary accommodation, and which assist them to build up a rental history and/or act as lead tenants. Many young people said there needed to be more housing that is cheap for young families.

(h) Responsiveness of services

Of young mothers who responded to the survey, about 60% indicated that services had helped them, most commonly youth specific parenting programs. For example, we heard that:

The best thing about being in this program is being able to raise your kids ... even though I've made a mistake I can still have my kids with me.

I was homeless until a social worker at Centrelink got me a house.

Others found very few services who were helpful, non-judgemental and respectful:

There were many times I needed counselling because of my clinical depression and the people I tried to seek help from were awful to me.

In the early parenting days I needed help with Centrelink and child care options as I didn't understand what was available to me. I would have benefited greatly from access to this information through a social worker.

I was very depressed and suicidal and I went to my high school counsellor and said I wanted to kill myself and they said come back Monday. I was kicked out of home and lived on the streets.

I needed help when guys would beat me up, services said I was too young and I had nowhere to live [as] all the housing services didn't have any room. My kids were taken away instead of helping.

We are not all as simple minded as a lot of people think. We do need support of course but we are very capable mothers.

The department of housing and government services need to be more readily available

Life is very hard when you have children with disabilities, it is very exhausting and more help is needed in the house than the hours NDIS [National Disability Insurance Scheme] allocates to you.

When asked how services and support could be improved, young mothers in the survey said there was a need for:

- more awareness of and easier access to services so more mothers can easily find and use them
- easier access to education
- an improvement to housing services, their availability and the times it takes to find somewhere, especially in cases involving domestic violence
- more emotional support for young mothers, especially for post-natal depression, and an increase in regular support groups
- driving lessons and support in getting a licence
- more financial support, including help with debts and information on financial topics such as how to budget and open a bank account, how to set up health insurance
- breastfeeding support
- more flexibility with payment schemes
- more affordable childcare options, especially those with longer or later hours to accommodate for shift workers
- help to get out of abusive relationships and situations
- a review of procedures to give young parents a chance to prove they are capable parents and to provide assistance with support for newborns without the threat of having their child taken away

- more flexibility around appointment times to accommodate for transport issues
- training providers to be more respectful and understanding, and to not belittle, patronise or pressure young parents.

Many young parents found out about local services, including services specifically established for young parents, through friends or family members. Others were referred by a general practitioner, a social worker at the hospital, midwives or child protection agencies. From the information provided by the young parents, referral patterns and systems varied significantly across locations.

The services young parents spoke about in the consultations were a mix of programs, such as education, job search, early childhood education and care, visiting general practitioners, midwives and other professionals, parenting programs, and peer support group work. Some services also offered transitional accommodation, with safe and engaging spaces for the young people and where they could be linked into other services as needed:

[Service] helps us set goals, get drivers' licences.

I feel I can come here and say whatever. I can be a sook and not get judged for it.

Aboriginal health workers ... make sure nothing makes you feel uncomfortable, and there is ongoing support even after you leave the hospital.

One young parent commented that 'on paper I look like a no hoper'. But said that she is much more than what exists on her file, and that it was important for workers to get to know her.

Many young people felt unsupported by care and protection services:

They're assholes. They won't leave me alone. Someone keeps putting in reports that I'm not looking after my child.

[Agency] workers are more concerned with reporting than helping or educating.

Others reported having good experiences:

[Agency] helped us a lot and they've kept us busy.

I had my ups and downs seeing someone before I got pregnant. I had anger issues. After I fell pregnant I started seeing a counsellor because [the child protection agency] insisted. I got a case manager and she was ok. My case was closed two or three months after (baby) was born because they didn't see any issues. We're now used as an example for other young parents.

Young parents in contact with the juvenile justice system wanted the courts to be more understanding. One young parent said:

When you're being sentenced, courts should take into account everything in your life. They need to worry more about fixing people than punishment, and get them the help they need.

Delays and frustrations dealing with Centrelink were common experiences:

I waited for four hours on the phone.

They are so rude and rushed.

It would be much better if they came to us.

It takes 6–8 weeks for payments to come after the birth.

Low income families need to feel supported, not dehumanised by initiatives such as drug testing welfare recipients and basics card. Centrelink is an exhausting process. [Phone] numbers are often outdated and difficult to access, for example, urgent payment line, housing services.

Many of the young parents pointed out the need for more support for young fathers. For example we were told:

There is not really any support for young men. It can be upsetting to hear that other males aren't supportive. A support group for dads would have been useful, but I don't know how many there are.

Another expectant father commented:

I want to be there and support, but I need to sort out my life first.

Young fathers responding to the survey also identified that more job opportunities, day care options, affordable housing and groups to connect young fathers would be the most helpful for them.

(i) Goals and aspirations

For most young people in the consultations their pregnancy was unplanned. However, overwhelmingly they were positive about the experience of being a parent and were aspirational for themselves and their children. Many reported that being a parent had changed them for the better. Some said that they wanted a chance for their children to grow up without the negative experiences they had faced throughout their own childhood. For example:

I want to work in the community, be successful ... and make my family happy.

I want her to grow up better than what I did. Have an amazing future.

A better life than what I grew up with ... a lot less violence, and stable.

Anything and everything to make my children happy healthy and loved. To have a stable house for my family and to have a stable career.

The way I was raised — my kid is not going down the same path.

I want to be a good mum. My dream is to be able to pass onto my kids my culture.

When [baby] gets older I'll go into the army. Heaps of my family were in the army. I want to do transport and PTR so I can travel.

After I have the child, I am planning staying home for a couple of months, then go to work or school and get a long term rental.

I would like to set a good example for my sons. If they see mum doing well, living a happy, healthy lifestyle, they'll see it and want to live the same. I want all of my kids to be healthy, happy and strive to be their best.

Before I was selfish and on the wrong path. She [her child] saved my life.

The surveys also provided the young parents with an opportunity to inform us of their goals and aspirations before their pregnancy. Many young parents (76.4%) indicated that before having a baby they had plans for their futures involving education, jobs, family and travel. Of these young mothers, 20.8% responded that they had no plans or did not know what their plans would be before they fell pregnant:

I was extremely depressed and grieving the recent loss of my beloved family. I had no plans at that time.

Didn't have plans as I was using drugs.

Had none, my baby gave me my dreams and goals.

Young mothers identified a range of plans for their future before they fell pregnant. These included:

- going to university (20.8%)
- finishing school (11.1%)
- travel (18.1%)
- finding full-time employment (15.3%)
- having children (4.2%).

Of the young mothers who responded to the survey, 68.1% identified that their goals had changed since having their baby, and 20.8% said that their goals had not changed; 6.9% said that they now had a purpose, and 12.5% said that they still had the same goals, but that they had been postponed or would take longer to achieve. Young parents said:

I'm not going to graduate but I will still study beauty therapy.

I might have lived with my parents for longer and probably have a part-time job whilst completing university.

I've achieved them all but the hole in my soul has not been worth it at all. I would trade it all to have my daughter with me today.

I completed my diploma before falling pregnant but I wouldn't dare go back to work until I finished having children because of the daycare costs.

I am now focused on how I can make my son's future perfect, happy and safe. And how I can help prepare him for the future.

When asked about new goals since having their baby, 29.2% of survey participants told us that they wanted to be good parents, care for their children and provide their children with the best opportunities to succeed in life. One mother said:

It's been the biggest challenge I've yet to face but full of amazing rewards. While it wasn't how I expected my intro to motherhood would be, I wouldn't change it for the world.

When asked about what their new goals were and what would help them achieve them, young mothers responded that education and employment were most important, with each of these identified by 15.3% of respondents. Another 12.5% said that having a licence and car would help them the most. More affordable and accessible child care was also a top priority, with 9.7% responding that it would help them the most in achieving their goals. Young parents told me:

To study beauty therapy in university. Financial help would be fantastic because I won't be able to afford university until my son is older.

My new goals are gaining a good job to provide for my children and also assist my children to become happy, healthy and well-rounded adults one day. I think for both of those goals education is the key.

Cheaper childcare so I can work, put him in a good school. Help with getting my licence so I don't have to rely on public transport, help with getting a job and paying debts so more money can be spent on my child.

(j) Other reflections on being a young parent

Young parents were asked about what they thought were the best and hardest things about being a young parent.

Some of the **hardest** things young people said about being a parent:

Balance — not falling behind in your own personal goals.

Juggling everything.

Being in JJ [juvenile justice] and not being able to support the mother and child in person.

Money is the hardest thing I've come across. It's so hard to pay rent by yourself and then have to pay childcare fees because you're working. Then your Centrelink gets reduced the more you work but you have to work to be able to afford rent because just Centrelink doesn't cover it.

I try saving for my kids but it's too hard cause we've got bills to pay.

Some of the **best** things young people said about being a parent:

The smiles and the recognition that I'm actually doing something.

It's changed everything about me and my partner. We were on drugs ...now we're off drugs and he's got his licence.

When you become a parent you want to do better for yourself, for your child.

I dropped out in grade 10 and I was out of home when I was 16 so when I became pregnant I wanted to strive more for my future.

In their advice to another young parent, the main messages were to: 'hang in there', 'believe in yourself', 'ask for help if you need it', and 'finish your education'.

Messages to government

The punitive and harsh cuts to welfare and support to young parents will only contribute to the same cycle of deprivation I was born into. Policies such as the work for the dole and the basics card show only contempt for future vulnerable children. "a society is judged by how it treats it's most vulnerable"

It's hard to get your licence and gain 100 hours supervised training when you have no money/ no one to help.

Do your job!
Free childcare for single parents, more Healthcare benefits for children.

Housing needs to be more affordable or attainable for mothers on low income, A stable home is the first step to a child's future.

I should be able to consent as a parent, not just for my child but for myself as well.

Everyone know what services are available. A lot of services that were available for me I didn't find out about till after I really needed them.

Dear Government, I think you should be more aware of the young mums out there who are suffering and struggling. More support is needed financially, support networks, case managers, more needed for housing not just refuges.

Advice to other young parents

You're not silly, ask's all the question are not dumb its okay to asks for help.

Going to school is important
Things will be easier with education.

Be there for your kid,
pull your head in.

Gain as much knowledge as you can.
As hard as somedays may seem try
and find the right support to get
what your entitled to!!! The support
is there. Just seems very hidden.

Run your own race,
take all the advice
with a grain of salt.

Support your kids every single day.
Don't count the days, make the
days count.

This world is so
judgemental. If someone
wants to judge you, it
doesn't matter. They don't
know [what] you've been
through.

1. Patience
2. Enjoy every moment they get older quickly
3. You can't love them enough

Try and attend as much parents
groups as possible. Make sure you
have a circle you belong to.

3.8 Conclusion

Young parents are highly motivated to be good parents and to have a home, a good education and do well in life. Specialist services that support young parents in these endeavours play an essential role in improving education, employment, health and safe parenting outcomes.

It was clear from my investigation that young parents and their children face a range of difficulties and barriers. Young parents:

- have poorer health outcomes including higher rates of premature births and low birth weight
- are more likely to be single, on low incomes and have limited family support
- are less likely to complete school and obtain qualifications
- face significant stigma and judgement by professionals and the community
- have great difficulty obtaining secure, stable and safe housing.

Recognising and responding to the particular needs of young parents is critical to reducing the economic, social and health risks to them and their children. Youth-friendly services which target young parents, including young fathers, are needed in locations where there is known to be a high proportion of young parents. Such services need to provide or connect with a range of supports that young parents need, such as parenting programs, education, employment, health, housing, transport, and early childhood education and care. Of great importance is ensuring strong connections and referral pathways between service providers, from the time of pregnancy.

To build on my learnings, I sought additional information about some of the legal and policy barriers highlighted in the roundtables, submissions, surveys and consultations, in particular in relation to: access to abortion and contraception; access to education; and child protection laws and policies relevant to young parents. This involved a review of existing legislation and information received from state and territory child protection agencies. This was a preliminary review only, and I suggest further work is needed to build a more complete picture.

(a) Access to contraception and abortion

Appendix 12 sets out the laws relevant to young people's access to prescribed medical forms of contraception and abortion.

Under common law, a child is capable of giving informed consent to medical treatment if they have a sufficient level of understanding and intelligence to allow them to fully understand what is proposed.⁴⁶⁴ This test, known as the 'Gillick competency' test, requires the treating health practitioner to consider the individual child's level of understanding in respect of the particular treatment or advice in question. The test does not rely on a fixed age to determine competence. If a child satisfies this test, no parental consent is required for a child to access prescribed medical forms of contraception or abortion.

In all states and territories, except SA, the age of consent to medical treatment (without a test of competency) is 18 years. In SA, legislation provides that a child aged 16 years or over may consent to or refuse medical treatment or health care as validly and effectively as an adult.⁴⁶⁵ The doctor must explain the treatment, consequences, risks and any alternatives to the treatment. For children aged under 16 years to receive a prescription for contraception without parental consent, two doctors who have personally examined the child must be of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interests of the child. In Tasmania, a Bill was introduced in 2016 to reform its laws on the age of consent to medical treatment in line with SA.⁴⁶⁶

Certain state and territory laws criminalise abortion or limit access to abortion in certain circumstances. In WA, abortion is legal up to 20 weeks in certain circumstances. However there are additional restrictions that apply to children aged under 16 years. Specifically, if the child is aged under 16 years and is being supported by a parent or guardian, the parent or guardian must be informed, or the child may apply to the Children's Court for an order that it is not suitable to involve her parent or guardian and that the abortion should proceed.⁴⁶⁷

Recommendation 11: The Australian Government, through the Council of Australian Governments' Health Council, should work with states and territories to review laws, policies and practices, so that all children and young people who are determined to be Gillick competent have access to prescribed medical forms of contraception and abortion.

(b) Access to education

Appendix 13 sets out the laws relevant to access to education for children and young people who are parents or are pregnant.

Most state and territory education laws specify that providing access to education for all children is a principle or objective of the law. The education laws in certain jurisdictions recognise that some children require special assistance or adjustments to ensure their access to education. For example:

- QLD's *Education (General Provisions Act) 2006* provides, as a guiding principle, that 'the State should develop practical ways to improve the social, educational and employment outcomes of young people, including, in particular, those who are at risk of disengaging from education and training'.⁴⁶⁸
- Tasmania's *Education Act 2016* allows a Secretary to determine applications for the provision of distance education, taking into account whether the child is pregnant or is otherwise unable to attend school on a regular basis.⁴⁶⁹
- NT's *Education Act 2015* states that the Minister may make any provision that the Minister considers necessary or desirable about the education of children with 'special learning needs'. This includes a child 'whose educational progress, because of a special factor other than a disability, is likely to suffer unless they have access to special educational arrangements'.⁴⁷⁰

- ACT's *Education Act 2004* requires principals of government schools to set up procedures to encourage students to attend school regularly and refer children to support services that encourage them to attend school regularly.⁴⁷¹

However, generally state and territory education laws do not require schools to make necessary adjustments or provide necessary support to ensure access to education for all children, including those who are pregnant or are parents.

Some of the state and territory education laws provide for broad grounds of suspension or expulsion of a student, which could be used to suspend or expel a child or young person on the basis of their being pregnant or becoming a parent. For example, in Qld a principal of a state school may suspend or exclude a student from school if they are reasonably satisfied that a ground exists for suspension or exclusion, which includes 'conduct that adversely affects, or is likely to adversely affect, other students' or 'the good order and management of the school'.⁴⁷² It is also a ground for exclusion if 'the principal is reasonably satisfied it would not be in the best interests of other students or of staff for the student to be enrolled at the school'.⁴⁷³

Similarly, in WA, a student may be suspended for a breach of school discipline, which includes 'any act or omission that impairs the good order and proper management of the school'.⁴⁷⁴

State and territory and Commonwealth anti-discrimination laws, though formulated differently, prohibit discrimination on the grounds of pregnancy, breastfeeding or parental status/responsibilities, including by denying or limiting the student's access to education. However, a few jurisdictions provide exceptions to this prohibition. For example, the ACT *Human Rights Act 2004* explicitly provides that every child has the right to education appropriate to their needs, but this may be subject to reasonable limits set by law.⁴⁷⁵ Under Tasmania's *Anti-Discrimination Act 1998*, a person may discriminate against another person on the ground of family responsibilities, parental status, pregnancy or breastfeeding if that other person requires special services and facilities, the supply of which would impose unjustifiable hardship.⁴⁷⁶ This exception could apply to a child who is pregnant or is a parent and requires special services and facilities to attend school.

Recommendation 12: The Australian Government, through the Council of Australian Governments' Education Council, should work with states and territories to review their laws, policies and practices to ensure that:

- access to education for all children is guaranteed
- educational authorities and educational institutions – both public and private – are required to make all necessary adjustments and provide all necessary support to facilitate and ensure access to education for children and young people who are pregnant or are parents
- regular publication of information on adjustments made to support children and young people who are pregnant or are parents is required
- suspension, expulsion or denial of education of a child or young person on the ground of their being pregnant or a parent is prohibited.

Recommendation 13: The Australian Government, through the Council of Australian Governments' Attorneys-General Council, should work with states and territories to review their laws, policies and practices to ensure that discrimination against a child or young person on the ground of their pregnancy, breastfeeding or parental status/responsibilities is prohibited without exceptions.

(c) Child protection and young parents

As part of my investigation, I requested data from each state and territory department responsible for child protection services. This data was requested to understand if and how young parents and their children's lives intersect with the child protection system. I received responses from the ACT, Tasmania, Qld, WA, SA and the NT. I thank each government for its support in providing information for this investigation. I asked for information on four key issues:

1. child protection laws, policies and practices on reporting or notification (mandatory or non-mandatory) in relation to a young parent and/or their child, and a pregnant young person
2. age of the person captured by the reporting or notification (eg a person under the age of 18 who is a parent and/or their child, or a person under the age of 18 who is pregnant)
3. authorities to which the reporting or notification applies (eg hospitals, health workers, social workers, schools, etc)
4. any available data on young parents and their children, and pregnant young people, in the child protection system in the 2015/16 financial year, including the numbers of:
 - a. young parents and pregnant young people aged 19 years and under who are, or have been, in the child protection system
 - b. children of young parents aged 19 years and under, who are, or have been, in the child protection system.

The responses from jurisdictions (Appendix 14) indicate that there are no laws that mandate child protection reporting in relation to young parents, pregnant young people or children of young parents. However, what this information reveals is that the age of mothers is considered a potential risk factor by a few jurisdictions during child protection risk assessment processes. As a result, these processes can enable child protection departments to receive and/or investigate reports that an unborn child may be at risk of harm or neglect.⁴⁷⁷ Mandatory reporters or voluntary reporters (in most jurisdictions) who are authorised to report child protection risks include the majority of the population whose profession puts them in some contact with children. These reports can warrant the commencement of alerts which are activated on the birth of the child.

That the age of parents can be seen as a risk factor correlates with anecdotal feedback and information from young parents that I have received during my investigation. As young parents reported to me in the consultations, many feel like they are targeted by child protection agencies and are fearful of the removal of their children.

Young mothers also frequently reported that they do not feel supported by departmental procedures and that they experience discrimination and stigma due to the fact that they are young parents.⁴⁷⁸ I note that some agencies offer services to support women during their pregnancy. However, it is imperative that these services find ways to constructively engage with young and expectant mothers and fathers, offering these teenagers age-appropriate services tailored to support their specific needs.

Recommendation 14: State and territory governments should review their policies and practices to ensure that young parents are not targeted on the basis of their age as an at-risk group for child protection assessment purposes.

Recommendation 15: State and territory governments should review their policies and practices to ensure that young parents receive services designed to support them in their parenting role.

Based on the information I received from states and territories, there is a varying amount and type of data collected by each jurisdiction concerning the numbers of young parents within each child protection system and the numbers of their children who have been in the care of the state. What is clear from the little data available is that significant numbers of children in the care system are the children of teenage parents, and that many young people in care go on to be teenage parents themselves.

This national inconsistency in data collection weakens the knowledge base needed to respond effectively to the needs and circumstances of this vulnerable group of young people. Some jurisdictions do not collect any information regarding the parents of children in care and others record different pieces of information. For this reason, it is critical that national, state and territory child protection departments are able to collect nationally consistent data on the details of children in care and protection services who have teenage parents and how many of those children go on to become young parents themselves.

Recommendation 16: As part of the *National Framework for Protecting Australia's Children*, Commonwealth, state and territory governments should collect nationally consistent data on children receiving child protection and care services who have teenage parents and on young people receiving child protection and care services who have children as teenagers themselves.

I will conclude this report with a final word from a young parent we spoke to during the project, who said 'with support you're more likely not to be a statistic'.

- 1 Australian Bureau of Statistics, 'Aboriginal and Torres Strait Islander fertility, by age, by state,' ABS.Stat. At <http://stat.data.abs.gov.au/Index.aspx?QueryId=503> (viewed 28 August 2017).
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Chapter 4:

Children's safety and wellbeing

4.1 Introduction

Children have a right to be safe from harm, and to be properly protected from violence, abuse and neglect.

This chapter discusses what we know about child harm in Australia, and about ways of keeping children safe from harm, with a particular focus on children and young people in organisational settings. This chapter:

- highlights some data on child harm, noting trends and gaps in available information
- describes some recent inquiries relevant to children's safety, including the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission)
- discusses some recent research on child safety in organisational settings, including children's views of safety
- outlines my current work developing a national set of principles for child safe organisations.

Since 2012, the Royal Commission has conducted an extensive program of private sessions, public hearings, and policy and research on child sexual abuse in institutional contexts. The Royal Commission's work, both its activities to date and its final report submitted to the Governor General on 15 December 2017, is a significant source of information and understanding on how to keep children safe from child sexual abuse in institutions. Although the work of the Royal Commission focuses on institutional child sexual abuse, its recommendations on child safe organisations are likely to improve prevention and responses to all forms of child abuse and harm in the coming years.¹

In this context, the following chapter outlines the work I am leading to embed child safe cultures and children's rights knowledge throughout organisations that work for and with children and young people across Australia.

A core element of this work is developing the National Statement of Principles for Child Safe Organisations (the National Principles). Community Services Ministers from all jurisdictions recently endorsed draft National Principles for consultation with all key sectors that provide services to, or work with, children and young people. They include health, sport and recreation, education, early childhood, out-of-home care (OOHC), justice and detention services for children, arts and entertainment, disability services, religious services, local government, accommodation and residential services for children, transport services for children, coaching and tuition services, and family and child welfare. Members of the public, children and young people, parents, carers, families and communities should be confident that organisations working with children provide safe environments where children's rights, needs and interests are met.

This initiative has primarily been precipitated by the work of the Royal Commission whose findings will require ongoing action in order to sustain our collective efforts to prevent and respond to child abuse, and harm more generally, wherever it occurs.

4.2 Understanding child harm in Australia

Child harm can take many different forms. Harm can include child maltreatment — including emotional, physical and sexual abuse, and neglect. It can also include other types of harm, for example bullying by peers, exposure to physical hazards, exposure to violence, or harm which has occurred because of a lack of awareness of culturally inclusive practices.

It can also take place in a variety of settings, including family contexts, early childhood environments, schools, clubs and residential care.

These differences mean that we face challenges in gaining a comprehensive picture of the extent and nature of harm experienced by children across Australia. This also means that our measures to improve child safety must take account of the different experiences of children, and the context in which they take place.

Although child harm takes a variety of forms, the most comprehensive statistics are those relating to child abuse and neglect in the family. Abuse and neglect are some of the most serious forms of harm to children. While not providing a measure of prevalence, child protection statistics are an important source of proxy information about the extent and type of abuse and neglect experienced by children across Australia. Some other sources of information about child harm are also discussed briefly in this section.

(a) Child protection statistics

The Child Protection National Minimum Data Set (CP NMDS), established in 2013, is an annual collection of information on child protection in Australia. It includes all the data on children who come into contact with state and territory departments responsible for child protection, which is published by the Australian Institute of Health and Welfare (AIHW), and is also used in the Report on Government Services. It requires state and territory child protection agencies to collect and report data to an agreed set of technical specifications.²

The CP NMDS assists us to understand child abuse and neglect in Australia and has significantly improved the quality of available information on child protection. However, the information does not represent the prevalence of child abuse and neglect. The data only records cases of child abuse and neglect where they are detected and reported, according to particular legislative definitions. It remains the case that there is no collection in Australia that records the prevalence of child abuse and neglect. This significantly impedes our ability to understand the extent and nature of child abuse and any changes over time.

The latest available administrative data from 2015–16 was analysed by the AIHW, with findings published in the Child Protection Australia 2015–16 report.³ This section highlights the report's key findings regarding child protection notifications, investigations and substantiations.⁴

Notifications, investigations and substantiations

'Notifications' are contacts made to an authorised department alleging child abuse or neglect, child maltreatment or harm to a child.⁵ In 2015–16, there were 355,935 notifications received in Australia, involving 225,487 children.⁶ These harms to children primarily involve family members.

'Investigations' are the processes whereby the relevant department obtains more detailed information about a child who is the subject of a notification.⁷ Forty six per cent of notifications were investigated, representing 164,987 investigations.⁸

'Substantiations' occur when an investigation into child abuse and neglect has concluded and there is reasonable cause to believe that a child had been, was being or was likely to be abused, neglected or otherwise harmed.⁹ Following investigations, there were a total of 60,989 substantiations.¹⁰

Substantiations are categorised into one of four types of harm. In 2015–16, the percentage breakdown of substantiations was:

- **emotional abuse** – 45%
- **neglect** – 24.9%
- **physical abuse** – 18.3%
- **sexual abuse** – 12.2%.¹¹

It is important to note that, despite the existence of the CP NMDS, states and territories have different legislation, policies and procedures that affect the data collected and the ability to make comparisons between jurisdictions.¹²

(b) Other sources of information about child harm

Some other recent data sources are relevant to understanding the extent and type of harm experienced by children in Australia.

The Australian Bureau of Statistics (ABS) Personal Safety Survey collects information about the nature and extent of violence experienced by people aged 18 years and over. The most recent survey was conducted in 2016, with results due for release in late 2017. In its response to my request for information for this report, the ABS advised that it collects the following items:

- the participant's relationship to all perpetrator(s) of physical and/or sexual abuse before age 15
- whether the participant witnessed violence towards mother by a partner before age 15
- whether the participant witnessed violence towards father by a partner before age 15.

Some data about deliberate harms to children can also be found in coronial information, hospital and police records. For example, the latest national victims of crime data shows that between 1 January and 31 December 2016 there were 23,052 victims of sexual assault and 12,956 victims were aged between 0 and 19 years.¹³ However, there are significant limitations with this data, stemming, in part, from inconsistent national collection.

Information from Kids Helpline informs us about the help-seeking needs and concerns of Australian children and young people. Kids Helpline provides a free, national, confidential counselling and support service for children and young people aged 5–25 years. In 2016, its counsellors received 66,963 counselling contacts, defined as contacts that were seeking help in relation to a specific problem or concern.¹⁴ 5,387 (8%) of these contacts were about child abuse, domestic or family violence, or issues related to living in OOHC.¹⁵ The majority of counselling contacts in this category (69%) concern current abuse or risk of abuse.¹⁶

There is also some information about the type and extent of harm experienced by children in non-familial contexts, such as online harm¹⁷ and bullying by peers.¹⁸

In 2016, 3,828 (6%) counselling contacts received by Kids Helpline were about bullying.¹⁹ Key observations from the data about bullying contacts include:

- 84% were classified as school-based bullying
- 70% were from children and young people experiencing some form of bullying
- 25% of bullying contacts involved verbal abuse
- 14% of bullying contacts involved exclusion, isolation and/or spreading of rumours.²⁰

From 1 July 2016, counsellors at Kids Helpline began collecting information about whether or not the child or young person indicated that the bullying included an online or texting element. There were 2,016 contacts received about bullying between July and December 2016. Of these contacts, 560 (28%) indicated that the bullying included online or texting elements.²¹

In November and December 2016, the Office of the eSafety Commissioner and the Department of Education and Training surveyed 2,448 young people aged 12–17 about their online experiences. Twenty five per cent of respondents reported being targets of bullying or hurtful comments online and 57% of respondents reported seeing real violence online that disturbed them.²²

(c) Lack of information on child harm

Our ability to understand child harm in Australia is limited by the lack of information regarding the prevalence of abuse, neglect and other forms of child harm and by the differences between state and territory legislation, policies and practices. Consistency in the way data is collected when children come into contact with the child protection system allows us to form some conclusions about the type of harm occurring and the number of children placed in OOHC. However, there is no available information on the overall prevalence of child abuse and neglect, nor the prevalence of other types of harm, or harm occurring in different contexts.²³

For example, there are limited information sources about the extent and type of harm experienced by children in institutional contexts, such as schools, residential care and recreational organisations. The Royal Commission, in its Interim Report, highlighted the lack of data on the prevalence of institutional child sexual abuse.²⁴ Its final report is likely to provide further information and recommendations about the available data on child sexual abuse in institutions.

The lack of comprehensive data in Australia significantly impedes our ability to understand the extent and nature of child abuse and neglect, and other forms of harm, and how this may have changed over time, as well as the effectiveness of any strategies designed to address these harms.

If, as a nation, we are serious about preventing and responding to child harm, we need to urgently address this issue. As a start, we should invest in routine collections of data that alert us to the prevalence and incidence of child maltreatment in all settings within the Australian community.

Recommendation 17: All states and territories, led by the Australian Government, should commit to conducting a routine national child maltreatment incidence and prevalence study.

4.3 Recent government inquiries relevant to child safety and wellbeing

Multiple inquiries related to child safety have been conducted across all Australian jurisdictions over many decades. These inquiries have considered child maltreatment in institutional care, foster care, child migration, Indigenous communities, within various child protection systems and in families.²⁵ These inquiries have consistently demonstrated the many problems within organisations and systems that are supposed to protect children and promote child wellbeing.

Recent inquiries in South Australia (SA),²⁶ Queensland (Qld)²⁷ and New South Wales (NSW),²⁸ have focused on the child protection system, including OOHC. We also have two recent Royal Commissions focusing on child safety in institutional contexts. At the date of finalising this report, the final reports of the Royal Commissions have not been released.

(a) Child Protection Systems Royal Commission

The arrest of Shannon McCooole in SA, for multiple serious crimes against children in care, was the catalyst for establishing the Child Protection Systems Royal Commission.²⁹ Its report, published in 2016, examined in detail the deficits in the child protection system that allowed McCooole to gain access to his victims and allowed his crimes to escape detection.³⁰ Five case studies looked at different aspects of the child protection system: vulnerable children (birth to school age), intervening in high risk families, children leaving care, children with high complex needs in OOHC, and keeping children safe in their environment.³¹

The Child Protection Systems Royal Commission also inquired into complaints and dissatisfaction with the statutory agency in charge of child protection, Families SA.³² The report noted that many children in the care of the state have been abused and neglected by the system that was supposed to protect them, with a 'yawning gap between policy requirements and day-to-day practice in many areas'.³³

The Child Protection Systems Royal Commission made 260 recommendations, of which 256 have been accepted.³⁴ These included better screening and scrutiny of individuals engaged in child-related work, the wholesale reform of residential care, substantial reform to investigative processes in order to keep children safe, and improving children's participation in decision making.³⁵ The SA Department of Child Protection published a progress report in 2017 outlining what a new child protection system will aim to do.³⁶

(b) When a child is missing: Remembering Tiahleigh — A report into Queensland's children missing from out-of-home care

In 2015, the death of Tiahleigh Palmer, a 12-year-old girl in foster care in Qld, led to an inquiry into issues faced by government, non-government agencies and carers when a child in OOHC is missing.³⁷ In 2016, the Queensland Family and Child Commission reported that procedures and processes intended to help agencies to respond when a child is missing cause confusion and misunderstanding.³⁸ The review also found that key government agencies do not routinely share information where there is no clear legislated ability or policy mandate to do so.³⁹ The report recommended more consistent definitions and guidance to inform immediate and longer term action when a child in OOHC is missing. The importance of a collaborative approach, including shared protocols, information sharing and coordinated risk assessments, was also highlighted.⁴⁰

The Queensland Family and Child Commission reported that involving children in discussions about the risks and impacts of being missing is important to educate children about their safety. It recommended that once children who have been missing are located, they need to be involved in discussions around developing their case plan and, further, that learnings from these discussions can assist to improve processes and practices.⁴¹

The Queensland Family and Child Commission conducted a supplementary review focused on information sharing to enhance the safety of children in regulated home-based services including foster and kinship care, family day care and stand-alone care services.⁴²

(c) Independent Review of Out-of-Home Care in New South Wales

The Independent Review of Out-of-Home Care in New South Wales was conducted in 2015–16 in response to the growth of the OOHC population and continuing poor outcomes for the most vulnerable children.⁴³ The review concluded that:

- the OOHC system is not client-centred; it is designed around programs and service models instead of the needs of vulnerable families
- the approach to shared responsibility across government agencies has not improved the outcomes for children and families with complex needs
- expenditure is crisis driven, not well-aligned to evidence and does not effectively target clients.⁴⁴

The Review recommended that tailored support packages be implemented to address the complex needs of children and families, and that investment in interventions and services is evidence based. The New South Wales Legislative Council's General Purpose Standing Committee's report on child protection recommended increasing funding for evidence based prevention and early intervention services to address child protection concerns early and help families stay together.⁴⁵

(d) Royal Commission into the Protection and Detention of Children in the Northern Territory

The Royal Commission into the Protection and Detention of Children in the Northern Territory was established in 2016 in response to concerns about inappropriate and unlawful practices, unacceptable standards of conduct, and inappropriate methods of dealing with young people within detention facilities and child protection.⁴⁶ It delivered an Interim report on 31 March 2017, noting that there is a significant overrepresentation of Aboriginal and Torres Strait Islander children and young people in both child protection and youth detention.⁴⁷ Its final report will be released in late November 2017.

(e) Royal Commission into Institutional Responses to Child Sexual Abuse

The Royal Commission was authorised in 2012 by the Australian Government to investigate responses to child sexual abuse by institutions.⁴⁸ These institutions include churches, schools, residential care and sports and recreation clubs, among others.

The Royal Commission conducted private sessions with people affected by institutional child sexual abuse, public hearings focusing on case studies, and an extensive program of research on child sexual abuse.⁴⁹

Under its Terms of Reference, the Royal Commission was directed to have regard to the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts.⁵⁰ Between 7 May 2013 and 1 September 2017, the Royal Commission conducted 7,509 private sessions with survivors of child sexual abuse in institutions.⁵¹ In public hearings it also heard from many survivors about their experiences of child sexual abuse and poor institutional responses. These personal accounts demonstrate the extent and depth of the issue in the community.

Many of these personal accounts reveal the devastating legacy of institutional neglect and abuse. The effects of child abuse, particularly child sexual abuse, include lifelong and intergenerational harm. The long term damage reported by survivors includes effects on their physical and mental health, education, career prospects, ability to form relationships and their faith. There are also negative impacts on survivors' children, partners, parents, other family members and their communities.⁵² The harm caused by child sexual abuse is often compounded by inadequate and ineffective responses to allegations of abuse within an organisation.⁵³

The Royal Commission was directed under its Terms of Reference to inquire into what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future. A key aspect of this has been to examine what makes institutions 'child safe'.⁵⁴ The Royal Commission acknowledged that most child safe frameworks have a broader application than the prevention of sexual abuse alone. They also assist institutions to prevent, identify and improve responses to physical, sexual, emotional, psychological abuse and neglect of children.⁵⁵

The Royal Commission's final report, including recommendations about preventing child sexual abuse in institutions, is due on 15 December 2017.

The findings of the above, and other inquiries, emphasise the need for reform to create services and systems where children and young people are at the centre of thinking and decision-making. This includes increasing the value given to children's opinions, experiences, wellbeing and development.⁵⁶

4.4 Children's safety and wellbeing in organisations

(a) A child rights approach

Children are involved in many types of organisations, including schools, sport and recreation groups, and religious or cultural organisations. Being involved in these organisations is an important part of children's lives.

The *Convention on the Rights of the Child* (CRC) sets out all the rights that children need to enjoy to ensure that they are safe, healthy and happy, and as such should underpin the creation of child safe organisations. While the CRC has special provisions aimed at protecting children from violence, abuse and neglect, all the rights set out in the CRC are relevant to ensuring both child safety and wellbeing, which are fundamentally linked. Child safety is most effectively fostered by a focus on the child as a whole, as evidenced in a child rights approach.⁵⁷

In ratifying the CRC and its Optional Protocols, Australia accepts an obligation to respect, protect, promote and fulfil all the rights set out in the CRC, including adopting or changing laws and policies that are needed to implement its provisions. This obligation extends to ensuring that children are safe from harm in organisations they have contact with.

Children's rights that are particularly relevant to ensuring safety for children in organisations include:

- Article 3, which provides that all actions concerning children, whether undertaken by social welfare institutions, courts of law, administrative authorities or legislative bodies, give primary consideration to the best interests of the child. It also requires States Parties to ensure that institutions, services and facilities responsible for the care or protection of children conform to 'standards established by competent authorities, particularly in areas of safety, health, in the number and suitability of their staff, as well as competent supervision'.⁵⁸
- Article 12, which sets out the right of every child capable of forming their own views, to express their views in all matters affecting them and to have their views considered. Processes to facilitate the views of children should be accessible, inclusive and meaningful to children and take into account the evolving capacities of children and their best interests.⁵⁹
- Article 19, which, read in conjunction with Article 34, outlines the obligation to take appropriate measures to ensure that children are properly protected from violence, abuse and neglect, including sexual abuse and sexual exploitation. These protective measures should include effective procedures for the establishment of social programmes to provide necessary support for the child and those who care for the child, and systems for identification, reporting, referral, investigation, treatment and follow-up of instances of various forms of child maltreatment.⁶⁰
- Article 31, which recognises the rights of children to rest, play and participate in leisure activities as critical aspects of child wellbeing and development.⁶¹

Importantly, the CRC recognises that children's rights must be actively understood and promoted by adults and children alike in order for its aims to be realised. Article 42 obliges signatories to undertake to make the principles and provisions of the CRC widely known, to both adults and children.⁶² In actively supporting the principles and provisions of the CRC, organisations can empower children with the knowledge that they have these special rights, and make children's rights a focus of the organisation's operations.

(b) What children say about their safety

The Royal Commission has emphasised that our understanding of child safety in organisations must be informed by talking with children about their perceptions and experiences. The Children's Safety Study was commissioned by the Royal Commission to explore children and young people's perceptions of safety. The study produced two reports: *Taking Us Seriously*⁶³ and *Our Safety Counts*.⁶⁴

In August 2015, I launched the *Taking Us Seriously* report. The report summarises findings from focus groups conducted with 121 children and young people to find out how they conceptualise and perceive safety, particularly within institutions.⁶⁵

Children and young people in the focus groups talked about safety in relation to feelings and personal characteristics, describing how safe environments made them 'comfortable' and 'relaxed', encouraging them to be 'confident' and 'resilient'.⁶⁶

Children and young people explicitly stated the importance of being included in discussions around safety. For example, one child said:

Every school should do what we just did. Talk about what risks there are and if it's a big risk and what's been done and what we think should be done. How else can they find out what young adults think and how can we hear what's been done?⁶⁷

Children and young people identified problems such as adults misusing their power, or children not being trusted when they raise concerns about their safety. As one child commented:

They need to trust our gut feelings because it's real, and even if it's not, if a kid feels unsafe adults have to take notice because it's real to them. Yeah, adults shouldn't ignore it or say 'don't worry, settle down' just because it's a kid.⁶⁸

In September 2016, the *Our Safety Counts* report was published. It provided an overview of the major findings from the ASK-YP survey, developed to build on the qualitative findings of the *Taking Us Seriously* report.⁶⁹ The ASK-YP survey was completed by 1,480 children and young people.

Our Safety Counts found that the majority of children and young people reported feeling safe 'some of the time' or 'all of the time' in sport (n=216; 93.9%), school (n=750; 89.6%), holiday camps (n=90; 88.9%) and church groups (n=57; 84.9%).⁷⁰

The majority of participants felt that adults valued children and young people's opinions 'all the time' in church (n=57; 65.2%) and sporting environments (n=216; 52.8%). However, less than half of the participants felt this way at holiday camp (n=90; 43%) and only one-quarter of those agreed with the statement in relation to school (n=750; 27%).⁷¹

Two-thirds of all participants felt it was unlikely that they would encounter an unsafe adult or peer. If they did meet such a person, children and young people stated they were much more likely to seek help from a peer or parent than adults in charge at the organisation, even though they believed they would need an adult to notice, ask if they were okay and to take control of the situation.⁷²

The two reports from the Children's Safety Study indicate that children and young people generally feel positive about their safety in organisations. The findings emphasise that valuing the voices of children and young people and trusting them when they speak up about concerns is central to ensuring child safety and wellbeing in organisations.

I note that the importance of hearing children's views on safety is also reflected in the *National Framework for Protecting Australia's Children* (National Framework). It includes a commitment to consult with children and young people regarding the design and implementation of strategies contained in its Third Action Plan.⁷³

As discussed in Chapter 1, I partnered with the CREATE Foundation to facilitate consultations with 323 children and young people in early 2017. We talked to children and young people about what makes them feel safe and unsafe.

In general, they told us that feeling safe is about feeling welcome, included and not discriminated against, but also noted the importance of youth-friendly physical environments. As one participant expressed: 'A lot of the time it's not feeling unsafe, it's feeling unwelcome — it's the way that people look at you'.⁷⁴ Another remarked: 'It was pretty much the sporting club involving me, into the games, encourage [sic] me while playing and introducing me to the team as well'.⁷⁵ Additional comments about what made them feel safe included:

It's having activities or sport or anything else. It gives everybody a chance to focus on something, it's the reason everyone bonds together. It removes the barriers ... everybody knows that they're there for, say, tennis, they're not there to judge or compare or ridicule. We just want to play and have fun.⁷⁶

People come from very different cultures. Being open and talking about it/discussing helps ... and connecting and making friends. Community groups help connect you with other services. It's the nature of being polite, a different cultural lens.⁷⁷

These statements provide vivid illustrations of the value of listening to children and young people, learning from their experiences and opinions.

(c) Risk and protective factors for child sexual abuse in organisations

In 2017, the Royal Commission published some commissioned research projects on the risk and protective factors for child sexual abuse in institutional contexts. The risk of child harm is higher in some organisations than in others. Identifying and mitigating risks allows organisations to better ensure child safety and wellbeing.

Risk and protective factors

In a literature review completed for the Royal Commission, Kaufman and Erooga synthesised the available literature on risk and protective factors for child sexual abuse in organisations.⁷⁸ The review discussed risk and protective factors in three broad areas: victims, perpetrators and institutional settings.⁷⁹

On victims, the literature review indicated a majority of child sexual abuse victims in all settings are female, noting there may be disproportionately low rates of disclosure among males.⁸⁰ The Royal Commission's Interim Report states that two in three survivors of sexual abuse in institutional settings who participated in private sessions were male.⁸¹

Kaufman and Erooga also noted that the age at which sexual abuse begins varies, possibly because children may be in different institutional settings across their developmental span.⁸² They examined literature indicating that children with a disability and children from families with low socio-economic status are at higher risk of child sexual abuse.⁸³

The review pointed out that there is no profile for perpetrators of child sexual abuse in organisations.⁸⁴ In general, the risk factors for sexual offending include deviant sexual interest, distorted attitudes about sex, poor socio-affective function and poor self-management.⁸⁵ Kaufman and Erooga highlighted a useful distinction between those who have a long term sexual preference for children, described as 'preferential offenders', and those who take advantage of opportunities to offend against children, termed 'situational offenders'.⁸⁶

Importantly, the review discussed how the characteristics of an organisation and the activities it conducts play a significant role in determining the level of risk in that organisation.⁸⁷ These characteristics include the physical condition of facilities, child safety policies and procedures, as well as screening, training and supervision of staff.⁸⁸

The culture of an organisation is also a salient risk or protective factor for child harm, including the perceived authority of the leadership and the organisation, and openness to information or change.⁸⁹ The review noted that creating a culture where children have a voice regarding what happens to them has been consistently recommended.⁹⁰

Kaufman and Erooga concluded that a positive organisational culture is central to keeping children safe and well:

Effective prevention is predicated on creating a positive, open and inclusive organisational culture in which the safety of children is paramount. This culture should be led by senior management and wholeheartedly endorsed and owned by staff at all levels.⁹¹

In another report for the Royal Commission, Parkinson and Cashmore assessed the different dimensions and degrees of risk of child sexual abuse in institutions. The report identified four key dimensions of risk:

- situational risk arises from the opportunities for abuse that the environment offers
- vulnerability risk arises from the characteristics of the children cared for
- propensity risk arises from a greater-than-average clustering of those with a propensity to abuse children and young people
- institutional risk arises from the characteristics of an institution that may make abuse more likely to occur, or less likely to be dealt with properly if disclosed.⁹²

Parkinson and Cashmore discuss these dimensions of risk with detailed reference to Royal Commission case studies, which were conducted to investigate allegations of, and responses to, child sexual abuse in specific institutions. Factual examples from these case studies highlight situations where various risk factors were present and led to child sexual abuse.⁹³

Some of the risk factors discussed above can be applied when considering how to prevent all forms of child harm and abuse in organisations, not only child sexual abuse. Organisations in which staff and volunteers follow child safety policies and procedures, and in which children feel comfortable speaking up about their concerns, are likely to be organisations where there is a reduced risk of all forms of child harm and abuse.

Organisational culture

The culture of an organisation can either be a risk or a protective factor for child harm. Organisational culture is conceptualised by the Royal Commission as being 'the assumptions, values and beliefs, and norms that distinguish appropriate from inappropriate organisational participant attitudes and behaviours'.⁹⁴

In a report for the Royal Commission, Palmer identified nine types of organisational cultures that can negatively affect the way child sexual abuse is perpetrated, detected and responded to in institutional contexts.⁹⁵

These are organisational cultures where:

- organisations become viewed by their members as ends in themselves, independent of the goals they were established to pursue⁹⁶
- there is a 'macho culture' where males are encouraged to see themselves as powerful and active⁹⁷
- child sexual abuse, grooming behaviours and sexually abusive behaviour by young people are tacitly supported⁹⁸
- discussion of sexual matters is discouraged⁹⁹
- children are seen as untrustworthy and do not have freedom of self-expression, especially about matters that might cast their superiors in a negative light¹⁰⁰
- senior management prioritises protecting the organisation's public image, at the expense of the safety and wellbeing of children¹⁰¹
- formal and informal power structures give people in positions of authority the motivation to abuse, make it costly for victims or third parties to disclose abuse, and reduce the likelihood of effective organisational responses¹⁰²
- informal group dynamics create reluctance to discuss or address the appropriateness of a co-worker's conduct¹⁰³
- participants in an organisation follow ineffective policies and procedures without question or violate policies and procedures designed to prevent harm to children.¹⁰⁴

The report makes some suggestions for organisations to develop a culture that prevents and enhances responses to child sexual abuse.¹⁰⁵ These include encouraging leaders to behave in ways that convey a culture of valuing child safety and wellbeing, training staff members to embrace such a culture, and engineering cultural artefacts and practices that symbolise this culture.¹⁰⁶

Similar to the consideration of risk factors, lessons about organisational culture can be applied to prevent all forms of child harm and abuse, not only child sexual abuse. An organisational culture that is built on genuine understanding and respect for children's rights is one where the preconditions for child safety and wellbeing are most likely to be embedded and sustained. In particular, the right of children to be involved in discussions about their safety and their right to have their views respected is vital to an organisational culture that promotes child safety and wellbeing.

4.5 National Statement of Principles for Child Safe Organisations

(a) Previous work on child safe principles

In 2005, Community and Disability Services Ministers approved a national framework, *Creating Safe Environments for Children – Organisations, Employees and Volunteers*.¹⁰⁷ *Staff guidelines for Building the Capacity of Child-Safe Organisations* were also developed under this framework.¹⁰⁸ Although still relevant, our knowledge and understanding of risk and protective factors, the diversity of children's needs and technological changes have developed significantly since these documents were developed.

In 2013, the Australian Children's Commissioners and Guardians' submission to the Royal Commission's *Issues Paper 3: Child Safe Institutions*, proposed a set of 11 principles for child safe organisations.¹⁰⁹ The Royal Commission received 53 submissions to this issues paper.¹¹⁰ States and territories have also developed various standards or principles for child safe organisations.¹¹¹ Across these, there is general alignment about what an organisation needs to do, at a minimum, to promote child safety and wellbeing.

The Royal Commission drew on information available from its research, consultations, submissions, case studies and findings from the Children's Safety Study to identify ten elements that create a child safe institution.¹¹² The draft National Principles, discussed below, align with the elements identified by the Royal Commission, broadened to cover all forms of potential harms and taking a child rights, strengths-based approach to organisational development.

(b) National Framework for Protecting Australia's Children

The National Framework recognises that to keep Australia's children and young people safe and well requires a fundamental shift away from seeing their protection as simply a response to child abuse and neglect.¹¹³ A priority area of work for the National Framework is the development of National Principles.¹¹⁴ In February 2017, I was engaged to develop these.

The aim was to develop a set of nationally agreed principles to which organisations across all sectors will adhere to when working with children and young people, to ensure that they are kept safe and well. The project involves developing tools and resources to help organisations implement these principles and improve child safety and wellbeing. Working within the National Framework means that the project benefits from existing networks of governments, researchers and non-government organisations.

(c) National Statement of Principles for Child Safe Organisations

A child rights based approach is central to developing the National Principles. A nationally consistent approach to child safety and wellbeing must aim to build cultures and systems that focus on the rights and needs of children and young people within organisational settings.

It is important to acknowledge that children gain great benefits from being involved in organisations of various kinds — such as their local sports club, their school, or youth centre. Organisations allow children to meet friends, learn new skills and be active participants in their community. I recognise that the vast majority of organisations, workers and volunteers are motivated to do what is best for children and young people. Many organisations are already working to ensure child safety and wellbeing, for example by having a child safe policy or screening workers for suitability to work with children.

The draft National Principles have been developed through a collaborative approach. In early May 2017, I convened roundtables to assist in the development of the draft National Principles. I heard from representatives of the Australian Children's Commissioners and Guardians, the National Coalition on Child Safety and Wellbeing, and peak organisations from key sectors such as health, education, religious services, sport, and recreation (see Appendix 15 for a list of roundtable attendees). Development of the draft National Principles has also benefited from ongoing input from the Royal Commission, and oversight of the joint government and non-governmental body responsible for steering the National Framework.

I would like to acknowledge DLA Piper who hosted the consultations in Melbourne, and transcribed the discussions that took place. I also thank them for their assistance in researching the child safe frameworks that exist in overseas jurisdictions.

The draft National Principles (see Box 11) set out ten principles that collectively show a child safe organisation is one that creates a culture, adopts strategies and takes action to promote child wellbeing and prevent harm to children and young people. This is represented in Figure 3.8, the Wheel of Child Safety. The draft National Principles are high-level and focused on driving cultural change, allowing for flexibility in implementation by institutions and government. Given the variety in the size and nature of organisations providing services to children, the specific policies and practices that they develop, based on the National Principles, will necessarily differ.

Box 11: Draft National Statement of Principles for Child Safe Organisations

1. A commitment to child safety and wellbeing is embedded in organisational leadership, governance and culture.
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is promoted and diversity is respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes for complaints and concerns are responsive, understood, accessible and used by children, young people, families, staff and volunteers.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Organisations regularly review and improve implementation of their child safety and wellbeing policies and procedures.
10. Policies and procedures document how the organisation is safe for children and young people.

Figure 3.8: Wheel of Child Safety



(d) Future-proofing for child safe organisations

Many organisations are already taking important steps to ensure child safety such as assessing and screening employees and volunteers for suitability to work with children, and meeting the child safe requirements of respective state and territory governments.

However, to deliver a nationally consistent approach to the development and maintenance of child safe organisations, genuine cultural change is needed that places children at the centre of thinking and action.

A precursor to effecting such change is to develop an understanding about what organisations already know about child safety, what they are already doing, and where they need additional support.

A wide range of organisations work with children and young people throughout Australia. These may be small and community based, through to larger organisations. These may also be businesses or organisations employing staff and/or volunteers providing services to and working with children and young people, with some of these entities operating across state and territory boundaries.

Ongoing work and collaboration will be required to embed the National Principles into organisational policies and practices across the wide range of sectors providing services to children, in ways which complement and support existing standards, guidance and resources.

Given this, the Australian Government should consider establishing or appointing existing appropriate bodies at the national level to drive, implement and monitor child safety across Australia.

Engaging the community on child safety and wellbeing in organisations is another critical aspect of any future work. A child's family and community members are an important part of their protective network. They should feel empowered and comfortable speaking to organisations about what policies and practices are in place to keep children safe or to raise concerns if they arise.

The ultimate goal is to create communities that are safe and nurturing for children, where their special rights are respected and realised. As cornerstones of our communities, all organisations working for and with children need to be proactive in their commitment by taking deliberate steps to protect children's rights and keep them safe from physical, sexual and emotional harm. I trust that the national work I am undertaking in relation to child safe organisations helps to guide and support all organisations, workers, volunteers, children and families in ensuring the safety and wellbeing of Australia's children.

Summary

- Our understanding of child harm in Australia comes from a variety of information sources including administrative data and findings from government inquiries.
- Our ability to understand child abuse, neglect and other forms of child harm is limited by the lack of available information on the prevalence and nature of all forms of child harm.
- The work of the Royal Commission into Institutional Responses to Child Sexual Abuse has brought particular focus to children's safety in organisations.
- Children's safety and wellbeing in organisations is most effectively fostered by a child rights approach, which views the child as a whole and promotes children's enjoyment of a full range of rights.
- Children and young people have said that safety is about feeling welcome, included, not discriminated against and able to speak up.
- To ensure child safety and wellbeing, organisations need to have cultures and systems that focus on the rights and needs of children and young people.
- My work developing the National Statement of Principles for Child Safe Organisations aims to drive cultural change in organisations and is designed to contribute to a nationally consistent approach to child safety and wellbeing in organisations.

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- 4 Australian Institute of Family Studies, *Child Abuse and Neglect Statistics* (2017). At <https://aifs.gov.au/cfca/publications/child-abuse-and-neglect-statistics> (viewed 28 July 2017).
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- 6 Australian Institute of Health and Welfare *Child protection Australia 2015–16* (2017) 19. At <http://www.aihw.gov.au/publication-detail/?id=60129558626> (viewed 28 July 2017).
- 7 Australian Institute of Health and Welfare *Child protection Australia 2015–16* (2017) 19. At <http://www.aihw.gov.au/publication-detail/?id=60129558626> (viewed 28 July 2017).
- 8 Australian Institute of Health and Welfare *Child protection Australia 2015–16* (2017) 19. At <http://www.aihw.gov.au/publication-detail/?id=60129558626> (viewed 28 July 2017).
- 9 Australian Institute of Family Studies, *Child Abuse and Neglect Statistics* (2017). At <https://aifs.gov.au/cfca/publications/child-abuse-and-neglect-statistics> (viewed 28 July 2017).
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- 11 Australian Institute of Family Studies, *Child Abuse and Neglect Statistics* (2017). At <https://aifs.gov.au/cfca/publications/child-abuse-and-neglect-statistics> (viewed 28 July 2017).
- 12 There is variation between jurisdictions regarding who is legally obliged to report child abuse and neglect to the appropriate authority. The policies for assessing notifications and the range of activities that are categorised as investigations vary broadly across jurisdictions. Thresholds for what is substantiated also vary. Some jurisdictions substantiate the harm or risk of harm to the child and others substantiate actions by parents or incidents that may cause harm. Australian Institute of Health and Welfare, *Child protection Australia 2015–16* (2017) 4. At <http://www.aihw.gov.au/publication-detail/?id=60129558626> (viewed 28 July 2017).
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- 14 Yourtown, *Kids Helpline Insights 2016: National Statistical Overview* (2017). At <https://www.yourtown.com.au/sites/default/files/document/KHL%20Insights%20Report%202016%20-%20Statistical%20Overview.pdf> (viewed 29 September 2017).
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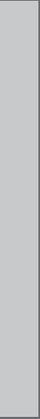
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Appendices

Appendix 1: Speaking engagements

Date	Engagement	Location
06.07.2016	Australian Institute of Family Studies 2016 Conference	Melbourne, Vic
25.07.2016	2016 National Suicide Prevention Conference	Canberra, ACT
30.07.2016	Dirrum Dirrum Festival	Canberra, ACT
17.08.2016	Association of Children's Welfare Agencies Conference 2016	Sydney, NSW
29.08.2016	International Society for the Prevention of Child Abuse and Neglect (ISPCAN) Conference 2016	Calgary, Canada
07.09.2016	Red Cross Youth Panel (National Child Protection Week)	Sydney, NSW
09.09.2016	National Child Protection Week NSW	Sydney, NSW
13.09.2016	The 2nd Australasian Youth Justice Conference	Brisbane, Qld
15.09.2016	Kids Helpline Symposium 2016 25th Anniversary	Sydney, NSW
06.10.2016	2016 Early Childhood Australia National Conference	Darwin, NT
31.10.2016	Family Violence Specialist Network Day, Legal Aid	Sydney, NSW
04.11.2016	Anglicare NT Alice Springs Communities for Children, Children's Week Gala Dinner	Alice Springs, NT
15.11.2016	Children's Book Council of Australia NSW Branch, Lady Cutler Dinner	Sydney, NSW
24.11.2016	The Sydney Children's Hospital Network	Sydney, NSW
24.11.2016	Commonwealth Bank Diversity & Inclusion Event: Domestic Violence Panel	Sydney, NSW
07.12.2016	FUSE 2016 National Multicultural Youth Advocacy Network Summit	Melbourne, Vic

Appendix 1: Speaking engagements

Date	Engagement	Location
07.02.2017	Australian Human Rights Centre Children's Rights Workshop UNSW	Sydney, NSW
13.02.2017	Inaugural NSW Juvenile Justice Advisory Committee Meeting	Sydney, NSW
03.03.2017	Wellbeing Australia Conference: Strengths, Circles and Social and Emotional Learning	Cairns, Qld
07.03.2017	Mobile Children's Services Association Mobile Meet Gala Dinner	Sydney, NSW
05.04.2017	Re-imagining Childhood: Birth to 3 Years South Australian Collaborative Child Project	Adelaide, SA
06.04.2017	Australian and New Zealand Child Death Review and Prevention Group National Meeting	Adelaide, SA
04.06.2017	World Congress on Family Law and Children's Rights	Dublin, Ireland
28.06.2017	Psychological Medicine Continuing Professional Development: Westmead Children's Hospital	Sydney, NSW
06.07.2017	Australian Association for Adolescent Health 2017 Conference	Sydney, NSW
14.07.2017	Reggio Emilia Australia Information Exchange 9 th Biennial Conference	Sydney, NSW
18.07.2017	Royal Children's Hospital Mental Health Community Reference Group	Melbourne, Vic
26.07.2017	National Suicide Prevention Conference 2017	Brisbane, Qld
10.08.2017	CREATE Conference, Voices in Action: Empowering young people for positive change	Sydney, NSW
14.09.2017	SNAICC National Conference	Canberra, ACT
21.09.2017	Hong Kong Children's Commission	Wanchai, Hong Kong

Appendix 2: Face to face meetings and teleconferences about issues affecting children and young people

Date	Meeting	Location
01.07.2016	Professor Paula Gerber, Law Faculty, Monash University	AHRC, NSW
04.07.2016	Jennifer Evans, National Lead Child Protection, Australian Red Cross	AHRC, NSW
05.07.2016	Winston Churchill Memorial Trust: Panel Interviews	Sydney, NSW
06.07.2016	Paul Wappett, Chief Executive Officer, Open Universities Australia	Melbourne, Vic
07.07.2016	Dr Rae Kaspiew, Senior Research Fellow, Australian Institute of Family Studies	Melbourne, Vic
11.07.2016	John Dalglish, Head of Strategy and Research, yourtown	AHRC, NSW
12.07.2016	Mary Fallon, Producer, ABC Studios	Sydney, NSW
13.07.2016	Ngroo Campfire for Childhood Educators	Tregear, NSW
14.07.2016	Jackie Wilson, Deputy Secretary, Early Childhood and Child Care, Department of Education and Training	AHRC, NSW
15.07.2016	Angela Dennis, Assistant Manager, AusIndustry Business Services, Department of Industry, Innovation and Science	AHRC, NSW
19.07.2016	Andrew Walter and Paul Pfitzner, Assistant Secretary, Principal Legal Officer, Civil Law Unit, Attorney-General's Department	Canberra, ACT
19.07.2016	Stephen Bartos, CEO, Australian Research Alliance for Children and Youth	Canberra, ACT
19.07.2016	Dr Wendy Southern PSM, Deputy Secretary, National Programme Delivery Group, Department of Health	Canberra, ACT
19.07.2016	Laura Bennetts-Kneebone, Assistant Research Director, Helene Shin, Fiona Skelton and Helen Rogers, Research Officers, National Centre for Longitudinal Data, Department of Social Services	Canberra, ACT
20.07.2016	Richard Glenn, Acting Commonwealth Ombudsman	Canberra, ACT
20.07.2016	Finn Pratt, Secretary, Department of Social Services	Canberra, ACT

Appendix 2: Face to face meetings and teleconferences about issues affecting children and young people

Date	Meeting	Location
20.07.2016	Dr Fadwa Al-Yaman and Conan Liu, Indigenous Children's Group, Australian Institute of Health and Welfare	Canberra, ACT
20.07.2016	Roslyn Baxter, Families Group Manager, Department of Social Services	Canberra, ACT
22.07.2016	Reiby Juvenile Justice Detention Facility	Reiby, NSW
27.07.2016	Yunkel Jung, Mihyun Kim, Junghyun Lee, Delegates of the Korean National Human Rights Commission	AHRC, NSW
27.07.2016	Richard Weston, CEO and Lisa Hillan, Director of Programs and Knowledge Creation, Healing Foundation	AHRC, NSW
28.07.2016	Family and Relationship Services Australia and Uniting: Child Inclusive Practice Workshop	Sydney, NSW
02.08.2016	Child Cybersex Crime Project, Anti-Slavery Australia	AHRC, NSW
03.08.2016	Frank Baxter Juvenile Justice Centre	Kariong, NSW
04.08.2016	Claerwen Little, National Director, UnitingCare Australia	AHRC, NSW
05.08.2016	Stephen Still, Family Law Policy and Legislation Section, Attorney-General's Department	AHRC, NSW
08.08.2016	National Forum for Protecting Australia's Children, Third Action Plan	Melbourne, Vic
09.08.2016	Royal Commission into Institutional Responses to Child Sexual Abuse Multicultural Community Information Forum	Sydney, NSW
11.08.2016	Australian Press Council Roundtable	Sydney, NSW
16.08.2016	Magistrate Sue Duncombe, Youth Koori Court	Sydney, NSW
16.08.2016	John Dagleish, Head of Strategy and Research, yourtown	AHRC, NSW
16.08.2016	Jennifer Evans, National Lead Child Protection, Australian Red Cross	AHRC, NSW
17.08.2016	National Coalition on Child Safety and Wellbeing: Annual Meeting	Sydney, NSW

Date	Meeting	Location
17.08.2016	Dr Meredith Kiraly, Research Fellow, Department of Social Work, The University of Melbourne	Sydney, NSW
18.08.2016	Bourke Primary School	Bourke, NSW
23.08.2016	Bourke Justice Reinvestment Steering Committee	Sydney, NSW
25.08.2016	Associate Professor Brenda Morrison, Director, Centre for Restorative Justice, Simon Fraser University	Vancouver, Canada
25.08.2016	Mark Vonesch, Director, Reel Youth	Vancouver, Canada
26.08.2016	Holly Anderson, BSW, MA, Guardianship Manager, Vancouver Aboriginal Child and Family Services Society	Vancouver, Canada
26.08.2016	Devyn Cousineau, Legal Counsel, British Columbia Human Rights Coalition	Vancouver, Canada
26.08.2016	Robyn Durling, Co Director, British Columbia Human Rights Clinic	Vancouver, Canada
26.08.2016	Mary-Ellen Turpel Lafond, British Columbia's Representative for Children and Youth	Vancouver, Canada
30.08.2016	Marv Bernstein, Chief Policy Advisor, UNICEF Canada	Calgary, Canada
07.09.2016	Jennifer Evans, National Child Protection Lead, Australian Red Cross	AHRC, NSW
07.09.2016	Colin Pettit, Commissioner for Children and Young People, Western Australia	AHRC, NSW
08.09.2016	Andree Wright, Children's eSafety Commissioner, Office of the Children's eSafety Commissioner	Sydney, NSW
14.09.2016	John Dagleish, Head of Strategy and Research, yourtown	Brisbane, Qld
19.09.2016	Anti-Slavery Australia Behind the Screen: Online Child Exploitation in Australia Advisory Board Meeting	Sydney, NSW
22.09.2016	Premier Mike Baird, Premier of NSW	Sydney, NSW

Appendix 2: Face to face meetings and teleconferences about issues affecting children and young people

Date	Meeting	Location
28.09.2016	Jack Hamill, Crinkling News	Sydney, NSW
29.09.2016	Nowra Family Relationship Centre	Nowra, NSW
05.10.2016	Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation	Sydney, NSW
06.10.2016	Sally Sievers, Northern Territory Anti-Discrimination Commissioner	Darwin, NT
06.10.2016	Professor Alan Cass, Director, Menzies School of Health Research	Darwin, NT
07.10.2016	Colleen Gwynne, Northern Territory Children's Commissioner	Darwin, NT
11.10.2016	National Forum for Protecting Australia's Children, Strategy 3 Working Group, Third Action Plan	AHRC, NSW
13.10.2016	Australian Council of Human Rights Agencies (ACHRA)	Canberra, ACT
18.10.2016	Senate Budget Estimates	Canberra, ACT
19.10.2016	Elizabeth McCrea, Advocacy and Family Support, The Mirabel Foundation	AHRC, NSW
20.10.2016	Justin Dowd, Director, World Congress on Family Law and Children's Rights	Sydney, NSW
28.10.2016	COAG Summit 2016: Reducing violence against women and their children	Brisbane, Qld
02.11.2016	Debra Maher, Solicitor, Children's Legal Service Legal Aid and Nadine Miles, Chief Legal Officer Aboriginal Legal Service	AHRC, NSW
02.11.2016	Bernadette Black, CEO, Brave Foundation	AHRC, NSW
03.11.2016	Marv Bernstein, Chief Policy Advisor, UNICEF Canada	AHRC, NSW
03.11.2016	Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation	AHRC, NSW

Date	Meeting	Location
04.11.2016	Elizabeth Flynn, Initiatives Manager, Communities for Children, Lutheran Community Care Play Group, Anglicare	Alice Springs, NT
07.11.2016	Tim Grainger, Director Parliamentary Education Office, Jason Bongers, Senior Research Officer, Parliament of Australia and Melinda Crole, CEO, YMCA	Canberra, ACT
07.11.2016	Nick Henry, Advisor to the Hon Minister Greg Hunt, Office of the Minister for Industry, Innovation and Science	Canberra, ACT
07.11.2016	Senator the Hon Louise Pratt, Senator for Western Australia, Chair of Legal and Constitutional Affairs References Committee	Canberra, ACT
07.11.2016	Senator the Hon Linda Reynolds CSC, Senator for Western Australia	Canberra, ACT
08.11.2016	Roslyn Baxter, Families Group Manager, Department of Social Services	Canberra, ACT
08.11.2016	Senator the Hon Claire Moore, Shadow Minister for International Development and the Pacific	Canberra, ACT
08.11.2016	Mr Andrew Giles MP, Member for Scullion, Deputy Chair of Joint Standing Committee on Electoral Matters, Australian Labor Party	Canberra, ACT
08.11.2016	Senator the Hon Jacinta Collins, Shadow Cabinet Secretary, Shadow Assistant Minister for Early Childhood, Shadow Assistant Minister for Citizenship and Multicultural Australia	Canberra, ACT
08.11.2016	Senator the Hon Jacqui Lambie, Senator for Tasmania	Canberra, ACT
08.11.2016	Tim Wilson, Member for Goldstein, Liberal Party of Australia	Canberra, ACT
08.11.2016	Will Frost, Senior Advisor to the Hon Christian Porter MP, Office of the Minister for Social Services	Canberra, ACT
09.11.2016	Dr Kate Bishop, Senior Lecturer, Faculty of Built Environment, UNSW	AHRC, NSW
14.11.2016	Murray Kimber, Branch Manager, Investment Approach Taskforce, Department of Social Services	AHRC, NSW

Appendix 2: Face to face meetings and teleconferences about issues affecting children and young people

Date	Meeting	Location
14.11.2016	Felipe Gonzalez Morales, Special Rapporteur on the Human Rights of Migrants	AHRC, NSW
15.11.2016	Neil Mitchell, Radio Presenter, 3AW	AHRC, NSW
16.11.2016	Australian Children's Commissioners and Guardians (ACCG)	Sydney, NSW
18.11.2016	Yale Stephens, Sales and Marketing Manager, The Personal Risk Management Group	AHRC, NSW
22.11.2016	National Forum for Protecting Australia's Children, Strategy 3 Working Group, Third Action Plan	AHRC, NSW
22.11.2016	Claire Mallinson, National Director, Amnesty International Australia	Sydney, NSW
25.11.2016	Dr Tom McClean, Manager, Research Innovation and Advocacy, Uniting	AHRC, NSW
28.11.2016	Les White, Chief Paediatrician for NSW Health and Tony Stuart, CEO, UNICEF	Sydney, NSW
28.11.2016	Jenny Mason, Policy and Research General Manager, Tarina Russell, Policy Manager and Lara Scott, Principal Policy Officer, Royal Commission into Institutional Responses to Child Sexual Abuse	AHRC, NSW
05.12.2016	Implementing OPCAT Workshop	AHRC, NSW
06.12.2016	National Forum for Protecting Australia's Children, Third Action Plan	Melbourne, Vic
07.12.2016	Rosalyn Bell, Assistant Commissioner, Productivity Commission	AHRC, NSW
07.12.2016	Gerry Moore, CEO and Emma Sydenham, Deputy CEO, SNAICC	Melbourne, Vic
07.12.2016	Sandie de Wolf, CEO, Berry Street	Richmond, Vic

Date	Meeting	Location
07.12.2016	Kelly Hand, Executive Manager, Policy and Service Systems, Elly Robinson, Executive Manager, Practice and Evidence Engagement, Ken Knight, Cathryn Hunter, CFCA, Dr Stewart Muir, Evaluation and Qualitative Research and Dr Rachel Carson, Family Law, Australian Institute of Family Studies	Melbourne, Vic
08.12.2016	Annual NGO Human Rights Forum	UNSW, NSW
13.12.2016	Gloria Larman, CEO, SHINE for Kids	AHRC, NSW
13.12.2016	Gudrun Meyering, School Counsellor, Beverly Hills Intensive English Centre	AHRC, NSW
21.12.2016	Kris Cala, Branch Manager, Children's Policy Branch, Department of Social Services	Canberra, ACT
21.12.2016	Liz Hefren-Webb, First Assistant Secretary, Social Policy Division, Department of Prime Minister and Cabinet	Canberra, ACT
21.12.2016	Nicholas Hudson, Advisor to the Hon Sussan Ley, Minister for Sport	Canberra, ACT
22.12.2016	Arash Bordbar, Winner of the Young People's Human Rights Medal	AHRC, NSW
22.12.2016	Bee Al-Darraj, child marriage and child protection advocate	AHRC, NSW
11.01.2017	Kerry Pinkstone, Senior Social Policy Advisor, Amy Dobbin, Advisor, Office of the Prime Minister	Sydney, NSW
18.01.2017	Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation	AHRC, NSW
19.01.2017	Jennifer Evans, National Lead Child Protection, Australian Red Cross	AHRC, NSW
25.01.2017	Child Inclusive Practice Relationships Australia	Sydney, NSW
27.01.2017	Executive Roundtable with the Department of Immigration and Border Protection	Sydney, NSW
01.02.2017	Noelle Hudson, National Policy and Advocacy Manager, CREATE Foundation	AHRC, NSW

Appendix 2: Face to face meetings and teleconferences about issues affecting children and young people

Date	Meeting	Location
02.02.2017	Key Challenges in Children’s Rights Workshop	UNSW, NSW
06.02.2017	Andrew Johnson, Advocate of Children and Young People NSW	AHRC, NSW
07.02.2017	Professor Brad Frankum, President, Fiona Davies, CEO, Australian Medical Association	AHRC, NSW
09.02.2017	Donna Mayhew, Principal Advisor, South Australian Ombudsman	AHRC, NSW
10.02.2017	Try Test Learn Policy Hack, Department of Social Services	Melbourne, Vic
13.02.2017	Kris Cala, Branch Manager, Children’s Policy Branch, Department of Social Services	AHRC, NSW
13.02.2017	Barbara Bennett, Deputy Secretary, Families and Communities, Department of Social Services	AHRC, NSW
14.02.2017	Dr Dubravka Simonovic, UN Special Rapporteur on Violence Against Women	AHRC, NSW
14.02.2017	National Forum for Protecting Australia’s Children, Strategy 3 Working Group, Third Action Plan	AHRC, NSW
15.02.2017	Dr Brian Babington, CEO, Families Australia	Canberra, ACT
15.02.2017	David Norris, Acting Assistant Secretary, Child Wellbeing Branch, Australian Border Force	Canberra, ACT
15.02.2017	Child Protection Panel Briefing, Department of Immigration and Border Protection	Canberra, ACT
16.02.2017	Roslyn Baxter, Families Group Manager, Department of Social Services	Canberra, ACT
16.02.2017	Kris Cala, Branch Manager, Deborah Tkalcevic, Assistant Director, Melek Byrne, Director, Children’s Policy Branch, Department of Social Services	Canberra, ACT
16.02.2017	Senator the Hon Zed Seselja, Assistant Minister for Social Services and Multicultural Affairs	Canberra, ACT

Date	Meeting	Location
16.02.2017	Senator the Hon Rachel Siewert, Senator for Western Australia	Canberra, ACT
16.02.2017	Murray Kimber, Branch Manager, Investment Approach Taskforce, Department of Social Services	Canberra, ACT
17.02.2017	Dr Chris Perry, Associate Professor, Consultant in Oto-Laryngology/Head and Neck Surgery, University of Queensland	AHRC, NSW
20.02.2017	Identity Document Working Group, National Forum for Protecting Australia's Children, Third Action Plan	AHRC, NSW
20.02.2017	The Hon Jenny Macklin MP, Member of Jagajaga	AHRC, NSW
21.02.2017	Gerry Moore, CEO and Peter Lewis, Acting Deputy CEO, SNAICC	AHRC, NSW
22.02.2017	Goodstart Early Childhood Learning and Care Reference Committee Meeting	Melbourne, NSW
23.02.2017	Lara Scott, Team Leader, Pia van de Zandt, General Manager of Engagement and Support, Tarina Russell, Policy Manager and Tamara Moffat, Senior Policy Officer, Policy and Research, Royal Commission into Institutional Responses to Child Sexual Abuse	AHRC, NSW
02.03.2017	Youth consultation, Goodstart Early Learning	Innisfail, Qld
06.03.2017	The Hon Tanya Plibersek, Deputy Leader of the Opposition, Member for Sydney	Sydney, NSW
07.03.2016	Joint meeting of ImpEG and the National Forum for Protecting Australia's Children	Melbourne, Vic
08.03.2017	National Forum for Protecting Australia's Children	Melbourne, Vic
08.03.2017	Australian Sport Sector Digital Strategy Workshop	Melbourne, Vic
15.03.2017	Julie Inman Grant, eSafety Commissioner	Sydney, NSW

Appendix 2: Face to face meetings and teleconferences about issues affecting children and young people

Date	Meeting	Location
17.03.2017	Colin Pettit, Commissioner for Children and Young People Western Australia and Mark Morrissey, Commissioner for Children Tasmania	AHRC, NSW
17.03.2017	Australian Council of Human Rights Agencies (ACHRA)	AHRC, NSW
20.03.2017	MacKillop College Port Macquarie	AHRC, NSW
23.03.2017	Richard Glenn, Acting Ombudsman, Doris Gibb, Acting Deputy Ombudsman, Commonwealth Ombudsman	AHRC, NSW
23.03.2017	Judy Slatyer, CEO and Kerry McGrath, Director of Community Programs, Australian Red Cross	AHRC, NSW
27.03.2017	Tony Pietropiccolo, Director, Valuing Children Initiative	AHRC, NSW
28.03.2017	Geeta D'Cruz, Director, and David Norris, Acting Assistant Secretary, Child Wellbeing Branch, Australian Border Force, Department of Immigration and Border Protection	AHRC, NSW
04.04.2017	eSafety Expert Panel Meeting for Royal Commission into Institutional Responses to Child Sexual Abuse	Sydney, NSW
04.04.2017	Royal Commission eSafety Youth Consultation	Sydney, NSW
06.04.2017	Helen Connolly, Commissioner for Children and Young People, South Australia	Adelaide, SA
06.04.2017	Australian and New Zealand Child Death Review and Prevention Group (ANZCDR&PG)	Adelaide, SA
10.04.2017	Online Safety Consultative Working Group	Sydney, NSW
13.04.2017	Kris Cala, Branch Manager, Deborah Tkalcevic, Assistant Director, Melek Byrne, Director, Children's Policy Branch, Department of Social Services, Johanne Gow, Manager, Child, Youth and Families and Karen James, Senior Policy Office, Department of Family and Community Services	AHRC, NSW
19.04.2017	Fiona Rafter, Inspector of Custodial Services and Kate Smithers, Senior Inspections and Research Officer, NSW Department of Justice	AHRC, NSW

Date	Meeting	Location
20.04.2017	Kris Cala, Branch Manager, Deborah Tkalcevic, Assistant Director, Melek Byrne, Director, Children's Policy Branch, Department of Social Services, Johanne Gow, Manager, Child, Youth and Families and Karen James, Senior Policy Officer, Department of Family and Community Services	AHRC, NSW
21.04.2017	Melanie Hawyes, Executive Director, Juvenile Justice NSW	AHRC, NSW
21.04.2017	Youth consultation, Nikki Norris	AHRC, NSW
26.04.2017	Aboriginal and Torres Strait Islander Child Safety and Wellbeing Indicators Workshop, SNAICC	Melbourne, Vic
27.04.2017	Australian Council of Human Rights Agencies (ACHRA)	AHRC, NSW
02.05.2017	Roundtables on Draft National Statement of Principles for Child Safe Organisations	Melbourne, Vic
03.05.2017	Roundtable on Draft National Statement of Principles for Child Safe Organisations	Canberra, ACT
03.05.2017	Identity Document Working Group, National Forum for Protecting Australia's Children Third Action Plan	AHRC, NSW
04.05.2017	Dr Noam Peleg, Lecturer, UNSW Law	AHRC, NSW
05.05.2017	Kris Cala, Branch Manager, Children's Policy Branch, Department of Social Services, Johanne Gow, Manager, Child, Youth and Families Department of Family and Community Services, Lara Scott, Principal Policy Officer, Royal Commission into Institutional Responses to Child Sexual Abuse	AHRC, NSW
15.05.2017	Claudia Giudici, CEO President, Reggio Children, Carla Rinaldi, President Loris Malaguzzi Centre, Barbara Donnici, Activities Director, Emanuela Vercalli, International Relations, Reggio Children Foundation	Reggio Emilia, Italy
18.05.2017	Professor Alexis Jay, Chair, Independent Inquiry into Child Sexual Abuse	London, UK
18.05.2017	Anne Longfield, Children's Commissioner	London, UK

Appendix 2: Face to face meetings and teleconferences about issues affecting children and young people

Date	Meeting	Location
19.05.2017	David Isaac, Chair, Equality and Human Rights Commission	London, UK
29.05.2017	Bruce Adamson, Children and Young People's Commissioner Scotland	Edinburgh, Scotland
05.06.2017	World Congress on Family Law and Children's Rights	Dublin, Ireland
07.06.2017	Nuala Ward, Director of Investigations, Ombudsman for Children Office	Dublin, Ireland
07.06.2017	Katherine Zappone, Minister for Children and Youth Affairs and Family Functioning and Children's Rights Policy Unit, Department of Children and Youth Affairs	Dublin, Ireland
16.06.2017	Lynne McPherson, Senior Lecturer, Social Work and Matthew Nicholson, Associate Professor, School of Arts and Social Sciences, Southern Cross University	AHRC, NSW
19.06.2017	Kris Cala, Branch Manager, Deborah Tkalcevic, Assistant Director, Melek Byrne, Director, Children's Policy Branch, Department of Social Services, Johanne Gow, Manager, Child, Youth and Families and Karen James, Senior Policy Officer, Department of Family and Community Services	AHRC, NSW
21.06.2017	2168 Children's Parliament, Liverpool City Council	Sydney, NSW
05.07.2017	The Hon Senator Louise Pratt, Chair of Legal and Constitutional Affairs References Committee, Australian Labor Party	Sydney, NSW
12.07.2017	Reiby Juvenile Justice Detention Facility	Reiby, NSW
19.07.2017	Muriel Blambett, CEO, Victorian Aboriginal Child Care Agency	Melbourne, Vic
20.07.2017	National Forum for Protecting Australia's Children, Third Action Plan	Melbourne, Vic
31.07.2017	National Collaborative Network for Child Health Informatics Steering Committee	Sydney, NSW
01.08.2017	Identity Documents Working Group, National Forum for Protecting Australia's Children Third Action Plan	AHRC, NSW

Date	Meeting	Location
04.08.2017	Victorian Aboriginal Legal Service	Thornbury, Vic
07.08.2017	Deborah Tkalevic, Assistant Director, Melek Byrne, Director, Children's Policy Branch, Department of Social Services, Johanne Gow, Manager, Child, Youth and Families and Karen James, Senior Policy Office, Department of Family and Community Services	AHRC, NSW
12.08.2017	The Hon Senator Zed Seselja, Assistant Minister for Social Services and Multicultural Affairs	Sydney, NSW
14.08.2017	Cross Sectional Leadership Group Just Reinvest NSW	Dubbo, NSW
15.08.2017	Bourke Primary School	Bourke, NSW
17.08.2017	Professor Susan Sawyer, Professor George Patton, Director Centre for Adolescent Health, The Royal Children's Hospital	AHRC, NSW
18.08.2017	Amy Lamoin, Director of Policy and Advocacy and Alison Elliot, Senior Policy Advisor, UNICEF	Sydney, NSW
18.08.2017	Joel Clark, Advocacy and Government Relations Advisor, Amnesty International	AHRC, NSW
22.08.2017	The Hon Minister Brad Hazzard, Minister for Health and Medical Research	Sydney, NSW
22.08.2017	Deborah Tkalevic, Assistant Director, Melek Byrne, Director, Children's Policy Branch, Department of Social Services, Johanne Gow, Manager, Child, Youth and Families and Karen James, Senior Policy Office, Department of Family and Community Services	AHRC, NSW
23.08.2017	Dr Tim Reddel, Group Manager, Policy Office, Department of Social Services	Canberra, ACT
23.08.2017	Kate Gumley, Senior Policy and Programs Director, National Aboriginal Community Controlled Health Organisation	Canberra, ACT
23.08.2017	Dr Brian Babington, CEO, Families Australia	Canberra, ACT
23.08.2017	Barry Sandison, CEO, Australian Institute of Health and Welfare	Canberra, ACT

Appendix 2: Face to face meetings and teleconferences about issues affecting children and young people

Date	Meeting	Location
23.08.2017	Peter Downs, CEO, Play By the Rules	Canberra, ACT
24.08.2017	Janet Schorer, NSW Children's Guardian	Canberra, ACT
24.08.2017	Leonie Campbell, Executive Policy Lawyer, Law Council of Australia	Canberra, ACT
24.08.2017	Autumn O'Keefe, Attorney General's Assistant Secretary, Penelope Davie, Attorney General's Assistant Director	Canberra, ACT
28.08.2017	Dr Tim Moore, Senior Research Fellow, Institute of Child Protection Studies	AHRC, NSW
30.08.2017	Penny Markham, National Lead Social Inclusion Goodstart	AHRC, NSW
30.08.2017	Keith Waters, EO, National Youth Commission	AHRC, NSW
06.09.2017	Online Safety Consultative Working Group Contact and Content Sub-Committee Meeting	Sydney, NSW
13.09.2017	Brooke Hartigan, Children's Policy Branch Manager, Department of Social Services	Canberra, ACT
19.08.2017	National Respectful Relationships Education Expert Group	Canberra, ACT
21.09.2017	Professor Keith Kaufman, Portland State University	AHRC, NSW
28.09.2017	Meredith Kiraly, Research Fellow, Department of Social Work, The University of Melbourne	AHRC, NSW
28.09.2017	National Forum and National Disability Insurance Agency	AHRC, NSW

Appendix 3: Membership of advisory groups and ambassadorships

- National Forum for Protecting Australia's Children
- Children's Week National Ambassador, 2017 and member of Children's Week Committee
- Bourke Maranguka Cross-Sector Leadership Group, Just Reinvest NSW
- Justice Reinvestment Champion
- Australian Children's Commissioners and Guardians
- Australian Council of Human Rights Agencies
- Aboriginal and Torres Strait Islander Suicide Prevention Evaluation Project
- Australian and New Zealand Child Death Review and Prevention Group
- Australian Child Rights Taskforce
- Berry Street Childhood Alliance
- Centre for Excellence of Indigenous Thriving Futures Advisory Board
- Child Cybersex Crime Research Project Advisory Board, Behind the Screen, Anti-Slavery Australia
- Children's Book Council of Australia, Patron, NSW Branch
- Children's Parliament 2168, Liverpool City Council, Ambassador's Panel
- National Identity Documents Working Group co-Chair
- NSW Juvenile Justice Advisory Committee
- National Collaborative Network for Child Health Informatics Advisory Group
- National Online Safety Consultative Working Group
- National Respectful Relationships Education Expert Group
- Advisory Committee, Child Protection Policy in China, Social Policy Research Centre, UNSW
- Preventing Anxiety and Victimisation through Education Advisory Board.

Appendix 4: Recent and current reviews of youth justice in Australia¹

<p>Commonwealth</p> <p>National Children’s Commissioner’s review of the oversight of youth justice in Australia: implementing OPCAT</p>	<p>In 2016, the National Children’s Commissioner conducted an investigation into the oversight of youth justice in Australia and the readiness of youth justice processes for the implementation of OPCAT.</p> <p>The findings of that investigation were presented in the National Children’s Commissioner’s <i>Children’s Rights Report 2016</i>. The National Children’s Commissioner made several recommendations, including that all jurisdictions commence stocktakes of how their existing systems of monitoring and inspection meet the criteria laid out in OPCAT, and amend their legislative frameworks accordingly.</p>
<p>Northern Territory</p> <p>Royal Commission into the protection and detention of children in the Northern Territory</p>	<p>In July 2016, in response to media reporting about the mistreatment of a number of young people detained in youth justice detention centres in the Northern Territory,² the Australian Government established the Royal Commission into the Protection and Detention of Children in the Northern Territory.</p> <p>The Royal Commission began on 1 August 2016, delivered its interim report on 31 March 2017 and is due to deliver its final report in November 2017.³ The interim report makes a number of observations about youth detention, including that the evidence raises serious concerns about inappropriate and unlawful practices in detention and inappropriate methods of dealing with detainees in youth detention centres.⁴</p>
<p>Queensland</p> <p>Independent review of youth detention</p>	<p>In August 2016, Queensland’s Attorney-General and Minister for Justice announced an independent review into Queensland’s youth detention centres.⁵ The review delivered its report on 14 December 2016.⁶</p> <p>The report made 83 recommendations, including about improving the availability of mental health services and education programs, the management of incidents and de-escalation techniques, the use of force and restraints, the use of isolation and separation, the process for managing complaints, and the need for an independent inspector of custodial services.</p>
<p>New South Wales</p> <p>Inquiry into behaviour management in youth detention centres</p>	<p>In October 2016, the New South Wales Government announced a review into behaviour management practices in New South Wales youth justice detention centres.⁷</p>
<p>How use of force against detainees in juvenile justice centres in NSW is managed</p>	<p>In June 2016, the New South Wales Inspector of Custodial Services published terms of reference for a review of how the use of force against detainees in juvenile justice centres is managed. In November 2016, the terms of reference were amended to include issues of separation, segregation and confinement.⁸</p>

<p>South Australia</p> <p>Go to your room! The use of seclusion in youth detention</p>	<p>In April 2016, the South Australian Guardian for Children and Young People commented on the use of seclusion in youth detention.⁹ The brief paper explored the potential impacts of seclusion on a child’s rehabilitation and called for strict protocols, diligent monitoring and careful recording.</p>
<p>Western Australia</p> <p>Young people in the justice system: A review of the Young Offenders Act 1994</p>	<p>In December 2016, the Western Australian Government announced a review of the <i>Young Offenders Act 1994 (WA)</i>.¹⁰ The review will consider whether the legislation is achieving its objectives. It will also examine issues associated with the overrepresentation of Aboriginal and Torres Strait Islander children and young people in the youth justice system, rates of recidivism, and the high levels of children and young people in detention on remand.¹¹</p>
<p>Victoria</p> <p>The same four walls: Inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system</p>	<p>In February 2017, the Victorian Commission for Children and Young People tabled the report of its inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system.¹² The Inquiry made 21 recommendations aimed at ensuring that isolation, separations and lockdowns are used minimally, are appropriately targeted, and promote the safety, wellbeing and rehabilitation of children and young people in youth justice detention.</p>
<p>Department of Health and Human Services review of youth support, youth diversion and youth justice services</p>	<p>In October 2016, the Victorian Department of Health and Human Services (DHHS) commissioned a review of youth support, diversion and youth justice services. The primary objective of the review is to create an overarching policy framework for the development of a contemporary youth justice program and accompanying service delivery mode.¹³</p>
<p>Parliamentary inquiry into youth justice centres in Victoria</p>	<p>In November 2016, the Victorian Parliament announced a wide-ranging inquiry into the youth justice system in Victoria. The terms of reference direct examination of incidents in security and safety of detainees and staff, remand numbers, the implications of incarcerating young people with specific vulnerabilities, and the culture, policies, practices and reporting of management at the centres. It will also examine the role of DHHS in overseeing practices at youth justice centres. The reporting date for this inquiry is 27 February 2018.</p>
<p>Inquiry into allegations of assault at Grevillea Youth Justice Precinct</p>	<p>In February 2017, the Victorian Commission for Children and Young People commenced an inquiry into allegations that staff had assaulted children and young people detained in the Grevillea Youth Justice Precinct of Barwon Prison.</p>

<p>Tasmania</p> <p>Options paper on custodial youth justice models</p>	<p>In 2016, the Tasmanian Department of Health and Human Services commissioned Noetic Solutions Pty Ltd to prepare an options paper on custodial youth justice models. The options paper was provided to the Tasmanian Government in mid-2017, but has not been released publicly.¹⁴</p>
<p>Independent Review of Ashley Youth Detention Centre ('Harker Report')</p>	<p>In 2015, the 'Harker Report' was commissioned by the Tasmanian Department of Health and Human Services, primarily to review aspects of the administrative management and operation of the Ashley Youth Detention Centre (AYDC).¹⁵ The Harker Report was presented to the Department of Health and Human Services in June 2015, and resulted in a number of changes, including the establishment of a dedicated 'youth' portfolio and a move towards a more therapeutic environment in AYDC. The Harker Report also resulted in the commissioning of the options paper prepared by Noetic (described above).</p>

Appendix 4: Endnotes

- 1 This table is an updated version of a table originally prepared by the Commission for Children and Young People, Victoria, and published in the report titled *The same four walls: Inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system* (March 2017) 24–25.
- 2 Most notably, 'Australia's Shame', Four Corners, ABC1, 25 July 2016.
- 3 Commonwealth of Australia, *Royal Commission into the Protection and Detention of Children in the Northern Territory* (2017). At <https://childdetentionnt.royalcommission.gov.au/Pages/default.aspx> (viewed 30 November 2017).
- 4 Commonwealth of Australia, Royal Commission into Protection and Detention of Children in the Northern Territory, *Interim Report* (2017) 39.
- 5 Queensland Government, 'Terms of reference', *Independent Review of Youth Detention* (Queensland Government, 2016). At <https://www.youthdetentionreview.qld.gov.au/terms-of-reference> (viewed 30 November 2017).
- 6 Kathryn McMillan and Megan Davis, *Independent Review of Youth Detention, December 2016*. At <https://www.youthdetentionreview.qld.gov.au/review-of-youth-detention-centres-report.pdf> (viewed 30 November 2017).
- 7 Sarah Gerathy, 'Juvenile Justice: NSW to review youth detention centres amid detainee isolation claims', *ABC News*, 27 October 2016.
- 8 New South Wales Government, *Current Inspections: How the use of force against detainees in Juvenile Justice Centres in NSW is managed* (1 December 2016) Inspector of Custodial Services. At <http://www.custodialinspector.justice.nsw.gov.au/Pages/current-inspections/current-inspections.aspx> (viewed 30 November 2017).
- 9 Guardians for Children and Young People, *Go to your room! The use of seclusion in youth detention* (2016). At <http://www.gcyp.sa.gov.au/2016/04/go-to-your-room-the-use-of-seclusion-in-youth-detention> (viewed 30 November 2017).
- 10 Department of Corrective Services, Government of Western Australia, *Young people in the justice system: A review of the Young Offenders Act 1994* (2016). At <https://www.correctiveservices.wa.gov.au/youth-justice/young-offenders-act.aspx> (viewed 30 November 2017).
- 11 Department of Corrective Services, Government of Western Australia, *Young People in the Justice System: A Review of the Young Offenders Act 1994*, Green Paper (2016) 3.
- 12 Commission for Children and Young People, *The same four walls: Inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system*, February 2017.
- 13 Department of Health and Human Services, 'Review of youth support, youth diversion and youth justice services: Terms of reference', Department of Health and Human Services. At <http://www.dhs.vic.gov.au/about-the-department/plans,-programs-and-projects/projects-and-initiatives/children,-youth-and-family-services/youth-justice-review> (viewed 30 November 2017).
- 14 Patrick Billings, 'State Government coy on recommendations of youth justice report', *The Mercury* (Tasmania), 4 July 2017.
- 15 Jacqui Petrusma, Minister for Human Services, 'Ashley 'Harker Report': Change already underway' (Media Release, 1 September 2016).

Appendix 5: Submissions by the Australian Human Rights Commission to government and other inquiries which included consideration of children's rights

- *Adoption of Universal Periodic Review outcome of Australia*, Submission to the United Nations Human Rights Council, Youth and Human Rights Panel (25 August 2016)¹
- *Royal Commission into the Protection and Detention of Children in the Northern Territory*, National Children's Commissioner's statement (9 October 2016)² and oral submissions (11 October 2016)³
- *Family Law Amendment (Family Violence and Other Measures) Bill 2017*, Submission to the Attorney-General's Department, Family Law Branch (19 January 2017)⁴
- *Violence against women in Australia*, Submission to the United Nations Special Rapporteur on Violence Against Women (23 January 2017)⁵
- *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2016*, Submission to Senate Education and Employment Legislation Committee (23 September 2016)⁶
- *Inquiry into the Fairer Paid Parental Leave Bill 2016*, Submission to Senate Community Affairs Legislation Committee (25 January 2017)⁷
- *Inquiry into the Commonwealth Government's exposure draft of the Marriage Amendment (Same-Sex Marriage) Bill*, Submission to Select Committee on Exposure draft of the Marriage Amendment (Same-Sex Marriage) Bill (18 January 2017)⁸
- *Inquiry into migrant settlement outcomes*, Submission to the Joint Standing Committee on Migration (31 January 2017)⁹
- *Information concerning Australia's compliance with the International Covenant on Economic, Social and Cultural Rights*, Submission to the United Nations Committee on Economic, Social and Cultural Rights (8 May 2017)¹⁰
- *NSW Juvenile Justice: Human rights and the use of force*, Submission to the NSW Inspector of Custodial Services (31 May 2017)¹¹
- *Information for list of issues prior to reporting – Australia*, Submission to the United Nations Committee on the Rights of Persons with Disabilities (29 June 2017)¹²
- *Australian Citizenship Legislation (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017*, Submission to Senate Legal and Constitutional Affairs Legislation Committee (21 July 2017)¹³
- *Proposed amendments to the Family Law Act 1975 (Cth) to address direct cross-examination of parties in family law proceedings involving family violence*, Submission to Attorney-General's Department (July 2017)¹⁴
- *Inquiry into a better family law system to support and protect those affected by family violence*, Submission to the House Standing Committee on Social Policy and Legal Affairs (23 August 2017)¹⁵
- *Information concerning Australia's compliance with the International Covenant on Civil and Political Rights*, Submission to the United Nations Human Rights Committee (18 September 2017)¹⁶

- 1 Megan Mitchell, National Children’s Commissioner, Statement delivered at the United Nations Human Rights Council, Youth and Human Rights Panel, *Adoption of Universal Periodic Review outcome of Australia*, 31st Regular Session Human Rights Council, 25 August 2016).
- 2 Megan Mitchell, Statement, *Royal Commission into the Protection and Detention of Children in the Northern Territory*, 9 October 2016.
- 3 Evidence to the *Royal Commission into the Protection and Detention of Children in the Northern Territory*, Darwin, 11 October 2016.
- 4 Australian Human Rights Commission, Submission to Attorney-General’s Department, *Family Law Amendment (Family Violence and Other Measures) Bill 2017*, 19 January 2017.
- 5 Australian Human Rights Commission, Submission to the United Nations Special Rapporteur on Violence Against Women, *Violence against women in Australia*, 20 January 2017. At <https://www.humanrights.gov.au/submissions/violence-against-women-australia-2017> (viewed 6 November 2017).
- 6 Australian Human Rights Commission, Submission to Senate Education and Employment Legislation Committee, *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2016*, 23 September 2016.
- 7 Australian Human Rights Commission, Submission No 104 to Senate Community Affairs Legislation Committee, *Inquiry into the Fairer Paid Parental Leave Bill 2016*, 25 January 2017.
- 8 Australian Human Rights Commission, Submission No 72 to Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill, *Inquiry into the Commonwealth Government’s Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill*, 18 January 2017. At <https://www.humanrights.gov.au/submissions/inquiry-commonwealth-government-s-exposure-draft-marriage-amendment-same-sex-marriage> (viewed 6 November 2017).
- 9 Australian Human Rights Commission, Submission No 38 to Joint Standing Committee on Migration, Parliament of Australia, *Inquiry into migrant settlement outcomes*, 31 January 2017. At <https://www.humanrights.gov.au/submissions/inquiry-migrant-settlement-outcomes-2017> (viewed 6 November 2017).
- 10 Australian Human Rights Commission, Submission to the United Nations Committee on Economic, Social and Cultural Rights, *Information concerning Australia’s compliance with the International Covenant on Economic, Social and Cultural Rights*, 8 May 2017.
- 11 Australian Human Rights Commission, Submission to NSW Inspector of Custodial Services, *NSW Juvenile Justice: Human rights and the use of force*, 31 May 2017. At <http://www.humanrights.gov.au/submissions/nsw-juvenile-justice-human-rights-and-use-force-2017> (viewed 6 November 2017).
- 12 Australian Human Rights Commission, Submission to the United Nations Committee on the Rights of Persons with Disabilities, *Information for List of Issues Prior to Reporting – Australia – Submission to Committee on the Rights of Persons with Disabilities*, 29 June 2017. At http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fICS%2fAUS%2f28303&Lang=en (viewed 6 November 2017).
- 13 Australian Human Rights Commission, Submission No 447 to Senate Legal and Constitutional Affairs Committee, Parliament of Australia, *Australian Citizenship Legislation (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017*, 21 July 2017. At <http://www.aph.gov.au/DocumentStore.ashx?id=f398c0c0-376d-4b96-9007-5b0b98cbf729&subld=514189> (viewed 6 November 2017).
- 14 Australian Human Rights Commission, Submission to Attorney-General’s Department, *Proposed amendments to the Family Law Act 1975 (Cth) to address direct cross-examination of parties in family law proceedings involving family violence: public consultation paper*, July 2017. At <https://www.ag.gov.au/Consultations/Documents/FamilyLawAmendmentFamilyViolenceBill2017/Consultation-paper-family-violence-cross-examination-amendments.pdf> (viewed 6 November 2017).
- 15 Australian Human Rights Commission, Submission to House Standing Committee on Social Policy and Legal Affairs, *Inquiry into a better family law system to support and protect those affected by family violence*, 23 August 2017.
- 16 Australian Human Rights Commission, Submission to the United Nations Human Rights Committee, *Information concerning Australia’s compliance with the International Covenant on Civil and Political Rights*, 8 May 2017. At <https://www.humanrights.gov.au/submissions/information-concerning-australia-s-compliance-international-covenant-economic-social-and>

Appendix 6: List of responses on progress of recommendations in Children’s Rights Reports 2013–2016

Date	Respondent	Agency/Organisation
10.08.2017	Natalie Johnson, Manager	National Coronial Information System, Department of Justice and Regulation
17.08.2017	The Hon Ken Wyatt AM, MP, Minister for Aged Care, Minister for Indigenous Health	Australian Government
22.08.2017	Sue Murray, Chief Executive	Suicide Prevention Australia
25.08.2017	David Kalisch, Australian Statistician	Australian Bureau of Statistics
25.08.2017	Barry Sandison, CEO	Australian Institute of Health and Welfare
17.08.2017	The Hon David Elliott MP, Minister for Counter Terrorism, Minister for Corrections, Minister for Veterans Affairs	NSW Government
18.08.2017	The Hon Jay Weatherill MP, Premier of South Australia	Office of the Premier, South Australia
22.08.2017	Julia Griffith, Chair	Australasian Juvenile Justice Administrators
24.08.2017	Michael Gunner, Chief Minister	Northern Territory Government
30.08.2017	Mark Cormack, Deputy Secretary, Strategic Policy and Innovation	Department of Health, Australian Government
31.08.2017	The Hon Will Hodgman MP, Premier of Tasmania	Tasmania State Government
01.09.2017	The Hon Daniel Andrews MP, Premier of Victoria	Victoria State Government

Appendix 6: List of responses on progress of recommendations in Children’s Rights Reports 2013–2016

Date	Respondent	Agency/Organisation
04.09.2017	Senator The Hon Nigel Scullion, Minister for Indigenous Affairs	Australian Government
07.09.2017	Deej Eszenyi, Chair	Australian and New Zealand Child Death Review and Prevention Group
11.09.2017	The Hon Annastacia Palaszczuk MP, Premier of Queensland, Minister for the Arts	Queensland State Government
26.09.2017	The Hon Christian Porter MP, Minister for Social Services	Australian Government
04.10.2017	The Hon Martin Pakula MP, Attorney-General, and The Hon Jenny Mikakos MP, Minister for Families and Children	Victoria State Government
06.10.2017	Andrew Barr MLA, Chief Minister	ACT Government

Appendix 7: Submissions made to the National Children’s Commissioner about young parents and their children

Submission #	Date	Location
1	03.05.2017	Ella Kuskoff, Institute of Social Science Research, The University of Queensland
2	10.05.2017	Bernadette Black, Brave Foundation
3	10.05.2017	Bernadette Black, Brave Foundation
4	12.05.2017	Phillip Mendes and Jade Purtell, Department of Social Work, Monash University
5	30.06.2017	Anne Webster, Zoe Support Australia
6	19.05.2017	Commissioner for Children and Young People, Western Australia
7	23.05.2017	CCCares at Canberra College
8	23.05.2017	CCCares at Canberra College
9	16.05.2017	Genesis Pregnancy Support
10	29.05.2017	Supporting Teenagers with Education, Mothering and Mentoring (STEMM)
11	30.05.2017	ACT Government Submission
12	30.05.2017	Dr Gail Winkworth and Professor Morag McArthur, Institute of Child Protection Studies, Australian Catholic University
13	30.05.2017	Julie Green, Parenting Research Centre, Murdoch Children’s Research Institute
14	30.05.2017	Karinya Young Women’s Service
15	30.05.2017	Helen Foord, Diversitat Youth Education
16	30.05.2017	Tracey Adams, yourtown
17	29.05.2017	Andrew Jackomos and Liana Buchanan, Victorian Commission for Children and Young People
18	30.05.2017	Minister for Territory Families, Northern Territory Government
19	31.05.2017	Department of Education and Child Development Initiatives, South Australia

Appendix 7: Submissions made to the National Children’s Commissioner about young parents and their children

Submission #	Date	Location
20	31.05.2017	Women and Children’s Health Network, South Australia Health
21	31.05.2017	Office for Women, South Australia
22	31.05.2017	Department for Child Protection, South Australia
23	31.05.2017	Family Planning NSW
24	30.05.2017	Noelle Hudson, CREATE Foundation
25	31.05.2017	Carol Gannon and Natalie Greenland, Uniting Communities
26	31.05.2017	Gabrielle Brand, University of Western Australia, Paul Morrison, Murdoch University and Be Westbrook, Peel Youth Service
27	31.05.2017	Tamara Stewart-Jones, Multicultural Youth South Australia (MYSA)
28	02.06.2017	Patricia Turner, National Aboriginal Community Controlled Health Organisation (NACCHO)
29	02.06.2017	YWCA Darwin
30	02.06.2017	Richard Fletcher and Jennifer StGeorge, University of Newcastle
31	02.06.2017	Janice Hoad, SYC Limited
32	05.06.2017	Rachel Skinner, University of Sydney; Jennifer Marino, University of Melbourne; Martha Hickey, University of Melbourne; Deborah Bateson, Family Planning NSW; Lucy Lewis, Curtin University
33	05.06.2017	Public Advocate and Children and Young People Commissioner, ACT Human Rights Commission
34	07.06.2017	Confidential
35	07.06.2017	NSW Advocate for Children and Young People
36	08.06.2017	Sue Matthews, The Royal Women’s Hospital, Victoria
37	09.06.2017	Association of Women Educators Inc.
38	27.06.2017	Tracey Hawker, SMYL Community Services

Submission #	Date	Location
39	28.06.2017	NSW Family and Community Services
40	04.07.2017	Farah Sulaiman, Metro Assist, NSW
41	17.08.2017	Corinne Harper and Simon Riley, Ipswich State High School
42	01.09.2017	Victorian Aboriginal Child Care Agency (VACCA)
43	29.03.2017	Australian Institute of Family Studies
44	15.06.2017	Australian Institute of Health and Welfare
45	10.07.2017	Australian and New Zealand Child Death Review and Prevention Group
46	25.02.2017	Longitudinal Study of Indigenous Children (LSIC); Longitudinal Study of Australian Children (LSAC), Department of Social Services
47	07.03.2017	Productivity Commission
48	25.07.2017	Household, Income and Labour Dynamics in Australia Survey (HILDA)
49	04.09.2017	Department of Social Services
50	24.08.2017	Department of Education, Western Australia
51	31.08.2017	Department of Education and Training, Victoria
52	04.09.2017	Department of Education and Training, Queensland
53	06.09.2017	NSW Department of Education
54	12.09.2017	Department of Education, Tasmania
55	25.08.2017	ACT Community Services
56	29.08.2017	Department of Child Protection, South Australia
57	01.09.2017	Department of Communities, Western Australia
58	01.09.2017	Department of Communities, Child Safety and Disability Services, Queensland

Appendix 7: Submissions made to the National Children's Commissioner about young parents and their children

Submission #	Date	Location
59	07.09.2017	Territory Families, Northern Territory Government
60	07.09.2017	Children and Youth Services, Department of Health and Human Services, Tasmania
61	26.04.2017	Department of Premier and Cabinet, Victoria
62	19.04.2017	Department of the Premier and Cabinet, South Australia
63	12.05.2017	Commissioner for Children and young People, Tasmania
64	29.05.2017	Office of the Premier, South Australia
65	29.05.2017	Queensland Family and Child Commission
66	30.06.2017	Premier of Western Australia
67	21.06.2017	Premier of Tasmania
68	02.06.2017	Premier of Queensland, Minister for the Arts
69	03.04.2017	Australian Bureau of Statistics

Appendix 8: National roundtables with experts on the challenges facing young parents and their children

Date	Roundtable	Location
12.06.2017	<p>Brisbane roundtable participants:</p> <ul style="list-style-type: none"> • John Dagleish, Head Strategy and Research, yourtown • Tracy Adams, CEO, yourtown • Mihi Waihape, Team Leader ParentsNext, Workways • Rachel Smith, Program Manager, YFS • Judith Hunter, Strategic Development Manager, YFS • Jacqui Deane, Coordinator, Supporting Teenagers with Education, Mothering and Mentoring (STEMM) • Janelle Logan, Coordinator, Supporting Teenagers with Education, Mothering and Mentoring (STEMM) • Kate Fenton, Team Leader, Micah Projects • Peter Melrose, Policy Officer, CREATE Foundation • Sue Glead, Assistant Commissioner, QLD Family and Child Commission • Zara Berkovitz, Manager, QLD Family and Child Commission • Tessa Neil, Program Coordinator, Wesley Mission 	Brisbane, Qld
14.06.2017	<p>Sydney roundtable participants:</p> <ul style="list-style-type: none"> • Professor Rachel Skinner, Paediatrics and Child Health, University of Sydney • Tamara Stewart-Jones, CEO, Multicultural Youth South Australia • Suzie Wilkie, Research and Policy Officer, Multicultural Youth South Australia • Jennifer Marino, Research Fellow, Department of Obstetrics Gynaecology, University of Melbourne • Professor Bruce Bradbury, Social Policy Research Centre, University of New South Wales • Associate Professor Stephanie Taplin, Institute of Child Protection Studies, Australian Catholic University • Kelly Tallon, Senior Policy Advisor, NSW Advocate for Children and Young People • Liana Porihis, Program Coordinator, Settlement Services International LTD • Farah Sulaiman, Parents Next Coordinator, Settlement Services International LTD • Kim Huckerby, Program Director, Raise • Sophie Mackey, Acting Community Services Manager, Australian Red Cross • Kelly Raines, Aftercare Team Leader, Australian Red Cross • Dr Jennifer St George, Senior Lecturer, Family Action Centre, University of Newcastle • Andrew McCallum, CEO, Association of Children's Welfare Agencies • Dr Mary Stewart, Senior Medical Officer, Family Planning NSW 	Sydney, NSW

Date	Roundtable	Location
20.06.2017	<p>Perth roundtable participants:</p> <ul style="list-style-type: none"> • Tracey Hawker, Program Manager, South Metropolitan Youth Link • Tamika Cope, Eyes Wide Open • Amy McDonald, Eyes Wide Open • Be Westbrook, Executive Officer, Peel Youth Services • Associate Professor Gabrielle Brand, Faculty of Health and Medical Sciences, University of Western Australia • Fiona Mort, Director, Office for Women • Michelle Every Evans, Young Parent Support Coordinator, Anglicare WA • Katherine Brown, Principal Policy Officer, Commission for Children and Young People WA • Ranil Ratnayeke, Senior Policy and Conciliation Officer, Equal Opportunity Commission • Professor Cate Taylor, Senior Principal Research Fellow/ Co-Head, Telethon KIDS Institute • Shannon, young mother 	Perth, WA
30.06.2017	<p>Melbourne roundtable participants:</p> <ul style="list-style-type: none"> • Anne Webster, Executive Director, Zoe Support • Professor Danielle Mazza, Head of Department of General Practice, Monash University • Dr Ha Vu, Senior Fellow, Department of Economics, Deakin University • Daryl Higgins, Director, Institute of Child Protection Studies • Professor Guyonne Kalb, Melbourne Institute of Applied Economic and Social Research, University of Melbourne • Allison Levinson, Brave Foundation • Jan Marshall, Manager, Canberra College Cares Program • Trish McClusky, Berry Street • Dr Susan Nicolson, Senior Medical Staff, Royal Women’s Hospital • Tracey Kamp, Manager for Homelessness Services, HYPA • Liz O’Connell, Director for Young People and Practice, HYPA • Helen Foord, Young Parents Program Coordinator, Diversitat Youth • Jade Purtell, Monash University • Jo Norton, Executive Committee Member, Genesis Pregnancy Support • Claire Vissenga, CEO, Family Planning Victoria • Dr Julie Green, Executive Director, Raising Children Network • Shandelle Elmer, Chairperson, Karinya Young Women’s Service • Kylie Warren, Case Manager, Karinya Young Women’s Service • Heidi Woodland, Case Manager, Karinya Young Women’s Service • Sue West, Associate Director, Centre for Community Child Health, The Royal Children’s Hospital • Sarah Kanai, Deputy Programs Director, Healing Foundation • Lisa Hillan, Program Director, Healing Foundation • Kelly Hand, Acting Deputy Director, Australian Institute of Family Studies 	Melbourne, Vic

Appendix 9: Workshop consultations with young parents

Date	Consultation	Location
17.03.2017	Australian Red Cross Young Parents Program	Randwick, NSW
22.03.2017	Nobody's Fool Theatre	Geelong, Vic
28.03.2017	Australian Red Cross Young Parents Program	Parramatta, NSW
12.07.2017	Reiby Juvenile Justice Detention Facility	Airds, NSW
25.07.2017	Australian Red Cross Young Parents Program	Nowra, NSW
27.07.2017	Supporting Teenagers with Education, Mothering and Mentoring (STEMM)	Sunshine Coast, Qld
27.07.2017	yourtown, Deception Bay	Deception Bay, Qld
02.08.2017	Multicultural Youth South Australia (MYSA)	Adelaide, SA
03.08.2017	Anglicare NT	Darwin, NT
09.08.2017	Cobham Juvenile Justice Centre	St Marys, NSW
21.08.2017	yourtown, San Miguel	North Richmond, NSW
07.09.2017	The Sydney Children's Hospital Network	Sydney, NSW
08.09.2017	Emu Plains Correctional Centre – Mother and Child Program	Emu Plains, NSW

Appendix 10: State and territory education policies to support young parents

The following table presents information received from state and territory education departments:

Jurisdiction	Specific policy for young parents/pregnant teenagers	Other support provided by schools, on an 'as needs' basis
Western Australia	No	Schools can collect information about students' specific health care needs and respond to needs of services with support of specialist services.
Victoria	<p><i>Student Pregnancy and Parenting Policy (The Policy)</i>. The policy enables 'schools and principals [to] make local decisions to support pregnant and parenting students to continue their schooling'.</p> <p>Three examples of current school-based programs in three different regions of Victoria were provided to me.</p>	<p>Under <i>The Policy</i>, strategies and flexible options to assist pregnant and parenting students to continue education include:</p> <ul style="list-style-type: none"> • modifying curriculum to support student and balance workload • tailor programs using Managed Individual Pathways • Distance Education Centre Victoria • Victorian Certificate of Education (VCE can be studied over three years) • Victorian Certificate of Applied Learning • Vocational Education and Training (in VCE) • part-time apprenticeships • traineeships
Tasmania	No	Young parents are able to engage in mainstream and alternative education settings such as with <i>Tasmanian eSchool</i> . There are currently seven young mothers engaged through this program in Tasmania.
New South Wales	No	<p>NSW public schools and staff work to develop local solutions to support the needs of students as required.</p> <p>Examples of adjustments to support pregnant and/or parenting students in schools include:</p> <ul style="list-style-type: none"> • leave from attendance before and/or after birth of baby • flexible lesson timetables (ie starting or finishing later) • option to complete year 11 or 12 over a period of up to five years • distance education.

Jurisdiction	Specific policy for young parents/pregnant teenagers	Other support provided by schools, on an 'as needs' basis
Queensland	Inclusive Education Policy statement – to ensure that schools are inclusive to all students, including pregnant and parenting women.	<p>Queensland Department of Education and Training also has <i>Guidelines to retain and support pregnant and parenting young people in education</i>. Three key strategies are promoted within the Guidelines:</p> <ol style="list-style-type: none"> 1 track and maintain contact with pregnant and parenting young people 2 promote awareness of the range of education pathways available to pregnant and parenting young people 3 establish a network of support services for pregnant and parenting young people. <p>Other strategies to support young parents include flexibility with:</p> <ul style="list-style-type: none"> • uniforms • attendance • curriculum design • school management <p>As at 15 August 2017, six state schools in Queensland provide specific programs to support pregnant and parenting students.</p>

Appendix 11: State and territory government programs for young parents

Jurisdiction	General programs (parents and family support)	Programs specifically targeted at young parents	Programs targeted at youth/children
<p>Western Australia</p> <ul style="list-style-type: none"> • Mother Baby Unit (Women and Newborn Health Service/King Edward Memorial Hospital) • Complex Care Group • Mother and Baby Unit (Fiona Stanley Hospital Women, Children and Newborn Service) • Midwifery Group Practice (Armadale Health Service) • Registered midwife referral to Bentley Health Service • Social Work (Bentley Health Service) • Infant Mental Health Programme (Children and Adolescent Mental Health Service) • Circle of Security Groups (Children and Adolescent Mental Health Service) • Enhanced Aboriginal Child Health Schedule (EACHS) (Child and Adolescent Health Service) • Enhanced Home Visiting (EHV) Child and Adolescent Health Service • Women and Newborn Drug and Alcohol Service (WANDAS) (King Edward Memorial Hospital) • Attach Drug and Alcohol Service (UnitingCare West) • Women's Health and Family Services (WHFS) – Outreach and Perinatal Mental Health (Women's Healthcare Association) • Specialist Alcohol and Other Drug Treatment (Women's Health and Family Services) • The Fremantle Women's Health Centre • South Coastal Health and Community Services • AOD residential treatment and support (Cyrenian House – Rick Hammersley Centre) • Parent Peer Support Program (Mental Illness Fellowship of WA) (MIFWA) • Best Beginnings Plus (BB Plus) (Department for Child Protection and Family Support) • Getting Ready for Pre-Birth Planning Project • Ngala Overnight Stay (ONS) Service • Kwinana Early Years Services (KEYS) • Parent and Baby Support Service (<i>This is a new service currently in the design phase under the suite of OOHc reforms</i>) • Youth Justice Services 	<ul style="list-style-type: none"> • Adolescent Clinic Services (King Edward Memorial Hospital) • Adolescent Antenatal Clinic (King Edward Memorial Hospital) • Adolescent Health Service (King Edward Memorial Hospital/State-wide referrals) • Young Parents Group (Ngala) • Supporting Those at Risk (STAR) • Antenatal Clinic (Armadale Health Service) • St John of God Horizon House Young Mother and Baby Program (St John of God Social Outreach/Community Youth Services/Mother and Baby Program) • Schools providing classes for pregnant and parenting young people and onsite child care <ul style="list-style-type: none"> » Balga Senior High School, Child Care Centre and Young Parents Program » Challenger Institute, Young, Pregnant and Very Excited » Cyril Jackson Senior Campus » Fremantle Fast Track » Mum's the Word » Port School » Trinity Learning Centre (Uniting Care West) 		

Jurisdiction	General programs (parents and family support)	Programs specifically targeted at young parents	Programs targeted at youth/children
Queensland	<ul style="list-style-type: none"> • Child Health Services (Child and Youth Community Health Service) • Ellen Barron Family Centre • Centre for Children's Health and Wellbeing (CCHW) (Programs include: Promoting Optimal Maternal and Infant Nutrition Project; Connecting2U project; Healthy Kids Project) • Queensland Centre for Perinatal and Infant Mental Health (QCPIMH) (programs include: Zero to Four Child and Youth Mental Health Services (CYMHS); Zero to Four Family Support Service; Perinatal and Infant Mental Health Day Program) • Rural and Remote Strategy and the ePIMH Project • Perinatal Mental Health and Wellness Project • Disaster Resources • SMS4Perinatal Parents Queensland • Programs and policies targeted at Aboriginal and Torres Strait Islander peoples: <ul style="list-style-type: none"> » Making Tracks (Policy) for closing the gap in health outcomes for Indigenous Queenslanders » Birthing in our community Program • Connecting Care to Recovery 2016–2021 (mental health, alcohol and other drugs) • Peppi-pod Program (sleep safety) • Domestic Violence Screening Programs for Midwives • Integrated early years services • Intensive Early Childhood Development (IECD) pilot program • The Early Years Count Campaign • Triple P – Positive Parenting Program • Queensland Government's family and social support website • Response Reform initiative • Early Childhood Education in Care • Family and Child connect services • Intensive family support services • First 1000 Days • Collaborative Family Decision Making Practices • Parenting programs for women with children in prison 	<ul style="list-style-type: none"> • Encircle Program (formerly known as the Young Parents Program) • Young Women's Program • Redlands Young Women's Program • Aspire Program at Deception Bay High School • Young Women's Program, Caboolture Hospital • CCHW's Schools Based Youth Health • Queensland Centre for Perinatal and Infant Mental Health (QCPIMH) (programs include Zero to Four Child and Youth Mental Health Services (CYMHS); Family Support Teams; Encircle (infant program); Young Parents Program pregnancy group) • State secondary school support programs (eg Burnside State High School – Supporting Teenagers with Education Mothering and Mentoring (STEMM) Program; Deception Bay State High School – Actively Supporting Parents with Infants to Re-engage in Education (ASPIRE) Program; Mabel Park State High School – Parents Overcoming Work and Education Restrictions (POWER) program • Homelessness Hotline • Accommodating children with their parent in youth detention • Accommodation of children in prisons with mothers – Brisbane Women's or Townsville Women's Correctional Centres and Helena Jones Centre 	<ul style="list-style-type: none"> • Care2Achieve Scholarships (targeted at women leaving care not just parents) • Next Step After Care Services • Sortli (short for: sort out your life) • Specialist Homelessness Services • Homelessness Program (also has programs to meet the needs of young parents experiencing homelessness) • Brisbane Youth Service (homelessness program) • Individualised case management (Youth Justice) • Support services for young parents in custody (include connecting them with community based services and facilitating contact where the child does not reside with the young person)

Appendix 11: State and territory government programs for young parents

Jurisdiction	General programs (parents and family support)	Programs specifically targeted at young parents	Programs targeted at youth/children
<p>Northern Territory</p>	<ul style="list-style-type: none"> • Healthy Under 5 Kids Program (HU5K) • Australian Nurse Family Partnership Program • No Germs On Me Social Marketing Campaign • Oral Health Territory Parents Sessions • Healthy Smiles Program • Nhulunbuy Neighbourhood Centre Mothers' Group • Hearing Health Program (HHP) – <i>Strong Little Ears, Strong life</i> • Newborn Hearing Program • Territory Parents Support (TPS) • Early Birds • Community Paediatrics Program • Community physician • Trachoma • Rheumatic Heart Disease • Immunisation • Sexual Health • Families as First Teachers (FaFT) 	<ul style="list-style-type: none"> • Young Mothers Strong Mothers (YMSM) • Pandanus Childbirth Education and Perinatal Support by Anglicare NT • Pregnancy and Parenting Education Support Program • BabyFAST NT (Families and Schools Together NT) • Darwin Parenting Support Program (YWCA) 	<ul style="list-style-type: none"> • Growing a Smoke free Generation • Regional Youth Services 2014–2018 • Leaving and After Care Support – 'Moving on'
<p>Australian Capital Territory</p>	<ul style="list-style-type: none"> • Maternal and Child Health (MACH) Universal Services • MACH Parenting Enhancement Program (PEP) • Women Youth and Children Community Health Program (WYCCHP) Early Parenting Counselling Service • The Aboriginal Midwifery Access Program (AMAP) (Winnunga Nimmityjah Aboriginal Health Service) 	<ul style="list-style-type: none"> • MACH Outreach Services to Canberra College • Food Baby (The Junction Youth Health Services) • Young Parents Playgroup (Gugan Gulwan Youth Aboriginal Corporation) • Kariya House (part of the <i>A Step Up for Our Kids</i> program's suite of services) • ACT CCCares Program (delivered through Canberra College) • Growing Healthy Families (ACT Community Services Directorate) for young Aboriginal and Torres Strait Islander parents • Young Parents Accommodation support Program (St Vincent de Paul Society) 	<ul style="list-style-type: none"> • School Youth Health Nurse Program • The Youth InterACT strategy on youth engagement and participation • Social Housing and Homelessness Services (targeting young people, aged 16–25, experiencing homelessness or at risk of becoming homeless, delivered by the Community Services Directorate)

Jurisdiction	General programs (parents and family support)	Programs specifically targeted at young parents	Programs targeted at youth/children
Victoria	<ul style="list-style-type: none"> • Child FIRST and Family Services • Enhanced Maternal and Child Health Service • Nursery Equipment Program • Healthy Mothers, Healthy Babies program right@home • Early Parenting Centres • Parenting advice and education services (PAES) • The Family Learning Support Program • Family Learning Partnerships Program • Aboriginal and Torres Strait Islander women: Koori Maternity Services • Mother Baby Withdrawal Unit • Mother Baby Units • State-wide Paediatric Integrated Cancer Service • Perinatal Emotional Health Program • Immunisation programs for vulnerable cohorts • Families where a parent has a Mental Illness 	<ul style="list-style-type: none"> • Cradle to Kinder (ante and post-natal support to vulnerable young parents) • Therapeutic Residential Care (two programs state-wide which target young mothers in out-of-home care) 	<ul style="list-style-type: none"> • Parent Assessment and Skill Development Services • Supported Playgroups • Early Start Kindergarten • Access to Early Learning • Therapeutic Residential Care (TRC) • Community Health Services child health teams
New South Wales	<ul style="list-style-type: none"> • Brighter Futures program • Start Strong Family Preservation and Restoration • Intensive home-based family preservation and restoration • Targeted Earlier Intervention program reform • Aboriginal Maternal and Infant Health Services (AMIHS) • Specialist Perinatal and Infant Mental Health Services (PIMHS) • Act Now Stay Strong – Family Functioning Intervention model • Sustaining NSW Families program (SNF) – part of <i>Future Directions for Social Housing</i> • Building Strong Foundations for Aboriginal Children, Families and Communities 	<ul style="list-style-type: none"> • The Australian Red Cross Young Parents Program (funded under Brighter Futures) • Early Childhood Education and Care program (part of <i>Future Directions for Social Housing</i> reform) • Aboriginal Young Parenting Support project • Young Parent Support Worker program (Hunter New England Local Health District) • Regional Youth Support Services • Young Parents Family Worker Project • Central Coast Homelessness Accommodation Service for Young Parent Families • Parenting Programs in Custody (Reiby Juvenile Justice Centre partnership with Karitane). Other programs at juvenile justice centres include Becoming a Father and antenatal workshops. 	<ul style="list-style-type: none"> • The Out of Home Care Health Pathway Program (OOHC HPP) • NSW School-Link – School based mental health initiatives • Getting on Track in Time – Got it! – specialist school-based clinical early intervention program • Youth on Track – for youth at risk of re-offending • Housing and Support Program – for young women at risk of re-offending upon release from the juvenile justice system due to homelessness or being at risk of homelessness • Premier's Youth Initiative – to support young people leaving out-of-home care and at risk of homelessness • Start Strong reform – early childhood

Appendix 11: State and territory government programs for young parents

Jurisdiction	General programs (parents and family support)	Programs specifically targeted at young parents	Programs targeted at youth/children
<p>Tasmania</p>	<ul style="list-style-type: none"> • Learning in Families Together (LIFT) • Establishment of 12 Child and Family Centres (CFCs) across Tasmania • Child Health and Parenting Services • Healthy Smiles for Two project • Child Health and Parenting Service (ChaPS) Universal Program • Safe Choices (a new state-wide family violence service, delivered by Catholic Care) • Rapid Rehousing (to support people affected by family violence) • Aboriginal Family Safety Initiative • The Joined Up Human Services Project • Strong Families, Safe Kids (2016–2020 – child protection reform) 	<ul style="list-style-type: none"> • <i>Retaining and Supporting Pregnant and Parenting Students</i> policy in schools • Claremont College <i>Young Mums Program</i> • Classes at the Royal Hobart Hospital • cu@home Program – nurse home-visiting campaign for young parents 	<ul style="list-style-type: none"> • Launching into Learning (LiL) • My Education initiative • Community Empowered Schools initiative • Tasmanian Carers Action Plan 2013–2018 (the Plan acknowledges that young people can have carer responsibilities) • Respectful Relationships Education Package (Government schools) • Healthy Tasmania Five Year Strategic Plan – to improve health and wellbeing of young people at school • Support for students affected by family violence in non-government schools • Australian Childhood Foundation’s additional counselling for children and young people affected by family violence • Tasmania Affordable Housing Strategy 2015–2025 (including initiatives to specifically support young people at risk of homelessness) • Youth At Risk Strategy • Youth Employment strategy
<p>South Australia</p>	<ul style="list-style-type: none"> • Children’s Centres for Early Childhood Development and Parenting deliver the following programs: <ul style="list-style-type: none"> » antenatal services » universal community playgroups » psychoeducational parenting group programs » targeted playgroups <ul style="list-style-type: none"> » family contact playgroup » groups targeting specific areas of development » family services coordinators support » coaching support for parents/caregivers • Positive Parenting Program • The Child and Family Health Service CaFHS delivers the following programs: <ul style="list-style-type: none"> » Universal Contact Visit » Family home visiting » Strong Start • A Right to Safety: South Australia’s Women’s Safety Strategy • Ceduna Building Resilience initiatives 	<ul style="list-style-type: none"> • Hannah Place – accommodation and support to pregnant young women or young parents who are also under guardianship or in custody of the Minister (provided through Centacare) • Young parents’ groups 	<ul style="list-style-type: none"> • Learning Together • Learning Together @ Home • The Families as First Teachers (FaFT)

Appendix 12: Laws relevant to children’s access to prescribed medical forms of contraception and abortion

Jurisdiction	Relevant laws ¹
Commonwealth	
Legislative provisions	<p>Family Law Act 1975</p> <p><i>Section 61C – Each parent has parental responsibility (subject to court orders)</i></p> <p>(1) Each of the parents of a child who is not 18 has parental responsibility for the child.</p> <p><i>Section 61B defines parental responsibility in relation to a child to mean all duties, powers, responsibilities and authority which, by law, parents have in relation to children.</i></p> <p><i>Section 67ZC – Orders relating to the welfare of children</i></p> <p>(1) In addition to the jurisdiction that a court has under this Part in relation to children, the court also has jurisdiction to make orders relating to the welfare of children.</p> <p>In deciding whether to make an order under subsection (1) in relation to a child, a court must regard the best interests of the child as the paramount consideration.</p>
Case law	<p>Secretary, Department of Health & Community Services v JWB and SMB (Marion’s Case) (1992) 175 CLR 218</p> <p>The High Court of Australia adopted the approach in the UK case <i>Gillick v West Norfolk and Wisbech Area Health Authority</i> [1985] UKHL 7; [1986] AC 112 whereby the need for parental consent to medical treatment for children will depend on whether the child has achieved a sufficient level of understanding and intelligence to allow him or her to understand fully what is proposed. This test requires the treating health practitioner to consider the individual child’s level of understanding in respect of the particular treatment or advice in question. The test does not rely on a fixed age to determine competence. Nor does a finding of competence in one situation mean that a child will then be automatically considered competent to make health care decisions generally.</p> <p>If they satisfy this threshold test known as the ‘Gillick competency’ test, no parental consent is required to access contraception or abortion. Further, a parent’s power to consent to medical treatment on behalf of their child terminates once the child is deemed legally competent.</p>
Other relevant information	<p>The Health Insurance Commission only allows people aged 15 years and over to hold their own Medicare card,² but Medicare will not release information about treatment for children over the age of 14 years to their parents.³</p>

Jurisdiction	Relevant laws ¹
New South Wales	
Legislative provisions	<p><i>Minors (Property and Contracts) Act 1970 (NSW)</i> <i>Section 9 – Full age generally</i></p> <p>(1) After the commencement of this Act:</p> <ul style="list-style-type: none"> (a) for the purposes of any rule of law, and (b) except so far as the context otherwise requires, for the purposes of: <ul style="list-style-type: none"> (i) any Act, whether passed before or after the commencement of this Act, and (ii) any instrument made under an Act, whether the instrument is made before or after the commencement of this Act: <p>a person aged eighteen years or upwards on the commencement of this Act or who attains the age of eighteen years after the commencement of this Act:</p> <ul style="list-style-type: none"> (c) is of full age and adult, (d) is sui juris, subject however to the law relating to mental illness, and (e) is not under any disability or incapacity of infancy. <p><i>Guardianship Act 1987 (NSW)</i> <i>Section 34 – Application of Part</i></p> <p>(1) This Part applies to a patient:</p> <ul style="list-style-type: none"> (a) who is of or above the age of 16 years, and (b) who is incapable of giving consent to the carrying out of medical or dental treatment. <p><i>Section 35 – Offences</i></p> <p>(1) A person must not carry out medical or dental treatment on a patient to whom this Part applies unless:</p> <ul style="list-style-type: none"> (a) consent for the treatment has been given in accordance with this Part, or (b) the carrying out of the treatment is authorised by this Part without any such consent, or (c) the treatment is carried out in accordance with an order made by the Supreme Court in the exercise of its jurisdiction with respect to the guardianship of persons.

Jurisdiction	Relevant laws ¹
	<p><i>Section 37 – When treatment may be carried out without any such consent⁴</i></p> <p>(1) Medical or dental treatment may be carried out on a patient to whom this Part applies without consent given in accordance with this Part if the medical practitioner or dentist carrying out or supervising the treatment considers the treatment is necessary, as a matter of urgency:</p> <ul style="list-style-type: none"> (a) to save the patient’s life, or (b) to prevent serious damage to the patient’s health, or (c) except in the case of special treatment – to prevent the patient from suffering or continuing to suffer significant pain or distress. <p>(2) Minor treatment may (subject to subsection (3)) also be carried out on a patient to whom this Part applies without any consent given in accordance with this Part if:</p> <ul style="list-style-type: none"> (a) there is no person responsible for the patient, or (b) there is such a person but that person either cannot be contacted or is unable or unwilling to make a decision concerning a request for that person’s consent to the carrying out of the treatment. <p>(3) The medical practitioner or dentist carrying out, or supervising the carrying out of, minor treatment in accordance with subsection (2) is required to certify in writing in the patient’s clinical record that:</p> <ul style="list-style-type: none"> (a) the treatment is necessary and is the form of treatment that will most successfully promote the patient’s health and well-being, and (b) the patient does not object to the carrying out of the treatment. <p>Crimes Act 1900 (NSW)</p> <p><i>Division 12 Attempts to procure abortion</i></p> <p><i>Section 82 – Administering drugs etc to herself by woman with child</i></p> <p>Whosoever, being a woman with child,</p> <ul style="list-style-type: none"> unlawfully administers to herself any drug or noxious thing, or unlawfully uses any instrument or other means, <p>with intent in any case to procure her miscarriage, shall be liable to imprisonment for ten years.</p> <p><i>Section 83 – Administering drugs etc to women with intent</i></p> <p>Whosoever:</p> <ul style="list-style-type: none"> unlawfully administers to, or causes to be taken by, any woman, whether with child or not, any drug or noxious thing, or unlawfully uses any instrument or other means, <p>with intent in any such case to procure her miscarriage, shall be liable to imprisonment for ten years.</p> <p><i>[Note: this position has been amended by case law, see below.]</i></p>

Jurisdiction	Relevant laws ¹
Case law	<p>The Gillick test (as approved in <i>Marion’s Case</i>) discussed above is the operative test in New South Wales for determining whether a child can access contraception or abortion.</p> <p><i>R v Wald</i> [1971] 3 DCR (NSW) 25</p> <p>Abortion is lawful if the doctor believes on reasonable grounds that it is necessary to preserve the woman involved from serious danger to her life or mental health.</p> <p><i>CES v Superclinics Australia Pty Ltd</i> (1995) 38 NSWLR 47</p> <p>The mental health requirement in <i>R v Wald</i> was expanded to include the effects of economic or social stress.</p> <p><i>K v Minister for Youth and Community Services</i> [1982] 1 NSWLR 311 NSW</p> <p>A 15-year-old’s guardian refused to consent to the girl’s abortion, which she and her mother wanted. The girl was a ward of the court so the consent of the Minister for Youth and Community Services was necessary. The judge allowed the abortion due to the adverse effects on the girl’s health through being forced to bear the child.</p>
Other relevant information	<p>As of January 2006, the morning after pill became available from pharmacies in New South Wales without the need for a prescription.⁵</p>
Queensland	
Legislative provisions	<p><i>Law Reform Act 1995 (QLD)</i></p> <p><i>Section 17 – What is the age of majority</i></p> <p>The age of majority is 18 years.</p> <p><i>Criminal Code Act 1899 (QLD)</i></p> <p><i>Section 225 – The like by women with child</i></p> <p>Any woman who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a crime, and is liable to imprisonment for 7 years.</p> <p><i>282 Surgical operations and medical treatment</i></p> <p>(1) A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill, a surgical operation on or medical treatment of—</p> <ul style="list-style-type: none"> (a) a person or an unborn child for the patient’s benefit; or (b) a person or an unborn child to preserve the mother’s life; <p>if performing the operation or providing the medical treatment is reasonable, having regard to the patient’s state at the time and to all the circumstances of the case.</p>

Jurisdiction	Relevant laws ¹
Case law	<p>The Gillick test (as approved in <i>Marion's Case</i>) discussed above is the operative test in Queensland for determining whether a child can access contraception or abortion.</p> <p><i>State of Queensland v B [2008] QSC 231</i></p> <p>State consent was necessary for medical abortions for a non-Gillick competent child under the court's <i>parens patriae</i> jurisdiction (which means that the court has the power to act on behalf of a person who cannot act for themselves).</p> <p><i>Central Queensland Hospital and Health Service v Q [2016] QSC 89</i></p> <p>Parents cannot consent to the termination of the pregnancy of a non-Gillick competent child; the court must make that decision. This case also includes a discussion of the effect of the relevant provisions under the <i>Criminal Code Act 1899</i> (QLD) discussed above.</p>
Other relevant information	Not applicable.
Victoria	
Legislative provisions	<p><i>Age of Majority Act 1977 (VIC)</i></p> <p><i>Section 3 – Persons of age of eighteen years or more to have full legal capacity</i></p> <p>(1) Subject to this section for all the purposes of the laws of the State—</p> <ul style="list-style-type: none"> (a) a person who, on or after the day of commencement of this Act attains the age of eighteen years, attains full age and full capacity on attaining that age; (b) a person, who on the day of commencement of this Act is of or over the age of eighteen years, but under the age of twenty-one years, attains full age and full capacity on that day; (c) the expression <i>minor</i> means a person not of full age. <p>...</p> <p><i>Abortion Law Reform Act 2008 (VIC)</i></p> <p><i>Section 4 – Termination of pregnancy by registered medical practitioner at not more than 24 weeks</i></p> <p>A registered practitioner may perform an abortion on a woman who is not more than 24 weeks pregnant.</p>

Jurisdiction	Relevant laws ¹
Case law	<p>The Gillick test (as approved in <i>Marion’s Case</i>) discussed above is the operative test in Victoria for determining whether a child can access contraception or abortion.⁶</p> <p><i>R v Davidson</i> [1969] VicRP 85</p> <p>Abortion is lawful if the practitioner honestly believes on reasonable grounds that it is necessary to preserve the woman from serious danger to her physical and mental health and is not out of proportion to the danger avoided.</p> <p>Although overruled by the <i>Abortion Law Reform Act 2008</i> (Vic), this case is still used as authority in other jurisdictions such as New South Wales and Queensland.</p>
Other relevant information	Not applicable.
Australian Capital Territory	
Legislative provisions	<p><i>Age of Majority Act 1974</i> (ACT)</p> <p><i>Section 5 – Age of majority 18 years</i></p> <p>(1) Subject to this Act, a person attains full age for all purposes of the law of the Territory when the person attains the age of 18 years.</p> <p>(2) A person who has attained the age of 18 years is not subject to any want of legal capacity only because of the person’s age.</p> <p>...</p> <p>Abortions are no longer illegal in the Australian Capital Territory.</p>
Case law	<p>The Gillick test (as approved in <i>Marion’s Case</i>) discussed above is the operative test in Queensland for determining whether a child can access contraception or abortion.</p>
Other relevant information	Not applicable.

Jurisdiction	Relevant laws ¹
Western Australia	
Legislative provisions	<p>Summary:</p> <p>In Western Australia, a child may obtain an abortion at up to 20 weeks of being pregnant if:</p> <ul style="list-style-type: none"> • she gives informed consent, or • she will suffer serious personal, family or social consequences if the abortion is not performed, or • there will be serious danger to her physical or mental health if the abortion is not performed, or • the pregnancy is causing serious danger to her physical or mental health. <p>If the child is under the age of 16 years and financially supported by her parents (ie a dependant minor), a parent or guardian must be informed, or the child can apply to the Children’s Court for an order that it is not suitable to involve her parents or guardian and that the abortion should proceed.</p> <p>After 20 weeks, abortions are only lawful if at least two doctors from an appointed panel agree that the mother of the unborn child has a severe medical condition which justifies the abortion.</p> <p>Age of Majority Act 1972 (WA)</p> <p><i>Section 5 – Persons of age of 18 years or more to have full legal capacity</i></p> <p>(1) Subject to the succeeding provisions of this section, for all the purposes of the laws of the State—</p> <ol style="list-style-type: none"> (a) a person who, on or after the commencing day, attains the age of 18 years attains full age and full capacity on attaining that age; and (b) a person who, on the commencing day, is of or over the age of 18 years but under the age of 21 years attains full age and full capacity on that day. <p>Health Act 1911 (WA)</p> <p><i>Section 334 – Performance of abortions</i></p> <p>(1) A reference in this section to performing an abortion includes a reference to—</p> <ol style="list-style-type: none"> (a) attempting to perform an abortion; and (b) doing any act with intent to procure an abortion, whether or not the woman concerned is pregnant. <p>(2) No person, hospital, health institution, other institution or service is under a duty, whether by contract or by statutory or other legal requirement, to participate in the performance of any abortion.</p>

Jurisdiction	Relevant laws ¹
	<p>(3) Subject to subsections (4) and (7), the performance of an abortion is justified for the purposes of section 199(1) of <i>The Criminal Code</i> if, and only if—</p> <ul style="list-style-type: none"> (a) the woman concerned has given informed consent; or (b) the woman concerned will suffer serious personal, family or social consequences if the abortion is not performed; or (c) serious danger to the physical or mental health of the woman concerned will result if the abortion is not performed; or (d) the pregnancy of the woman concerned is causing serious danger to her physical or mental health. <p>(4) Subsection (3)(b), (c) or (d) do not apply unless the woman has given informed consent or in the case of paragraphs (c) or (d) it is impracticable for her to do so.</p> <p>(5) In this section – informed consent means consent freely given by the woman where—</p> <ul style="list-style-type: none"> (a) a medical practitioner has properly, appropriately and adequately provided her with counselling about the medical risk of termination of pregnancy and of carrying a pregnancy to term; and (b) a medical practitioner has offered her the opportunity of referral to appropriate and adequate counselling about matters relating to termination of pregnancy and carrying a pregnancy to term; and (c) a medical practitioner has informed her that appropriate and adequate counselling will be available to her should she wish it upon termination of pregnancy or after carrying the pregnancy to term. <p>A reference in subsection (5) to a medical practitioner does not include a reference to—</p> <ul style="list-style-type: none"> (a) the medical practitioner who performs the abortion; nor (b) any medical practitioner who assists in the performance of the abortion. <p>(7) If at least 20 weeks of the woman’s pregnancy have been completed when the abortion is performed, the performance of the abortion is not justified unless—</p> <ul style="list-style-type: none"> (a) 2 medical practitioners who are members of a panel of at least 6 medical practitioners appointed by the Minister for the purposes of this section have agreed that the mother, or the unborn child, has a severe medical condition that, in the clinical judgment of those 2 medical practitioners, justifies the procedure; and (b) the abortion is performed in a facility approved by the Minister for the purposes of this section.

Jurisdiction	Relevant laws ¹
	<p>(8) For the purposes of this section—</p> <p>(a) subject to subsection (11), a woman who is a dependant minor shall not be regarded as having given informed consent unless a custodial parent of the woman has been informed that the performance of an abortion is being considered and has been given the opportunity to participate in a counselling process and in consultations between the woman and her medical practitioner as to whether the abortion is to be performed; and</p> <p>(b) a woman is a dependant minor if she has not reached the age of 16 years and is being supported by a custodial parent or parents; and</p> <p>(c) a reference to a parent includes a reference to a legal guardian.</p> <p>(9) A woman who is a dependant minor may apply to the Children’s Court for an order that a person specified in the application, being a custodial parent of the woman, should not be given the information and opportunity referred to in subsection (8)(a) and the court may, on being satisfied that the application should be granted, make an order in those terms.</p> <p>(10) An order made under subsection (9) has effect according to its terms and is not liable to be challenged, appealed against, reviewed, quashed or called in question in or by any court.</p> <p>(11) If the effect of an order under subsection (9) is that no custodial parent of the woman can be given the information and opportunity referred to in subsection (8)(a), subsection (8) does not apply in relation to the woman.</p>
Case law	The Gillick test (as approved in <i>Marion’s Case</i>) discussed above is the operative test in Western Australia for determining whether a child can access contraception or provide informed consent to an abortion.
Other relevant information	Section 199 of the <i>Criminal Code Act 1913 (WA)</i> sets out when it would be unlawful to perform an abortion, and section 259 sets out when a person is not liable for surgical and medical treatment.
Northern Territory	
Legislative provisions	<p><i>Age of Majority Act 1981 (NT)</i></p> <p><i>Section 4 – Age of majority 18 years</i></p> <p>(1) Subject to this Act, a person attains full age for all purposes of the law of the Territory when he attains the age of 18 years.</p> <p>(2) A person who has attained the age of 18 years is not subject to any want of legal capacity by reason only of his age.</p>

Jurisdiction	Relevant laws ¹
	<p><i>Termination of Pregnancy Law Reform Act 2017 (NT)</i></p> <p><i>Section 4 – woman means a female person of any age.</i></p> <p><i>Section 7 – Termination of pregnancy by a suitably qualified medical practitioner at not more than 14 weeks</i></p> <p>A suitably qualified medical practitioner may perform a termination on a woman who is not more than 14 weeks pregnant, if the medical practitioner considers the termination is appropriate in all the circumstances, having regard to:</p> <ul style="list-style-type: none"> (a) all relevant medical circumstances; and (b) the woman’s current and future physical, psychological and social circumstances; and (c) professional standards and guidelines. <p><i>Section 9 – Termination of pregnancy by a suitably qualified medical practitioner at not more than 23 weeks</i></p> <p>A suitably qualified medical practitioner may perform a termination on a woman who is more than 14 weeks pregnant, but not more than 23 weeks pregnant, if:</p> <ul style="list-style-type: none"> (a) the medical practitioner has consulted with at least one other suitably qualified medical practitioner who has assessed the woman; and (b) each medical practitioner considers the termination is appropriate in all the circumstances having regard to each of the matters mentioned in section 7. <p><i>Section 10 – Termination of pregnancy where life at risk</i></p> <p>A medical practitioner may perform a termination on a woman in an emergency if the medical practitioner considers the termination is necessary to preserve the life of the woman.</p>
Case law	<p>The Gillick test (as approved in <i>Marion’s Case</i>) discussed above is the operative test in the Northern Territory for determining whether a child can access contraception or provide informed consent to the abortion.</p>
Other relevant information	<p>Prior to 2017, abortion remained an offence in the Northern Territory under the <i>Criminal Code Act</i> (sections 172 and 174), other than when undertaken in accordance with section 11 of the <i>Medical Services Act</i> (NT). The <i>Termination of Pregnancy Law Reform Act 2017</i> was passed on 21 March 2017 and commenced on 1 July 2017. This legislation repealed and replaced section 11 of the <i>Medical Services Act</i> as well as parts of the <i>Criminal Code Act</i> which referred to the offences of procurement of an abortion, or the supply of drugs or instruments for the procuring of an abortion.</p>

Jurisdiction	Relevant laws ¹
	<p>The Northern Territory Clinical Guidelines for Termination of Pregnancy are the ‘professional standards and guidelines’ referred to in the Act.⁷ In relation to children providing consent, the Clinical Guidelines provide:</p> <ul style="list-style-type: none"> • persons aged 18 years or over are presumed to have full lawful capacity to consent to medical treatment unless there is sufficient evidence to the contrary (see section 5(2) of the <i>Guardianship of Adults Act</i>) • generally, children aged 16 years or over will be considered as mature enough and to have the relevant capacity to give consent to termination procedures • a child under the age of 16 years may have capacity to give consent to medical treatment if it can be demonstrated that she meets the criteria of <i>Gillick</i> competence • a child under the age of 14 years should not be presumed to have capacity to give consent to medical treatment. In the majority of cases a child under the age of 14 years would require a parent or person having parental authority to provide consent to treatment • for a child who lacks capacity to make decisions about her day to day life or general medical treatment, it is necessary to consider seeking the consent of the child’s parent(s) or the court before undertaking the proposed treatment.
South Australia	
Legislative provisions	<p>Summary</p> <p>Unlike other states and territories where the age of consent to medical treatment is 18 years and the common law principles in <i>Gillick</i> and <i>Marion’s Case</i> would apply, South Australia’s law provides that a child aged 16 years or over may consent to or refuse medical treatment or healthcare as validly and effectively as an adult. The doctor must explain the treatment, consequences, risks and any alternatives of the treatment.</p> <p>For children aged under 16 years to receive a prescription for contraception without parental consent, two doctors who have personally examined the child must be of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interests of the child.</p> <p><i>Consent to Medical Treatment and Palliative Care Act 1995 (SA)</i></p> <p><i>Section 6 – Legal competence to consent to medical treatment</i></p> <p>A person of or over 16 years of age may make decisions about his or her own medical treatment as validly and effectively as an adult.</p> <p><i>Section 12 – Administration of medical treatment to a child</i></p> <p>A medical practitioner may administer medical treatment to a child if—</p> <ol style="list-style-type: none"> the parent or guardian consents; or the child consents and—

Jurisdiction	Relevant laws ¹
	<ul style="list-style-type: none"> (i) the medical practitioner who is to administer the treatment is of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interest of the child’s health and well-being; and (ii) that opinion is supported by the written opinion of at least one other medical practitioner who personally examines the child before the treatment is commenced. <p>Note the following legislative definitions:</p> <ul style="list-style-type: none"> • “child” means a person under 16 years of age: section 4 • “medical treatment” includes the prescription or supply of drugs: section 4. <p>Criminal Law Consolidation Act 1935 (SA) <i>Section 82A – Medical termination of pregnancy</i></p> <p>(1) Notwithstanding anything contained in section 81 or 82, but subject to this section, a person shall not be guilty of an offence under either of those sections—</p> <ul style="list-style-type: none"> (a) if the pregnancy of a woman is terminated by a legally qualified medical practitioner in a case where he and one other legally qualified medical practitioner are of the opinion, formed in good faith after both have personally examined the woman— <ul style="list-style-type: none"> (i) that the continuance of the pregnancy would involve greater risk to the life of the pregnant woman, or greater risk of injury to the physical or mental health of the pregnant woman, than if the pregnancy were terminated; or (ii) that there is a substantial risk that, if the pregnancy were not terminated and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped, and where the treatment for the termination of the pregnancy is carried out in a hospital, or a hospital of a class, declared by regulation to be a prescribed hospital, or a hospital of a prescribed class, for the purposes of this section; or (b) if the pregnancy of a woman is terminated by a legally qualified medical practitioner in a case where he is of the opinion, formed in good faith, that the termination is immediately necessary to save the life, or to prevent grave injury to the physical or mental health, of the pregnant woman. <p>(2) Subsection (1)(a) does not refer or apply to any woman who has not resided in South Australia for a period of at least two months before the termination of her pregnancy.</p> <p>(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the physical or mental health of a pregnant woman as is mentioned in subsection (1)(a)(i), account may be taken of the pregnant woman’s actual or reasonably foreseeable environment.</p>

Jurisdiction	Relevant laws ¹
	<p>(4) The Governor may make regulations—</p> <ul style="list-style-type: none"> (a) for requiring any such opinion as is referred to in subsection (1) to be certified by the legally qualified medical practitioners or practitioner concerned in such form and at or within such time as may be prescribed and for requiring the preservation and disposal of any such certificate made for the purposes of this Act; and (b) for requiring any legally qualified medical practitioner who terminates a pregnancy, and the superintendent or manager of the hospital in which the termination is carried out, to give notice of the termination and such other information relating to the termination as may be prescribed to the Director-General of Medical Services; and (c) for prohibiting the disclosure, except to such persons or for such purposes as may be prescribed, of notices or information given pursuant to the regulations; and (d) declaring a particular hospital or a class of hospitals to be a prescribed hospital or a prescribed class of hospitals for the purposes of this section; and (e) for providing for, and prescribing, any penalty, not exceeding two hundred dollars, for any contravention of, or failure to comply with, any regulations. <p>(5) Subject to subsection (6), no person is under a duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this section to which he has a conscientious objection, but in any legal proceedings the burden of proof of conscientious objection rests on the person claiming to rely on it.</p> <p>(6) Nothing in subsection (5) affects any duty to participate in treatment which is necessary to save the life, or to prevent grave injury to the physical or mental health, of a pregnant woman.</p> <p>(7) The provisions of subsection (1) do not apply to, or in relation to, a person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes such a child to die before it has an existence independent of its mother where it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.</p> <p>(8) For the purposes of subsection (7), evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be prima facie proof that she was at that time pregnant of a child capable of being born alive.</p> <p>(9) For the purposes of sections 81 and 82, anything done with intent to procure the miscarriage of a woman is unlawfully done unless authorised by this section.</p> <p>(10) In this section and in sections 81 and 82—woman means any female person of any age.</p>
Case law	The principles of <i>Gillick</i> and <i>Marion's Case</i> would likely apply to a medical practitioner assessing whether a child is capable of providing informed consent to an abortion.

Jurisdiction	Relevant laws ¹
Other relevant information	<p>See also sections 81 and 82 of the <i>Criminal Law Consolidation Act</i> which set out when abortions will be unlawful.</p> <p>Even where a doctor considers a child is able to consent, if the child is aged under 14 years, some medical centres may require the child to have parental permission before they perform an abortion procedure.⁸</p>
Tasmania	
Legislative provisions	<p><i>Age of Majority Act 1973 (Tasmania)</i> <i>Section 3 – Age of Majority</i></p> <p>(1) Subject to this section and to section 6, for all the purposes of the laws of the State—</p> <p>(a) a person who, on or after the appointed day, attains the age of 18 years shall be deemed to attain full age and full capacity on attaining that age; and</p> <p>(b) a person who, on the appointed day, is of or over the age of 18 years but under the age of 21 years shall be deemed to have attained full age and full capacity on that day.</p> <p><i>Criminal Code Act 1924 (TAS)</i> <i>Section 51 Surgical operations – Schedule 1 of the Criminal Code Act 1924 (TAS)</i></p> <p>(1) It is lawful for a person to perform in good faith and with reasonable care and skill a surgical operation upon another person, with his consent and for his benefit, if the performance of such operation is reasonable, having regard to all the circumstances.</p> <p>(2) In the case of a child too young to exercise a reasonable discretion in such a matter, such consent as aforesaid may be given by his parent or by any person having the care of such child.</p> <p>(3) In the case of a person in such a condition as to be incapable of giving such consent as aforesaid, such operation may be performed without such consent.</p> <p><i>Reproductive Health (Access to Terminations) Act 2013 (TAS)</i> <i>Section 3 – Interpretation</i></p> <p>(1) In this Act, unless the contrary intention appears – woman means a female person of any age.</p> <p><i>Section 4 – Terminations by medical practitioner at not more than 16 weeks</i> The pregnancy of a woman who is not more than 16 weeks pregnant may be terminated by a medical practitioner with the woman’s consent.</p> <p><i>Section 5 – Terminations by medical practitioner after 16 weeks</i></p> <p>(1) The pregnancy of a woman who is more than 16 weeks pregnant may be terminated by a medical practitioner with the woman’s consent if the medical practitioner—</p>

Jurisdiction	Relevant laws ¹
	<ul style="list-style-type: none"> (a) reasonably believes that the continuation of the pregnancy would involve greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated; and (b) has consulted with another medical practitioner who reasonably believes that the continuation of the pregnancy would involve greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated. <p>(2) In assessing the risk referred to in subsection (1), the medical practitioners must have regard to the woman's physical, psychological, economic and social circumstances.</p> <p>(3) At least one of the medical practitioners referred to in subsection (1) is to be a medical practitioner who specialises in obstetrics or gynaecology.</p> <p>See section 51 (Surgical operations) of the <i>Criminal Code Act 1924</i> which set out when it would be unlawful to perform an abortion.</p>
Case law	<p>The Gillick test (as approved in <i>Marion's Case</i>) discussed above is the operative test in Tasmania for determining whether a child can access contraception or provide informed consent to an abortion.</p>
Other relevant information	<p>Where a child who is 'capable of exercising a reasonable discretion' (as defined in section 51, <i>Criminal Code Act 1924</i> (TAS)) seeks medical treatment (including a prescription or device for contraception) and a doctor consents to provide it, a parent or guardian may only stop the treatment by applying to the Supreme Court for a restraining order.⁹</p> <p>Tasmania has introduced a Bill to reform its laws on consent in line with South Australia. The <i>Care and Consent to Medical Treatment Bill 2016</i> was introduced on 7 April 2016 but has not progressed past a first reading in the House of Assembly.¹⁰</p> <p>The Bill allows persons of or over the age of 16 years to decide freely for themselves on an informed basis whether or not to undergo medical treatment.</p> <p>Section 4 of the Bill provides that 'A person of or over 16 years of age may make decisions about his or her own medical treatment as validly and effectively as an adult'.</p> <p>In relation to children (defined as under 16 years of age), clause 5 provides that: A medical practitioner may administer medical treatment to a child if—</p> <ul style="list-style-type: none"> (a) the parent or guardian consents; or (b) the child consents and— <ul style="list-style-type: none"> (i) the medical practitioner who is to administer the treatment is of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interest of the child's health and well-being; and (ii) that opinion is supported by the opinion of at least one other medical practitioner who personally examines the child before the treatment is commenced.

- 1 The legislative provisions contained in this Appendix are correct as at 26 July 2017. All references to 'contraception', unless otherwise indicated, are to prescribed medical forms of contraception. All references to 'children', unless otherwise indicated, are to persons aged under 18 years.
- 2 Australian Government, Department of Social Services, *Young people becoming independent*. At <https://www.humanservices.gov.au/customer/subjects/young-people-becoming-independent> (viewed 8 November 2017).
- 3 Australian Government, Office of the Australian Information Commissioner, *Privacy fact sheet 21: Young People and the My Health Record System*. At <https://www.oaic.gov.au/individuals/privacy-fact-sheets/health-and-digital-health/privacy-fact-sheet-21-young-people-and-the-my-health-record-system> (viewed 8 November 2017).
- 4 This section may apply where a parent is unwilling to consent to contraception/abortion and the child is Gillick incompetent but such treatment is clearly in the best interests of the child.
- 5 NSW Law Reform Commission, *Young People and Consent to Health Care*, Report No 119 (2008) [6.68]. At http://www.austlii.edu.au/cgi-bin/sinodisp/au/other/lawreform/NSWLRC/2008/119.html?stem=0&synonyms=0&query=%22contraception%22%20and%20%22minor%22#LRC_R119CHP6H4 (viewed 30 November 2017).
- 6 Victoria Legal Aid, *Am I Old Enough?* (September 2016). At https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-resource-am-i-old-enough_0.pdf (viewed 30 November 2017).
- 7 Northern Territory Government Department of Health, *Clinical Guidelines for Termination of Pregnancy* (June 2017). At <http://digitallibrary.health.nt.gov.au/prodjspui/bitstream/10137/1305/1/NT%20Clinical%20Guidelines%20for%20Termination%20of%20Pregnancy.pdf> (viewed 30 November 2017).
- 8 Lawstuff, *Pregnancy* (23 April 2015). At http://www.lawstuff.org.au/sa_law/topics/pregnancy (viewed 30 November 2017).
- 9 Hobart Community Legal Service Inc, *Medical Treatment* (2013). At <http://www.hobartlegal.org.au/tasmanian-law-handbook/rights/childrens-rights/childrens-rights-and-duties/medical-treatment> (viewed 30 November 2017).
- 10 Care and Consent to Medical Treatment Bill 2016 (Tas). At http://www.parliament.tas.gov.au/bills/19_of_2016.htm (viewed 30 November 2017).

Appendix 13: Laws relevant to access to education for children who are parents or are pregnant

Jurisdiction	Relevant laws ¹
Commonwealth	
Legislative provisions	<p>Sex Discrimination Act 1984 (Cth)</p> <p><i>Section 7 – Discrimination on the ground of pregnancy or potential pregnancy</i></p> <p>(1) For the purposes of this Act, a person (the discriminator) discriminates against a woman (the aggrieved woman) on the ground of the aggrieved woman’s pregnancy or potential pregnancy if, because of:</p> <ul style="list-style-type: none"> (a) the aggrieved woman’s pregnancy or potential pregnancy; or (b) a characteristic that appertains generally to women who are pregnant or potentially pregnant; or (c) a characteristic that is generally imputed to women who are pregnant or potentially pregnant; <p>the discriminator treats the aggrieved woman less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat someone who is not pregnant or potentially pregnant.</p> <p>(2) For the purposes of this Act, a person (the discriminator) discriminates against a woman (the aggrieved woman) on the ground of the aggrieved woman’s pregnancy or potential pregnancy if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging women who are pregnant or potentially pregnant.</p> <p>(3) This section has effect subject to sections 7B and 7D.</p> <p><i>Section 7AA – Discrimination on the ground of breastfeeding</i></p> <p>(1) For the purposes of this Act, a person (the discriminator) discriminates against a woman (the aggrieved woman) on the ground of the aggrieved woman’s breastfeeding if, by reason of:</p> <ul style="list-style-type: none"> (a) the aggrieved woman’s breastfeeding; or (b) a characteristic that appertains generally to women who are breastfeeding; or (c) a characteristic that is generally imputed to women who are breastfeeding; <p>the discriminator treats the aggrieved woman less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat someone who is not breastfeeding.</p> <p>(2) For the purposes of this Act, a person (the discriminator) discriminates against a woman (the aggrieved woman) on the ground of the aggrieved woman’s breastfeeding if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging women who are breastfeeding.</p> <p>...</p> <p>(5) This section has effect subject to sections 7B and 7D.</p> <p><i>See also section 5 – Sex discrimination.</i></p>

Jurisdiction	Relevant laws ¹
	<p><i>Section 7B – Indirect discrimination: reasonableness test</i></p> <p>(1) A person does not discriminate against another person by imposing, or proposing to impose, a condition, requirement or practice that has, or is likely to have, the disadvantaging effect mentioned in subsection 5(2)... 7(2) or 7AA(2) if the condition, requirement or practice is reasonable in the circumstances.</p> <p>(2) The matters to be taken into account in deciding whether a condition, requirement or practice is reasonable in the circumstances include:</p> <ul style="list-style-type: none"> (a) the nature and extent of the disadvantage resulting from the imposition, or proposed imposition, of the condition, requirement or practice; and (b) the feasibility of overcoming or mitigating the disadvantage; and (c) whether the disadvantage is proportionate to the result sought by the person who imposes, or proposes to impose, the condition, requirement or practice. <p><i>Section 21 – Education</i></p> <p>(2) It is unlawful for an educational authority² to discriminate against a person on the ground of the person’s sex ... pregnancy or potential pregnancy, or breastfeeding:</p> <ul style="list-style-type: none"> (a) by refusing or failing to accept the person’s application for admission as a student; or, (b) in the terms or conditions on which it is prepared to admit the person as a student. <p>(3) It is unlawful for an educational authority to discriminate against a student on the grounds of the student’s sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding:</p> <ul style="list-style-type: none"> (a) by denying the student access, or limiting the student’s access, to any benefit provided by the educational authority; (b) by expelling the students; or, (c) by subjecting the student to any other detriment. <p>...</p> <p>(4) This section binds the Crown in right of a State.</p> <p><i>Section 38 – Educational institutions established for religious purposes</i></p> <p>(3) Nothing in section 21 renders it unlawful for a person to discriminate against another person on the ground of the other person’s... pregnancy in connection with the provision of education or training by an educational institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, if the first-mentioned person so discriminates in good faith in order to avoid injury to the religious susceptibilities of adherents of that religion or creed.</p> <p><i>See also section 44 on exemptions, which include exemption from the operation of section 21 (education) above.</i></p>

Jurisdiction	Relevant laws ¹
Case law	Not applicable.
New South Wales	
Legislative provisions	<p>Education Act 1990 (NSW)</p> <p><i>Section 4 – Principles on which this Act is based</i></p> <p>In enacting this Act, Parliament has had regard to the following principles:</p> <ul style="list-style-type: none"> (a) every child has the right to receive an education, ... (c) it is the duty of the State to ensure that every child receives an education of the highest quality, (d) the principal responsibility of the State in the education of children is the provision of public education. <p><i>Section 6 – Objects for administration of this Act or of education</i></p> <p>(1) It is the intention of Parliament that every person concerned in the administration of this Act or of education for children of school-age in New South Wales is to have regard (as far as is practicable or appropriate) to the following objects:</p> <ul style="list-style-type: none"> (a) assisting each child to achieve his or her educational potential,... (d) provision of an education for children that gives them access to opportunities for further study, work or training, (e) mitigating educational disadvantages arising from the child's gender or from geographic, economic, social, cultural, lingual or other causes, ... <p>Anti-Discrimination Act 1977 (NSW)</p> <p><i>Section 24 – What constitutes discrimination on the ground of sex</i></p> <p>(1) A person (the perpetrator) discriminates against another person (the aggrieved person) on the ground of sex if, on the ground of the aggrieved person's sex or the sex of a relative or associate of the aggrieved person, the perpetrator:</p> <ul style="list-style-type: none"> (a) treats the aggrieved person less favourably than in the same circumstances, or in circumstances which are not materially different, the perpetrator treats or would treat a person of the opposite sex or who does not have such a relative or associate of that sex, or (b) requires the aggrieved person to comply with a requirement or condition with which a substantially higher proportion of persons of the opposite sex, or who do not have such a relative or associate of that sex, comply or are able to comply, being a requirement which is not reasonable having regard to the circumstances of the case and with which the aggrieved person does not or is not able to comply. <p>(1A) For the purposes of subsection (1) (a), something is done on the ground of a person's sex if it is done on the ground of the person's sex, a characteristic that appertains generally to persons of that sex or a characteristic that is generally imputed to persons of that sex.</p>

Jurisdiction	Relevant laws ¹
	<p>(1B) For the purposes of this section, but without limiting the generality of this section, the fact that a woman is or may become pregnant is a characteristic that appertains generally to women.</p> <p>(1C) For the purposes of this section, but without limiting the generality of this section, the fact that a woman is breastfeeding or may breastfeed is a characteristic that appertains generally to women. For the purposes of this Act, breastfeeding includes the act of expressing breast milk.</p> <p><i>Section 31A – Education</i></p> <p>(1) It is unlawful for an educational authority³ to discriminate against a person on the ground of sex:</p> <ul style="list-style-type: none"> (a) by refusing or failing to accept the person’s application for admission as a student, or (b) in the terms on which it is prepared to admit the person as a student. <p>(2) It is unlawful for an educational authority to discriminate against a student on the ground of sex:</p> <ul style="list-style-type: none"> (a) by denying the student access, or limiting the student’s access, to any benefit provided by the educational authority, or (b) by expelling the student or subjecting the student to any other detriment. <p><i>See also section 126 on exemptions from the Act.</i></p>
Case law	<p><i>CF v State of New South Wales (Department of Education) [2003] NSWSC 572</i></p> <p>Government education institutions must not curtail or diminish a child’s right to procedural fairness in any matter concerning the child’s enrolment or admission into a Government education institution.</p>
Queensland	
Legislative provisions	<p><i>Education (General Provisions) Act 2006 (Qld)</i></p> <p><i>Section 7 – Guiding principles</i></p> <p>The principles intended to guide the achievement of this Act’s objects are the following—</p> <p>...</p> <ul style="list-style-type: none"> (b) education should be provided to a child or young person in a way that— <ul style="list-style-type: none"> (i) provides positive learning experiences; and (ii) promotes a safe and supportive learning environment; and (iii) recognises his or her educational needs; <p>...</p>

Jurisdiction	Relevant laws ¹
	<p>(d) the State, parents, teachers, school communities and non-government entities should work collaboratively to foster a commitment to achieving the best educational outcomes for children and young people;</p> <p>(e) for chapter 10—</p> <p>(i) the State should develop practical ways to improve the social, educational and employment outcomes of young people, including, in particular, those who are at risk of disengaging from education and training; ...</p> <p><i>Chapter 12, Part 3 – Suspension, exclusion, and cancellation of enrolment, of State school students.</i></p> <p>The principal of a State school at which a student is enrolled may suspend or exclude the student from the school if the principal is reasonably satisfied a ground exists for the suspension or exclusion: ss 281(1), 291(1).</p> <p>A ground for suspension or exclusion includes “conduct that adversely affects, or is likely to adversely affect, other students” or “the good order and management of the school”, or “the student’s attendance at the school poses an unacceptable risk to the safety or wellbeing of other students or of staff”: ss 282(1), 292(1).</p> <p>It is also a ground for exclusion if “the principal is reasonably satisfied it would not be in the best interests of other students or of staff for the student to be enrolled at the school”: s 292(2)(b).</p> <p>Anti-Discrimination Act 1991 (Qld)</p> <p><i>Section 7 – Discrimination on the basis of certain attributes prohibited</i></p> <p>The Act prohibits discrimination on the basis of the following attributes—</p> <p>(a) sex;</p> <p>...</p> <p>(c) pregnancy;</p> <p>(d) parental status;</p> <p>(e) breastfeeding;</p> <p>...</p> <p>(o) family responsibilities;</p> <p><i>Section 9 – Discrimination of certain types prohibited</i></p> <p>The Act prohibits the following types of discrimination—</p> <p>(a) direct discrimination;</p> <p>(b) indirect discrimination.</p> <p><i>Section 10 – Meaning of direct discrimination</i></p> <p>(1) Direct discrimination on the basis of an attribute happens if a person treats, or proposes to treat, a person with an attribute less favourably than another person without the attribute is or would be treated in circumstances that are the same or not materially different.</p>

Jurisdiction	Relevant laws ¹
	<p><i>Section 11 – Meaning of indirect discrimination</i></p> <p>(1) Indirect discrimination on the basis of an attribute happens if a person imposes, or proposes to impose, a term—</p> <ul style="list-style-type: none"> (a) with which a person with an attribute does not or is not able to comply; and (b) with which a higher proportion of people without the attribute comply or are able to comply; and (c) that is not reasonable. <p>(2) Whether a term is reasonable depends on all the relevant circumstances of the case, including, for example—</p> <ul style="list-style-type: none"> (a) the consequences of failure to comply with the term; and (b) the cost of alternative terms; and (c) the financial circumstances of the person who imposes, or proposes to impose, the term.... <p>(4) In this section— term includes condition, requirement or practice, whether or not written.</p> <p><i>Section 37 – Explanatory provision</i></p> <p>An educational authority must not discriminate in the education area if a prohibition in section 38 or 39 applies.</p> <p><i>Section 38 – Discrimination by educational authority in prospective student area</i></p> <p>An educational authority must not discriminate—</p> <ul style="list-style-type: none"> (a) in failing to accept a person’s application for admission as a student; or (b) in the way in which a person’s application is processed; or (c) in the arrangements made for, or the criteria used in, deciding who should be offered admission as a student; or (d) in the terms on which a person is admitted as a student. <p><i>Section 39 – Discrimination by educational authority in student area</i></p> <p>An educational authority must not discriminate-</p> <ul style="list-style-type: none"> (a) in any variation of the terms of a student’s enrolment; or (b) by denying or limiting access to any benefit arising from the enrolment that is supplied by the authority; or (c) by excluding a student; or (d) by treating a student unfavourably in any way in connection with the student’s training or instruction.

Jurisdiction	Relevant laws ¹
Case law	Not applicable.
Victoria	
Legislative provisions	<p><i>Education and Training Reform Act 2006 (Vic)</i></p> <p><i>Section 1.2.1 – Principles underlying the enactment of this Act</i></p> <p>(b) all Victorians, irrespective of the education and training institution they attend, where they live or their social or economic status, should have access to a high quality education that—</p> <ul style="list-style-type: none"> (i) realises their learning potential and maximises their education and training achievement; (ii) promotes enthusiasm for lifelong learning; (iii) allows parents to take an active part in their child’s education and training; <p><i>Section 1.2.2 – Principles underlying the Government education and training system</i></p> <p>(1) The State provides universal access to education and training through the establishment and maintenance of a Government education and training system.</p> <p>(2) All persons employed or engaged in the provision of Government education and training by the State or in the administration of Government education and training by the State must apply or have regard to the following principles—</p> <p>...</p> <p>(c) every student has the right to attend a designated neighbourhood Government school with the exception of selective Government schools that are determined by the Minister;</p> <p><i>Equal Opportunity Act 2010 (Vic)</i></p> <p><i>Section 6 – Attributes</i></p> <p>The following are the attributes on the basis of which discrimination is prohibited in the areas of activity set out in Part 4—</p> <p>...</p> <p>(b) breastfeeding;</p> <p>...</p> <p>(i) parental status or status as a carer;</p> <p>...</p> <p>(l) pregnancy;</p> <p>...</p> <p>(o) sex;</p>

Jurisdiction	Relevant laws ¹
	<p><i>Section 7 – Meaning of discrimination</i></p> <p>(1) Discrimination means—</p> <p>(a) direct or indirect discrimination on the basis of an attribute;</p> <p><i>Section 8 – Direct discrimination</i></p> <p>(1) Direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute.</p> <p><i>Section 9 – Indirect discrimination</i></p> <p>(1) Indirect discrimination occurs if a person imposes, or proposes to impose, a requirement, condition or practice—</p> <p>(a) that has, or is likely to have, the effect of disadvantaging persons with an attribute; and</p> <p>(b) that is not reasonable.</p> <p>(2) The person who imposes, or proposes to impose, the requirement, condition or practice has the burden of proving that the requirement, condition or practice is reasonable.</p> <p>(3) Whether a requirement, condition or practice is reasonable depends on all the relevant circumstances of the case, including the following—</p> <p>(a) the nature and extent of the disadvantage resulting from the imposition, or proposed imposition, of the requirement, condition or practice;</p> <p>(b) whether the disadvantage is proportionate to the result sought by the person who imposes, or proposes to impose, the requirement, condition or practice;</p> <p>(c) the cost of any alternative requirement, condition or practice;</p> <p>(d) the financial circumstances of the person imposing, or proposing to impose, the requirement, condition or practice;</p> <p>(e) whether reasonable adjustments or reasonable accommodation could be made to the requirement, condition or practice to reduce the disadvantage caused, including the availability of an alternative requirement, condition or practice that would achieve the result sought by the person imposing, or proposing to impose, the requirement, condition or practice but would result in less disadvantage.</p> <p><i>Section 38 – Discrimination by educational authorities</i></p> <p>(1) An educational authority⁴ must not discriminate against a person—</p> <p>(a) in deciding who should be admitted as a student; or</p> <p>(b) by refusing, or failing to accept, the person’s application for admission as a student; or</p> <p>(c) in the terms on which the authority admits the person as a student.</p> <p>(2) An educational authority must not discriminate against a student—</p> <p>(a) by denying or limiting access to any benefit provided by the authority; or</p> <p>(b) by expelling the student; or</p> <p>(c) by subjecting the student to any other detriment.</p>

Jurisdiction	Relevant laws ¹
	<p><i>Section 83 – Religious schools</i></p> <p>(1) This section applies to a person or body, including a religious body, that establishes, directs, controls, administers or is an educational institution that is, or is to be, conducted in accordance with religious doctrines, beliefs or principles.</p> <p>(2) Nothing in Part 4 applies to anything done (except in relation to employment) on the basis of a person’s religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity by a person or body to which this section applies in the course of establishing, directing, controlling or administering the educational institution that—</p> <p>(a) conforms with the doctrines, beliefs or principles of the religion; or</p> <p>(b) is reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion.</p>
Case law	Not applicable.

Australian Capital Territory

Legislative provisions	<p><i>Education Act 2004 (ACT)</i></p> <p><i>Section 7 – General principles of Act</i></p> <p>(1) Everyone involved in the administration of this Act, or in the school or home education of children in the ACT, is to apply the principle that every child has a right to receive a high-quality education.</p> <p>(2) Without limiting subsection (1), a high-quality education is based on the following principles:</p> <p>...</p> <p>(b) school education and home education should—</p> <p>(i) aim to develop every child’s potential and maximise educational achievements; and</p> <p>...</p> <p>(v) recognise the social, religious, physical, intellectual and emotional needs of all students; and</p> <p>(vi) aim over time to improve the learning outcomes of students so that the outcomes are free from disadvantage because of economic, social, cultural or other causes; and</p> <p>(vii) encourage all students to complete their senior secondary education;</p> <p>...</p>
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Jurisdiction	Relevant laws ¹
	<p><i>Section 18 – Principles on which ch 3 based</i></p> <p>The following are the principles on which this chapter is based:</p> <p>...</p> <ul style="list-style-type: none"> (d) the government school system is committed to— <ul style="list-style-type: none"> (i) providing reasonable access to public education for all students in the ACT; (ii) maximising student educational achievements and opportunities; ... <p><i>Section 35 – Procedures to encourage school attendance at government schools</i></p> <ul style="list-style-type: none"> (1) The principal of a government school must set up procedures— <ul style="list-style-type: none"> (a) to encourage students to attend school regularly; ... (2) The principal must refer parents and children to support services that encourage children to attend school regularly when the procedures mentioned in subsection (1) are not successful. <p><i>See also section 36 – Suspension, exclusion or transfer of student by director-general.</i></p> <p>Human Rights Act 2004 (ACT)</p> <p><i>Section 27A – Right to education</i></p> <ul style="list-style-type: none"> (1) Every child has the right to have access to free, school education appropriate to his or her needs. (2) Everyone has the right to have access to further education and vocational and continuing training. (3) These rights are limited to the following immediately realisable aspects: <ul style="list-style-type: none"> (a) everyone is entitled to enjoy these rights without discrimination; <p><i>Section 28 – Human rights may be limited</i></p> <ul style="list-style-type: none"> (1) Human rights⁵ may be subject only to reasonable limits set by the laws that can be demonstrably justified in a free and democratic society. (2) In deciding whether a limit is reasonable, all relevant factors must be considered, including the following: <ul style="list-style-type: none"> (a) the nature of the right affected; (b) the importance of the purpose of the limitation; (c) the nature and extent of the limitation; (d) the relationship between the limitation and its purpose; (e) any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

Jurisdiction	Relevant laws ¹
	<p><i>Discrimination Act 1991 (ACT)</i></p> <p><i>Section 7 – Protected attributes</i></p> <p>(1) This Act applies to discrimination on the ground of any of the following attributes (a <i>protected attribute</i>):</p> <p>...</p> <p>(d) breastfeeding;</p> <p>...</p> <p>(m) parent, family, carer or kinship responsibilities;</p> <p>...</p> <p>(p) pregnancy;</p> <p>...</p> <p>(v) sex;</p> <p><i>Section 8 – Meaning of discrimination</i></p> <p>(1) For this Act, discrimination occurs when a person discriminates either directly or indirectly, or both, against someone else.</p> <p>(2) For this section, a person directly discriminates against someone else if the person treats, or proposes to treat, another person unfavourably because the other person has 1 or more protected attributes.</p> <p>(3) For this section, a person indirectly discriminates against someone else if the person imposes, or proposes to impose, a condition or requirement that has, or is likely to have, the effect of disadvantaging the other person because the other person has 1 or more protected attributes.</p> <p>(4) However, a condition or requirement does not give rise to indirect discrimination if it is reasonable in the circumstances.</p> <p>(5) In deciding whether a condition or requirement is reasonable in the circumstances, the matters to be taken into account include—</p> <p>(a) the nature and extent of any disadvantage that results from imposing the condition or requirement; and</p> <p>(b) the feasibility of overcoming or mitigating the disadvantage; and</p> <p>(c) whether the disadvantage is disproportionate to the result sought by the person who imposes, or proposes to impose, the condition or requirement.</p> <p><i>Section 18 – Education</i></p> <p>(1) It is unlawful for an educational authority⁶ to discriminate against a person –</p> <p>(a) by failing to accept the person’s application for admission as a student; or</p> <p>(b) in the terms or conditions on which it is prepared to admit the person as a student.</p> <p>(2) It is unlawful for an educational authority to discriminate against a student –</p> <p>(a) by denying the student access, or limiting the student’s access, to any benefit provided by the authority; or</p> <p>(b) by expelling the student; or</p> <p>(c) by subjecting the student to any other detriment.</p>

Jurisdiction	Relevant laws ¹
	<p><i>Section 33 – Educational institutions conducted for religious purposes</i></p> <p>...</p> <p>(2) Section 18 does not make it unlawful for a person (the first person) to discriminate against someone else in relation to the provision of education or training by an educational institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, if the first person so discriminates in good faith to avoid injury to the religious susceptibilities of adherents of that religion or creed.</p>
Case law	Not applicable.
Western Australia	
Legislative provisions	<p><i>School Education Act 1999 (WA)</i></p> <p><i>Section 3 – Objects of Act</i></p> <p>(1) The objects of this Act include the following—</p> <p>(a) to recognize the right of every child in the State to receive a school education; and</p> <p>...</p> <p>(c) to provide for government schools that meet the educational needs of all children; ...</p> <p><i>Section 89 – Term used: breach of school discipline</i></p> <p>For the purposes of this Division a breach of school discipline is any act or omission that impairs the good order and proper management of the school.</p> <p><i>Section 90 – Breach of school discipline, suspension for</i></p> <p>(1) The principal of a government school may wholly or partially suspend from attendance at the school a student who, in the principal’s opinion, has committed a breach of school discipline but the principal cannot suspend a student for longer than the period prescribed by the regulations.</p> <p><i>Section 91 – Excluding student from school attendance, grounds for</i></p> <p>For the purposes of this Division a student may be excluded from attendance at a government school if—</p> <p>...</p> <p>(b) his or her behaviour has disrupted the educational instruction of other students.</p>

Jurisdiction	Relevant laws ¹
	<p>Equal Opportunity Act 1984 (WA)</p> <p><i>Section 10 – Discrimination on the ground of pregnancy</i></p> <p>(1) For the purposes of this Act, a person (in this subsection referred to as the discriminator) discriminates against another person (in this subsection referred to as the aggrieved person) on the ground of the pregnancy of the aggrieved person if</p> <p>(a) on the ground of</p> <p>(i) the pregnancy of the aggrieved person; or</p> <p>(ii) a characteristic that appertains generally to persons who are pregnant; or</p> <p>(iii) a characteristic that is generally imputed to persons who are pregnancy,</p> <p>the discriminator treats the aggrieved person less favourably than, in circumstances that are the same or not materially different, the discriminator treats or would treat a person who was not pregnant; and</p> <p>(b) the less favourable treatment is not reasonable in the circumstances.</p> <p>(2) For the purposes of this Act, a person (in this subsection referred to as the discriminator) discriminates against another person (in this subsection referred to as the aggrieved person) on the ground of the pregnancy of the aggrieved person if the discriminator requires the aggrieved person to comply with a requirement or condition-</p> <p>(a) with which a substantially higher proportion of persons who are not pregnant comply or are able to comply; and</p> <p>(b) which is not reasonable having regard to the circumstances of the case; and</p> <p>(c) with which the aggrieved person does not or is not able to comply.</p> <p><i>Section 10A – Discrimination on the ground of breast feeding</i></p> <p>(1) For the purposes of this Act, a person (in this subsection referred to as the discriminator) discriminates against another person (in this subsection referred to as the aggrieved person) on the ground of the breast feeding if on the ground of-</p> <p>(a) the aggrieved person breast feeding or bottle feeding an infant or proposing to do so; or</p> <p>(b) a characteristic that appertains generally to persons who are breast feeding or bottle feeding; or</p> <p>(c) a characteristic that is generally imputed to persons who are breast feeding or bottle feeding,</p> <p>the discriminator treats the aggrieved person less favourably than, in circumstances that are the same or not materially different, the discriminator treats or would treat a person who was not breast feeding or bottle feeding.</p>

Jurisdiction	Relevant laws ¹
	<p>(2) For the purposes of this Act, a person (in this subsection referred to as the discriminator) discriminates against another person (in this subsection referred to as the aggrieved person) on the ground of breast feeding or bottle feeding if the discriminator requires the aggrieved person to comply with a requirement or condition-</p> <ul style="list-style-type: none"> (a) with which a substantially higher proportion of persons who are not breast feeding or bottle feeding comply or are able to comply; and (b) which is not reasonable having regard to the circumstances of the case; and (c) with which the aggrieved person does not or is not able to comply. <p><i>See also section 8 – Discrimination on the ground of sex.</i></p> <p><i>Section 18 – Education</i></p> <p>(1) It is unlawful for an educational authority to discriminate against a person on the ground of the person’s sex, ... pregnancy or breast feeding—</p> <ul style="list-style-type: none"> (a) by refusing or failing to accept the person’s application for admission as a student; or (b) in the terms of conditions on which it is prepared to admit the person as a student. <p>(2) It is unlawful for an educational authority to discriminate against a student on the ground of the student’s sex, ... pregnancy or breast feeding—</p> <ul style="list-style-type: none"> (a) by denying the student access, or limiting the student’s access to any benefit provided by the educational authority; or (b) by expelling the student; or (c) by subjecting the student to any other detriment. <p><i>Section 35A – Discrimination on the ground of family responsibility or family status</i></p> <p>(1) For the purposes of this Act, a person (in this subsection referred to as the discriminator) discriminates against another person (in this subsection referred to as the aggrieved person) on the ground of family responsibility or family status if, on the ground of-</p> <ul style="list-style-type: none"> (a) the family responsibility or family status of the aggrieved person; or (b) a characteristic that appertains generally to persons having the same family responsibility or family status as the aggrieved person; or (c) a characteristic that is generally imputed to persons having the same family responsibility or family status as the aggrieved person, <p>the discriminator treats the aggrieved person less favourably than, in circumstances that are the same or not materially different, the discriminator treats or would treat a person who does not have such a family responsibility or family status.</p>

Jurisdiction	Relevant laws ¹
	<p>(2) For the purposes of this Act, a person (in this subsection referred to as the discriminator) discriminates against another person (in this subsection referred to as the aggrieved person) on the ground of family responsibility or family status if the discriminator requires the aggrieved person to comply with a requirement or condition-</p> <ul style="list-style-type: none"> (a) with which a substantially higher proportion of persons not of the same family responsibility or family status as the aggrieved person comply or are able to comply; and (b) which is not reasonable having regard to the circumstances of the case; and (c) with which the aggrieved person does not or is not able to comply. <p><i>Section 35I – Education</i></p> <p>(1) It is unlawful for an educational authority⁷ to discriminate against a person on the ground of the person’s family responsibility or family status –</p> <ul style="list-style-type: none"> (a) by refusing or failing to accept the person’s application for admission as a student; or (b) in the terms or conditions on which it is prepared to admit the person as a student. <p>(2) It is unlawful for an educational authority to discriminate against a student on the ground of the student’s family responsibility or family status –</p> <ul style="list-style-type: none"> (a) by denying the student access, or limiting the student’s access, to any benefit provided by the educational authority; or (b) by expelling the student; or (c) by subjecting the student to any other detriment. <p><i>Section 73 – Educational institutions established for religious purposes</i></p> <p>(3) Nothing in this Act renders it unlawful for a person to discriminate against another person on any one or more of the grounds of discrimination referred to in this Act, other than the grounds of race, impairment or age, in connection with the provision of education or training by an educational institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, if the first-mentioned person so discriminates in good faith in favour of adherents of that religion or creed generally, but not in a manner that discriminates against a particular class or group of persons who are not adherents of that religion or creed.</p> <p><i>See also Part VIII, Division 3 – Power of Tribunal to grant exemptions.</i></p>
Case law	Not applicable.

Jurisdiction	Relevant laws ¹
Northern Territory	
Legislative provisions	<p>Education Act 2015 (NT)</p> <p><i>Section 4 – Guiding principles</i></p> <p>(1) Everyone involved in the administration of this Act, or in the education of children or young persons in the Territory, must apply the following guiding principles in performing functions in that regard:</p> <p>(a) all students are entitled to an education of a quality that is capable of enabling them to reach their potential and so maximise their achievements and contribution to the community;</p> <p><i>See also Part 4, Division 4 – Children with special learning needs, which applies to a child residing in the Northern Territory “whose educational progress, because of a special factor other than a disability, is likely to suffer unless they have access to special educational arrangements.”</i></p> <p><i>Section 93 – Expulsion by Minister</i></p> <p>(1) If the Minister considers it necessary in the interests of other persons present at a Government school, the Minister may, by written notice given to a student enrolled in the school, expel the student from the school.</p> <p>Anti-Discrimination Act 1996 (NT)</p> <p><i>Section 19 – Prohibition of discrimination</i></p> <p>(1) Subject to subsection (2), a person shall not discriminate against another person on the ground of any of the following attributes:</p> <p>...</p> <p>(b) sex;</p> <p>...</p> <p>(f) pregnancy;</p> <p>(g) parenthood;</p> <p>(h) breastfeeding;</p> <p><i>Section 28 – Areas of activities</i></p> <p>This Act applies to prohibited conduct in the areas of:</p> <p>(a) education; ...</p>

Jurisdiction	Relevant laws ¹
	<p><i>Section 29 – Discrimination in education</i></p> <p>(2) An educational authority⁸ shall not discriminate:</p> <ul style="list-style-type: none"> (a) by failing or refusing to accept a person’s application for admission as a student; or (b) in refusing or rejecting a person’s admission as a student; or (c) in the way in which a person’s application is processed; or (d) in the arrangements made for, or the criteria used in, deciding who should be offered admission as a student; or (e) in the terms and conditions on which a person is admitted as a student. <p>(3) An educational authority shall not discriminate:</p> <ul style="list-style-type: none"> (a) in any variation of the terms and conditions of a student’s enrolment; or (b) by failing or refusing to grant, or limiting, access to any benefit arising from the enrolment that is supplied by the authority; or (c) by excluding a student; or (d) by treating a student less favourably in any way in connection with the student’s training or instruction. <p><i>Section 58 – Accommodating special need unreasonable</i></p> <p>(1) A person may discriminate against another person who has a special need with respect to a matter that is otherwise prohibited under this Act if:</p> <ul style="list-style-type: none"> (a) the other person would require special services or facilities; and (b) it is unreasonable to require the person to supply the special services or facilities. <p>(2) Whether it is unreasonable to require a person to supply special services or facilities depends on the relevant circumstances of the case including, but not limited to:</p> <ul style="list-style-type: none"> (a) the nature of the special services or facilities; and (b) the cost of providing the special services or facilities and the number of people who would benefit or be disadvantaged; and (c) the financial circumstances of the person; and (d) the disruption that providing the special services or facilities may cause; and (e) the nature of any benefit or detriment to all persons concerned. <p><i>See also section 59 on exemptions from the Act in respect of discriminatory conduct that would otherwise contravene the Act.</i></p>
Case law	Not applicable.

Jurisdiction	Relevant laws ¹
South Australia	
Legislative provisions	<p>Education Act 1972 (SA) <i>Section 79 – Attendance</i> Authorised officers must take all practicable action to ensure attendance at school by children of compulsory school age and participation in an approved learning program by children of compulsory education age.</p> <p>Equal Opportunity Act 1984 (SA) <i>Section 85T – Criteria for establishing discrimination on other grounds</i></p> <p>(1) For the purposes of this Act, a person discriminates on the ground of pregnancy-</p> <ul style="list-style-type: none"> (a) if he or she treats a woman unfavourably because of her pregnancy or potential pregnancy; or (b) if he or she treats a pregnant woman unfavourably because she does not comply, or is not able to comply, with a particular requirement and— <ul style="list-style-type: none"> (i) the nature of the requirement is such that a substantially higher proportion of women who are not pregnancy comply, or are able to comply, with the requirement than of those who are pregnancy; and (ii) the requirement is not reasonable in the circumstances of the case; or (c) if he or she treats a pregnant woman unfavourably on the basis of a characteristic that appertains generally to pregnant women, or on the basis of a presumed characteristic that is generally imputed to pregnant women; or (d) if he or she treats another unfavourably because of an attribute of or a circumstance affecting a relative or associate of the other, being an attribute or circumstance described in the preceding paragraphs. <p>(2) For the purposes of this Act, a person discriminates on the ground of association with a child—</p> <ul style="list-style-type: none"> (a) if he or she treats another unfavourably because the person is breast feeding or bottle feeding an infant, or proposes to do so, or is, or proposes to be, accompanied by a child; or (b) if he or she treats another unfavourably because a relative or associate of the other is breast feeding or bottle feeding an infant, or proposes to do so, or is, or proposes to be, accompanied by a child. <p>(3) For the purposes of this Act, a person discriminates on the ground of caring responsibilities—</p> <ul style="list-style-type: none"> (a) if he or she treats another unfavourably because of the other’s caring responsibilities or proposed caring responsibilities; or

Jurisdiction	Relevant laws ¹
	<p>(b) if he or she treats another unfavourably because the other does not comply, or is not able to comply, with a particular requirement and—</p> <p>(i) the nature of the requirement is such that a substantially higher proportion of persons without caring responsibilities comply, or are able to comply, with the requirement than of those with caring responsibilities; and</p> <p>(ii) the requirement is not reasonable in the circumstances of the case; or</p> <p>(c) if he or she treats another unfavourably on the basis of a characteristic that appertains generally to persons with caring responsibilities, or on the basis of a presumed characteristic that is generally imputed to persons with caring responsibilities; or</p> <p>(d) if he or she treats another unfavourably because of an attribute of or a circumstance affecting a relative or associate of the other.</p> <p><i>Section 85ZD – Application of Division</i> This Division applies to discrimination on the ground of... pregnancy, caring responsibilities...</p> <p><i>Section 85ZE – Discrimination by educational authorities</i></p> <p>(1) It is unlawful for an educational authority to discriminate against a person—</p> <p>(a) by refusing or failing to accept an application for admission as a student; or</p> <p>(b) in the terms or conditions on which it offers to admit the person as a student.</p> <p>(2) It is unlawful for an educational authority to discriminate against a student—</p> <p>(a) in the terms or conditions on which it provides the student with education or training; or</p> <p>(b) by denying or limiting access to a benefit provided by the authority; or</p> <p>(c) by expelling the student; or</p> <p>(d) by subjecting the student to other detriment.</p> <p><i>Section 87B – Student breast feeding infant</i></p> <p>(1) It is unlawful for an educational authority to discriminate against a student by denying or limiting access to the educational services provided by the authority on the ground that the student is breast feeding an infant or proposes to do so.</p> <p><i>See also section 29 on the criteria for discrimination on the ground of sex, and section 37 on discrimination by educational authorities on the ground of sex.</i></p> <p><i>See also Part 7 on exemptions.</i></p>
Case law	Not applicable.

Jurisdiction	Relevant laws ¹
Tasmania	
Legislative provisions	<p><i>Education Act 2016 (Tas)</i></p> <p><i>Section 4 – Principles which are basis of Act</i></p> <p>(1) The principles on which this Act is based are the following principles:</p> <p>(a) the right of every child to receive an education until the child completes Year 12, the year of home education equivalent to Year 12 or an approved learning program;</p> <p>...</p> <p>(h) the importance of the provision by the State of universal access to education through the maintenance of a government education system;</p> <p>...</p> <p><i>Section 104 – Distance education</i></p> <p>(1) The following persons may apply to the Secretary for the provision of distance education, being education up to and including the last year of secondary education:</p> <p>(a) a parent of a school-aged child or youth on behalf of that child or youth</p> <p>(b) a school-aged child who is living independently from his or her parents;</p> <p>(c) a youth;</p> <p>(d) any other person who, under this Act is entitled, or may be allowed in the circumstances specified in this Act, to attend a State school.</p> <p>(4) In determining whether to grant or refuse to grant an application, the Secretary may take into account any of the following matters:</p> <p>...</p> <p>(d) whether the child, youth or person is pregnant;</p> <p>(e) whether the child, youth or person is otherwise unable to attend school on a regular basis;</p> <p>(f) any other matter the Secretary considers relevant.</p> <p><i>Anti-Discrimination Act 1998 (Tas)</i></p> <p><i>Section 14 – Direct discrimination</i></p> <p>(1) Discrimination to which this Act applies is direct or indirect discrimination on the grounds of any prescribed attribute.</p> <p>(2) Direct discrimination takes place if a person treats another person on the basis of any prescribed attribute, imputed prescribed attribute or a characteristic imputed to that attribute less favourably than a person without that attribute or characteristic.</p>

Jurisdiction	Relevant laws ¹
	<p>(3) For direct discrimination to take place, it is not necessary –</p> <ul style="list-style-type: none"> (a) that the prescribed attribute be the sole or dominant ground for the unfavourable treatment; or (b) that the person who discriminates regards the treatment as unfavourable; or (c) that the person who discriminates has any particular motive in discriminating. <p><i>Section 15 – Indirect discrimination</i></p> <p>(1) Indirect discrimination takes place if a person imposes a condition, requirement or practice which is unreasonable in the circumstances and has the effect of disadvantaging a member of a group of people who –</p> <ul style="list-style-type: none"> (a) share, or are believed to share, a prescribed attribute; or (b) share, or are believed to share, any of the characteristics imputed to that attribute – <p>more than a person who is not a member of that group.</p> <p>(2) For indirect discrimination to take place, it is not necessary that the person who discriminates is aware that the condition, requirement or practice disadvantages the group of people.</p> <p><i>Section 16 – Discrimination on ground of attribute</i></p> <p>A person must not discriminate against another person on the ground of any of the following attributes:</p> <p>...</p> <ul style="list-style-type: none"> (g) pregnancy; (h) breastfeeding; (i) parental status; (j) family responsibilities... <p><i>Section 22 – Application of Act to certain areas of activity</i></p> <p>(1) Subject to the exceptions and exemptions specified in Part 5, this Act applies to discrimination and prohibited conduct, other than inciting hatred, by or against a person engaged in, or undertaking any, activity in connection with any of the following:</p> <p>...</p> <ul style="list-style-type: none"> (c) education and training; <p><i>Section 28 – Family responsibilities and other attributes</i></p> <p>A person may discriminate against another person on the ground of family responsibilities, parental status, pregnancy, breastfeeding, marital status or relationship status if that other person requires special services and facilities the supply of which would impose unjustifiable <i>hardship</i>.</p> <p><i>See also Part 5, Division 11 on exemptions from the Act.</i></p>
Case law	Not applicable.

- 1 The legislative provisions contained in this Appendix are correct as at 26 July 2017. All references to 'children', unless otherwise indicated, are to persons aged under 18 years.
- 2 'Educational authority' means a body or person administering an educational institution. 'Educational institution' means a school, college, university or other institution at which education or training is provided: *Sex Discrimination Act 1984* (Cth), s 4(1).
- 3 'Educational authority' means a person or body administering a school, college, university, or other institution at which education or training is provided: *Anti-Discrimination Act 1977* (NSW), s 4(1).
- 4 'Educational authority' means the person or body administering an educational institution. 'Educational institution' means a school, college, university or other institution at which education or training is provided: *Equal Opportunity Act 2010* (Vic), s 4(1).
- 5 'Human rights' includes the right to education under s 27A: *Human Rights Act 2004* (ACT), s 5.
- 6 'Educational authority' means a body or person administering an educational institution. 'Educational institution' means a school, college, university or other institution at which education or training is provided: *Discrimination Act 1991* (ACT), s 2.
- 7 'Educational authority' means a body or person administering an educational institution. 'Educational institution' means a school, college, university or other institution at which education or training is provided: *Equal Opportunity Act 1984* (WA), s 4(1).
- 8 'Educational authority' means the body or person administering an educational institution. 'Educational institution' means a school, college, university or other institution at which any form of training or instruction is provided: *Anti-Discrimination Act 1996* (NT), s 4(1).

Appendix 14: State and territory child protection policies and data collection relevant to young parents

The following table presents information received from state and territory child protection departments:

Jurisdiction	Child protection laws, policies or processes on reporting (mandatory or non-mandatory) in relation to young parents, their children or a pregnant young person	Whether the age of a young person is captured in reporting processes	Authorities to which reporting or notification applies	Available data on young parents and their children, and pregnant young people, in the child protection system in the 2015/16 financial year
<p>Queensland</p> <p>No mandatory reporting. It is Departmental policy that irrespective of whether a child is considered to be in need of protection, when a medical practitioner confirms that a child under 16 years old is pregnant, the Police Commissioner is also immediately informed.¹</p>	<p>No – the age of the young person is not relevant to the processes of reporting. Where both an adolescent parent and their child are 'in need of protection', separate notifications are made to ensure that the needs of both young people are met.²</p> <p>Notifications regarding the care and protection of an unborn child can be received and investigated by the Department. However, prior to the birth of the child, any intervention to support the mother can only occur 'with the consent of the pregnant woman and must not interfere with her rights and liberties'.³</p>	<p>Any person may report voluntarily.</p> <p>Mandatory reporters include: doctors, nurses, teachers, certain police officers, particular statutory officer holders, early childhood education, care professionals, Child Safety employees and employees of licensed care services.⁴</p>	<p>Data is collected on a household basis rather than on an individual parent basis.</p> <p>During 2015/16, there were 2,184 households which were the subject of a child protection investigation and assessment where at least 1 child was assessed to be in need of protection. Of these:</p> <ul style="list-style-type: none"> 118 households (5%) identified a young parent as the primary carer. This amounted to 154 children and 141 of these children were assessed to be in 'need of protection and requiring ongoing intervention'.⁵ In 87% of these households, the primary carer was identified as being previously neglected or abused when they were a child (compared with 54% for other households).⁶ 53% of young parent households were identified as Aboriginal or Torres Strait Islander households (with at least one parent or child identifying as Aboriginal or Torres Strait Islander).⁷ 	

Appendix 14: State and territory child protection policies and data collection relevant to young parents

Jurisdiction	Child protection laws, policies or processes on reporting (mandatory or non-mandatory) in relation to young parents, their children or a pregnant young person	Whether the age of a young person is captured in reporting processes	Authorities to which reporting or notification applies	Available data on young parents and their children, and pregnant young people, in the child protection system in the 2015/16 financial year
Northern Territory	No mandatory reporting.	No – the reporting process does not take into account whether a young person (under age 18) is pregnant. ⁸ Territory Families can receive a notification about the concerns for the welfare of an unborn child, but the legislation does not provide powers to investigate the notification. Where necessary, however, (ie if the notification would have warranted a child protection report had the child been born) an alert can be activated for follow up when the child is born. ⁹	'All persons' in the NT are considered mandatory reporters. ¹⁰	Data collection and extraction is not able to account for details about parents of children as this data is usually recorded in case notes. In 2015/16, two young women in the care system became pregnant. ¹¹
Western Australia	No mandatory reporting. No specific policy, however, young parents are provided with priority access to programs if their children or unborn babies are considered at risk of harm. ¹²	Notifications can be received and the Department can begin to make inquiries regarding an unborn baby and the safety of that baby once it is born. ¹³ The 'Bilateral Schedule Interagency Collaborative Processes when an unborn or newborn baby is identified as at risk of abuse and/or neglect between the Department for Child Protection and Family Support and WA Health' was also noted as relevant for young parents. This process facilitates interagency engagement when a baby or unborn child is identified as being at risk of harm, neglect or abuse. ¹⁴	Mandatory reporters include all Family Court personnel and any person who holds a child care license. ¹⁵ There are also mandatory reporters specifically regarding child sexual abuse. ¹⁶	Data regarding whether young people in care are also parents is not able to be recorded as this information is only available in case notes. However, based on data from the Best Beginnings Plus program (where young parents are referred when child protection risks are identified): <ul style="list-style-type: none"> • 360 young parents were involved in the program (2015–16) • 279 children of young parents were involved in the program (2015–16).¹⁷

<p>Jurisdiction</p>	<p>Child protection laws, policies or processes on reporting (mandatory or non-mandatory) in relation to young parents, their children or a pregnant young person</p>	<p>Whether the age of a young person is captured in reporting processes</p>	<p>Authorities to which reporting or notification applies</p>	<p>Available data on young parents and their children, and pregnant young people, in the child protection system in the 2015/16 financial year</p>
<p>South Australia</p>	<p>No mandatory reporting.</p>	<p>The age of a parent may be considered a 'potential risk factor ... as impairing the young person's capacity to safely care for the child'.¹⁸</p> <p>Notifications can be made about an unborn child (minimum of 20 weeks).¹⁹</p>	<p>Any person can make a child protection notification. However, certain professions have mandatory reporting status under the law.</p> <p>These include medical and health practitioners, teachers and staff in organisations that deliver services to children (see section 11 of the <i>Children's Protection Act 1993</i> (SA) for the full list).²⁰</p>	<p>No data is currently collected in SA regarding the numbers of young parents or their children who are in the care system. South Australia is soon to begin a project to explore the intergenerational patterns of child protection.</p> <p>However, data collected through a Commonwealth project in 2016 – exploring the linkage between care leavers and income support reliance – has found (based on initial analysis of SA care leavers) that:</p> <ul style="list-style-type: none"> • care leavers are five times more likely to receive a Single Supporting Parents (SSP) payment than the general population • Aboriginal care leavers are seven times more likely to receive a SSP.²¹
<p>Tasmania</p>	<p>No mandatory reporting.</p>	<p>The age of a parent/carer (if under 20 years old at the time of the assessment or at the time of the birth of their first child) is considered a risk factor during the risk assessment process.²²</p> <p>Legislation in Tasmania allows for the Department to receive and respond to reports that an unborn child may be at risk of neglect or abuse when born. An 'unborn baby alert' may be activated in such cases. Support may be provided prior to the birth of the baby.²³</p>	<p>Most professionals who provide services to children and families in Tasmania are mandatory reporters. This includes (but is not limited to): Department of Health and Human Services employees, child care providers, medical and health practitioners, teachers and employees of organisations that provide services to children (see section 14 of the <i>Children, Young Person's and their Families Act 1997</i> (TAS) for the full list).²⁴</p>	<p>There were 414 notifications recorded for Child Safety Services during 2015/16 relating to:</p> <ul style="list-style-type: none"> • young people aged 17 years and under who are parents or pregnant or • children (or unborn children) of young parents aged 19 years and under. <p>These notifications related to 184 young mothers, 91 young fathers and 245 children of young parents.²⁵</p>

Appendix 14: State and territory child protection policies and data collection relevant to young parents

Jurisdiction	Child protection laws, policies or processes on reporting (mandatory or non-mandatory) in relation to young parents, their children or a pregnant young person	Whether the age of a young person is captured in reporting processes	Authorities to which reporting or notification applies	Available data on young parents and their children, and pregnant young people, in the child protection system in the 2015/16 financial year
<p>Australian Capital Territory</p>	<p>No mandatory reporting. All interventions with a pregnant young woman (who does not have other children) are on a voluntary basis, as prenatal support.²⁶</p> <p>However, if Child and Youth Protection Services (CYPS) believe a child or baby 'is considered to be at risk of abuse or neglect', when the baby is born, a statutory child protection response can be initiated. If required, CYPS can coordinate government services by providing a 'pre-birth alert' to maternity services.²⁷</p> <p>For pregnant young women in out-of-home care, once their baby is born their case management system is extended to include their baby.²⁸</p>	<p>The age of a mother or pregnant young woman is 'not alone considered to be a risk factor' under the provisions of the <i>Children and Young People Act 2008</i> (ACT).²⁹</p> <p>The age of the child or young person who is the subject of a child protection report is recorded on the client information database.³⁰</p>	<p>Prenatal reporting is voluntary.</p> <p>Mandatory reporters of sexual abuse or non-accidental physical injury include: doctors, dentists, nurses, midwives, psychologists, teachers, persons authorised to inspect education programs, police officers, school counsellors, child care centre carers, family day care workers, public servants who provides services to children, public advocates, official visitors or anyone, who in their employment has contact with or provides services to children.³¹</p>	<p>The ACT Government has noted that the following figures are approximate. In 2015/16, there were:</p> <ul style="list-style-type: none"> • 17 female and 11 male young people in the care of the Director-General, who were pregnant or parenting • 126 children whose mother was aged 19 years or under when they were born (97 individual mothers and 15.2% of the care population) • 37 children whose father was aged 19 or under when they were born (32 individual fathers and 4.46% of the care population).³² <p>Additionally, data was also provided to indicate the numbers of young parents and pregnant young people who have been in the care system over the past 30 years (since 1999). It was recorded that there were:</p> <ul style="list-style-type: none"> • 135 teenage mothers (who were aged 19 or under at the birth of their first baby). This is 9.2% of the in care population. • 12 teenage mothers (who were aged 19 or under when their pregnancy was reported). This consists of 0.8% of the in care population. <p>The ACT reported that it is not possible to extract data recording the number of children of young parents who are currently, or previously have been, in the care system. This is because, historically, information about the parents of children in care was not collected prior to 2008, and, where parents' details are collected, their date of birth is often unknown and therefore left incomplete. It is also an optional field within the data system.³³</p>

Appendix 15: Attendees at the Child Safe Organisations roundtables

Date	Roundtable	Location
02.05.2017	<p>People who attended the Melbourne roundtables included:</p> <ul style="list-style-type: none"> • Kerryn Boland, NSW Children’s Guardian (former), Office of the Children’s Guardian NSW • Professor Leah Bromfield, Deputy Director, Australian Centre for Child Protection • Anne Hollonds, Director, Australian Institute of Family Studies • Professor Daryl Higgins, Director, Institute of Child Protection Studies • Meena Naidu, Executive Officer, Commission for Children and Young People Victoria • James Fraser, Senior Advisor Aboriginal Policy, Commission for Children and Young People Victoria • Natalie Hall, Principal Policy Officer, Commission for Children and Young People Western Australian Human Rights Commission • Max Wise, Chief Operating Officer, Queensland Family and Child Commission • Lo-Shu Wen, Office of the Advocate for Children and Young People NSW • Helen Connolly, Commissioner for Children and Young People South Australia • Magdalena Madden, Principal Consultant, Council for the Care of Children South Australia • Jodie Griffiths-Cook, Children and Young People’s Commissioner ACT • Annie McLean, Senior Policy Consultant, Commission for Children and Young People Tasmania • Brian Babington, Chief Executive Officer, Families Australia • Gerry Moore, Chief Executive Officer (former), SNAICC • John Burton, Policy Manager, SNAICC • Andrew McCallum, Chief Executive Officer, Association of Children’s Welfare Agencies NSW • Bev Orr, National President, Australian Foster Care Association ACT • Helen Falconer, Research and Policy Development, Australian Foster Care Association ACT • Julian Pocock, Director Public Policy and Practice, Berry Street • Tony Pietropiccolo, Director, Centacare WA • Noelle Hudson, National Policy and Advocacy Manager (former), CREATE • Richard Cooke, Executive Director, National Association for the Prevention of Child Abuse and Neglect NSW 	Melbourne, Vic

Date	Roundtable	Location
	<ul style="list-style-type: none"> • Sammy Bruderer, National Association for the Prevention of Child Abuse and Neglect NSW • Annette Michaux, Director, Parenting Research Centre • Dr Kerryann Walsh, Queensland University of Technology Children and Youth Research Centre • Simon Schrapel, Chief Executive, Uniting Communities • Catriona Martin, DLA Piper • Stephanie Tran, DLA Piper • Laura Elliott, DLA Piper 	
03.05.2017	<p>People who attended the Canberra roundtable included:</p> <ul style="list-style-type: none"> • Gabrielle Sinclair Chief Executive Officer, Australian Children’s Education and Care Quality Authority • Merilee Barnes, Director Culture and Leadership, Australian Sports Commission • Simon Tatz, Director Public Health, Australian Medical Association • Samantha Page, Chief Executive Officer, Early Childhood Australia • Joanne Muller, Board Member, Girl Guides Australia • Bev Orr, Board Member, Girl Guides Australia • Louise Glanville, Deputy Chief Executive Officer Governance and Stakeholder Relations (former), National Disability Insurance Agency • Cameron Haig, National Coordinator Safe Church Program, National Council of Churches in Australia • Paul Geyer, Chief Executive Officer, Principals Australia Institute • Bobbie Wan, Office of the eSafety Commissioner • Erin Gillen, Senior Policy Advisor, Our Watch • Pip Wittenoom, Director Peer Services, Australia Council of the Arts • Caitlin Vaughan, Manager Government Programs, Australia Council of the Arts 	Canberra, ACT

*Advice to another young person in
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