



30 June 2023

Ms Anne Hollands
National Children's Commissioner
Australian Human Rights Commission
Youthjusticereform@humanrights.gov.au

Dear Ms Hollands

Youth Justice and Child Wellbeing Reform across Australia

I am grateful for this opportunity to engage with you about opportunities for reforming youth justice and related systems, based on the protection of human rights.

My name is Sarah Moulds, I'm a Senior Lecturer in Law at the University of South Australia, with a passion for community engagement in lawmaking and youth empowerment – I'm also the Director of the Rights Resource Network SA and an Executive member of the International Parliamentary Engagement Network. I have the pleasure of teaching large first year cohorts of law students, and I am a parent of three beautiful children. I have been lucky enough to be awarded a Churchill Fellowship from the Winston Churchill Trust (more about the fellowship [here](#)). I am using this fellowship to travel to England, Ireland and Scotland to learn how to empower young people to engage effectively with Australian parliaments, and to share some of the successes and experiences from Australia. Every day I am reminded of the unbridled power and potential of our young people, and our deeply important obligation to ensure our legislative and policy settings are facilitating their ongoing participation in our democratic institutions.

I have had the pleasure of reading the submission prepared by the South Australian Council for Social Services and strongly endorse its contents and recommendations. I wish to add a couple of additional points by way of emphasis to that excellent submission:

1. We need specific legislation to protect and promote the rights of children and young people at the federal and state level. This should take the form of a Human Rights Act that includes specific reference to the human rights of children, based on the provisions of the *Convention on the Rights of the Child*. Such legislation should include specific legal duties for government and parliament to take the human rights of children into account when developing and implementing laws and policies, and specific legal remedies for breaches of human rights. The legislation currently adopted in Queensland (*Human Rights Act 2019*) could provide a useful starting point, however I also endorse the model recently proposed by the [Australian Human Rights Commission in its Policy Paper on a Human Rights for Australia](#) – which includes a specific obligation to consult children and young people when developing laws and policies that impact their human rights. The lack of such legislation at the state level in South Australia is having a significant impact on our ability to generate community awareness about the human rights of children, and to create a

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culture of rights compliance among key government agencies. The absence of even the most basic explanatory materials accompanying proposed legislation in South Australia means that new laws impacting the human rights of young people can be passed with break-neck speed, and without any consideration as to their impact on our young people. This results in unintended negative consequences and a continued deterioration of trust in our parliamentary system. It also makes it almost impossible to draw parliament's attention to relevant research relating to effective (and non-effective) youth justice strategies and initiatives.

2. We must act urgently to raise the age of criminal responsibility in South Australia for the reasons set out in the submission prepared by SACOSS and the materials previously published by the Law Council of Australia and the Australian Medical Association. The situation of children and young people [detained in Kulana Tapa Youth Justice Centre](#) is unconscionable, and a clear breach of human rights. We currently have no effective legal frameworks that enable us to move beyond the 'raising the alarm' stage (which the Guardian for Children in State Care and Youth Justice Inspector has repeatedly undertaken). Repeated promises from our current Attorney-General to give this matter priority have yet to deliver tangible outcomes. The establishment of the First Nations Voice in South Australia offers a potential pathway forward, but elections for this body have recently been delayed into well into 2024 – and the children in Kulana Tapa simply cannot wait any longer. I attach an article I wrote on this topic a number of years ago.
3. It is time to fundamentally re-imagine the role children and young people can and should play in our democracy in Australia -including, and in particular, young people with lived experience of the youth justice system. Using the type of participatory frameworks outlined by the AHRC we can begin to create space for young people to contribute more directly to the design of legislative and policy responses to youth justice issues, and child well-being. This must go beyond tokenistic 'consultation' and embody principles of co-design. We must reconceptualise young people as partners in solutions to these complex problems, allocating them the same kind of resources and status that we might allocate to law enforcement or child protection agencies, if we are to develop sustainable responses to these complex policy challenges. This is what I plan to explore as part of my Churchill fellowship later this year.

Thank you again for the opportunity to make a submission on this issue. I would be most pleased to be contacted to discuss further. My direct line is [REDACTED]

Yours sincerely



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