

# Justice denied: Lawyers claim breaches of SA child detainee rights

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Lawyers representing Aboriginal children at Adelaide’s youth detention centre say they are regularly refused contact due to an ongoing staff shortage, calling it a breach of detainees’ legal and “basic human rights”.



Photo: Tony Lewis/InDaily

Aboriginal Legal Rights Movement (ALRM) criminal practice director Amanda Lambden told *InDaily* the “basic human rights, legal rights of the child are being breached” because of the staff shortage at the Kurlana Tapa Youth Justice Centre at Cavan in Adelaide’s north.

The centre has experienced difficulties recruiting workers [since before the COVID-19 pandemic](#), prompting advocate concerns that children are spending extended periods of time locked in their room and [missing school and medical appointments](#).

Lambden said the staff shortage had also resulted in the centre regularly cancelling telephone, video link and in-person meetings with lawyers due to a lack of workers available to escort detainees from their rooms, causing delays and resulting in children not having an understanding of court decisions.

“There is not the staff to bring the children to the AVL (audio-visual link) or telephone for them to speak with us,” she said.

“We do not have instructions from the child and cannot progress their matter because we have not had the opportunity to speak with them.

“Likewise, if we try to make appointments, we have been told: ‘No, due to staff shortages there is not the staff for the child to be available for an interview with their lawyer’.

“Everything is about the staff – it is not about the young person; it is not about justice.”

Asked how frequently meetings were cancelled by Kurlana Tapa, Lambden said: “During COVID you just couldn’t get instructions – it was a horrible situation – but it still happens, I would say, on a regular basis, or our telephone links are cancelled”.

The Department for Human Services, which runs Kurlana Tapa, said children and young people’s access to lawyers is “always a priority”.

“The complexity of young people on site combined with sick leave and other leave that is unable to be anticipated provides challenges in meeting staffing requirements,” a department spokesperson said.

“Addressing this has been a priority over the past 12 months, with rolling recruitment and intakes of new staff every six weeks and improved supports to lift retention rates.”

Kurlana Tapa is the only dedicated youth detention centre in South Australia, housing children sentenced or remanded to custody.

We’re seeing young Aboriginal people suffer and not have access to justice

Just under 300 children aged 10 to 18 were admitted to the centre last financial year, with about half of them identifying as Aboriginal and many of them represented by the ALRM.

Lambden said over the COVID-19 pandemic, all Kurlana Tapa detainees appeared before the Youth Court over video link rather than attending in-person, with that practice continuing due to concerns about the standard of the holding cells at the Youth Court building.

She said due to the staff shortage, lawyers are often unable to speak to detainees before and after a court hearing, meaning children have “absolutely no understanding of what happened in court”.

“Court is stressful for anyone and for a young person – and you may have a child as young as 11, even 10 – and you are trying to get bail instructions and they have no idea,” she said.

“We’re seeing young Aboriginal people suffer and not have access to justice.”

Lambden said the issue is exacerbated by Kurlana Tapa staff members remaining in the room while a child speaks to their lawyer over video link or telephone.

She described the practice as a “total breach of confidentiality”.

“It is breaching legal professional privilege because that person with them is not a lawyer,” she said.

“We have the right as lawyers, we have legal professional privilege to speak to a young person and gain instructions without anyone present.

“A young person may not want to speak freely in front of a person who is later going to take them back to their room and know what they may or may not have done.”

But the Department for Human Services denied that Kurlana Tapa staff monitor meetings between lawyers and their clients.

“Meetings between lawyers and young people at Kurlana Tapa are conducted in private,” a department spokesperson said.

“In-person visits by lawyers to young people are held in private spaces, with a Kurlana Tapa staff member nearby but external to the meeting to ensure safety.

“Phone calls between lawyers and young people are not monitored by Kurlana Tapa staff.”

Meanwhile, the Women’s and Children’s Health Network told *InDaily* it was aware of staff shortages at Kurlana Tapa, but was “committed to ensuring mental health care is not interrupted”.

The network, which runs the Child and Adolescent Mental Health Service (CAMHS), provides mental health support to almost 70 per cent of children detained at the centre.

“CAMHS staff are working closely with [Kurlana Tapa] to explore innovative and responsive care options for young people including increasing the availability in telehealth appointments,” a spokesperson said.

SA Commissioner for Children and Young People Helen Connolly told *InDaily* the staff shortage at Kurlana Tapa had been an issue for “several years” and had a “direct impact” on young people’s wellbeing.

She said it also impacted children’s ability to attend school, medical appointments, family funerals or cultural obligations.

“There must be something fundamentally not working for us to not meet that obligation to children in detention,” she said.

“I can’t see where the solution to that staffing crisis is going to come from.

“Surely, it’s time then to say: ‘OK, how are we going to now recast the way we do youth detention given this staffing issue is likely to continue into the future?’

“I don’t necessarily think it has to be an external review, but it might be key people... to really think through what does that look like in terms of a new model that will always have lower levels of staffing than it had when it was first designed.”

The Public Service Association, which represents Kurlana Tapa workers, [told \*InDaily\* last month](#) that staff were working large amounts of overtime and additional shift to keep the site operational.

The union’s general secretary, Natasha Brown, said there was also “huge turnover” of staff due to poor training, insecure employment, threats to safety and poor morale.

The Department for Human Services (DHS) said it “constantly reviews practices and procedures at Kurlana Tapa”.

It said over the past 12 months, 47 youth workers and youth support workers had been recruited.

“DHS is currently continuing its rolling recruitment of staff at Kurlana Tapa, including targeted recruitment of more Aboriginal staff members to meet cultural needs,” a spokesperson said.

“South Australians who would like to make a difference in the lives of young people by becoming a Youth Worker with DHS can find out more information at [DHS – Careers.](#)”