

2023 Child Rights Progress Reports Summary

South Australia's progress on recommendations made
by the UN Committee on the Rights of the Child



Child Health



Child Justice



Child Protection



Disability



Education



Environment



Physical Punishment



No evidence



Some evidence



Clear evidence

2023 Child Rights Progress Reports Summary

The United Nations Convention on the Rights of the Child (UNCRC) was the first international Convention to acknowledge that children have rights and that these rights should be protected. Australia ratified the UNCRC in 1990 and South Australia's *Children and Young People (Oversight and Advocacy Bodies) Act 2016* states that all governmental authorities must seek to give effect to the UNCRC.

Every five years, the Australian Government reports to the UN Committee on the Rights of the Child (UN Committee) to explain how Australia is fulfilling its obligations in relation to children's rights. This means each state and territory must provide feedback on how they have fulfilled their obligations under the Convention in the areas over which they have responsibility.

The UN Committee examines the UNCRC in the Australian context and highlights areas of concern and makes recommendations to ensure all levels of government align with the international standards.

Each year, the Commissioner for Children and Young People examines South Australia's progress against the UN Committee's latest recommendations, which were made in response to Australia's fifth and sixth periodic reports.

Released annually to coincide with International Human Rights Day (10 December), the Commissioner's Child Rights Progress Reports measure progress across seven child rights areas: Child Health, Child Justice, Child Protection, Disability, Education, Environment and Physical Punishment.

The 2023 reports are the Commissioner's fourth suite of annual Child Rights Progress Reports. The reports note welcome initiatives and policy developments and highlight where gaps and shortfalls remain.

Australia continues to do poorly in relation to the age of criminal responsibility which at 10 years is the lowest of all developed countries. The UN repeatedly asks Australia to raise this age to 14 years in line with international standards.

Australia has also made no progress on prohibiting by law the sterilisation of children with disability. The Commonwealth Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability recommended this year that this be addressed by all jurisdictions by the end of 2024.

There have been some welcome developments across all of the areas. However, there is still the need for significant action to realise children's rights in South Australia. This includes:

- Amending legislation to:
 - Adequately address children and young people in South Australia's Mental Health Act 2009 (SA).
 - Remove exceptions to anti-discrimination legislation which continue to allow religious schools to discriminate against students and staff on the basis of sexuality and gender identity.
 - Enshrine key emissions reduction targets in legislation.
 - Prohibit violence against children by their parents and repeal the legal defence of 'reasonable chastisement'.
- Meeting national and international standards, in relation to:
 - The UN's anti-torture protocol.
 - Raising the minimum age of criminal responsibility to 14 years.
 - Closing the Gap targets to improve outcomes for Aboriginal and Torres Strait Islander children, including their overrepresentation in the child protection and child justice systems.
- Increasing investment in early intervention services to support families and reduce the number of children entering out-of-home care.
- Addressing the high proportion of children with disability, Aboriginal children, and children in out-of-home care being suspended and excluded from school, particularly primary schools.
- Mandating the consistent delivery of comprehensive education across year levels and education settings about:
 - Relationships and sexual health.
 - Climate change and disaster resilience.

- Introducing child-focused safeguarding mechanisms or independent oversight to protect children with disability from exclusionary and restrictive practices across health, education, residential care, and youth justice settings.

Each of the Commissioner's progress reports looks closely at the UN Committee's recommendations using a status rating that indicates 'clear evidence of progress', 'some evidence of progress' or 'no evidence of progress'.

Although the suite of reports show 'some evidence of progress' across the majority of areas, there is still a long way to go before South Australia can be considered to have met its international obligations in relation to child rights.

South Australia's state government agencies must continue to work together to address the issues outlined in these annual child rights progress reports.

Below is a snapshot view of ongoing areas of concern across each of the seven child rights areas.



Child Health

In South Australia, three out of four UN Committee recommendations in relation to Child Health show 'some evidence' of progress, while one continues to show 'no evidence' of progress.

The recommendation showing 'no evidence' of progress is:

- Governments should introduce legal protections to prevent sterilisation of children with disability without consent.

Areas of concern include:

- Not enough public and private services to meet the mental health needs of children and young people in South Australia.
- High rates of mental health presentations to emergency departments among children and young people aged 12–17 years.

- Children and adolescents not adequately addressed in South Australia's *Mental Health Act 2009* (SA).
- Barriers to safe access of mental health and sexual health services and information, particularly for LGBTQIA+ children and young people, and children and young people living outside of metropolitan areas.
- High rates of sexually transmitted infections amongst young people.
- Increased proportion of children and young people reported to be overweight or obese.
- Lack of a public health approach to planning and transport.
- High levels of food insecurity for households with children.
- Insufficient legal protections to prevent the sterilisation of children with disability without their consent.
- Generally poor access to health services in rural and regional areas.



Child Justice

In South Australia, four out of six UN Committee recommendations in relation to Child Justice show 'some evidence' of progress, while two show 'no evidence' of progress.

The two recommendations showing 'no evidence' of progress are:

- Promptly investigate all cases of abuse and maltreatment of children in detention, and adequately sanction the perpetrators.
- Raise the minimum age of criminal responsibility to an internationally accepted level and make it conform to the recommended minimum age of 14 years.

Areas of concern include:

- High use of restraints and the use of the prone position, especially on children with a disability, girls, and children under 13 years of age.
- Failure to implement and comply with the basic requirements of the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT).
- Failure to refresh the Young Offenders Act Regulations to make them consistent with international law and the latest child development and trauma-informed research.
- The overrepresentation of vulnerable children in the criminal justice system, including children with a disability, children in care and Aboriginal children.
- The significant proportion of children on remand being detained in Kurlana Tapa.
- Lack of commitment by the state government to develop a roadmap to raise the minimum age of criminal responsibility.
- Lack of long term, consistent resourcing into diversionary practices.
- Lowest level of police diversion in the last 10 years and reports of children being remanded in police cells alongside adults due to denial of police bail.



Child Protection

In South Australia, all five UN Committee recommendations in relation to Child Protection show 'some evidence' of progress.

Areas of concern include:

- The number of children entering into care is continually increasing, year-on-year.
- South Australia's proportion of expenditure on early intervention services, per child in the population, is still the lowest in the country.
- South Australia is not on track to reduce the rate of overrepresentation of Aboriginal and Torres Strait Islander children in out-of-home care (OOHC) by 45% by 2031. The rate is increasing and is the second highest in Australia.
- High numbers of children are not placed in accordance with the ATSI Child Placement Principle and there is a lack of focus on connections, family, community and culture.
- The number of children being placed in residential care is increasing, including those aged under 10.
- South Australia has the highest rate in the country when it comes to children aged under 1 being taken into OOHC.
- The large proportion of children and young people in residential care not receiving full-time education.
- The increasing number of children under guardianship of the Chief Executive interacting with the justice system and the lack of a systemic approach with SAPOL to prevent the criminalisation of children in care.



Disability

In South Australia, five out of six UN Committee recommendations in relation to Disability show 'some evidence' of progress, while one shows 'no evidence' of progress.

The recommendation showing 'no evidence' of progress is:

- To prohibit by law the sterilisation of girls with disabilities without consent.

Areas of concern include:

- Lack of complete, consistent and disaggregated data in relation to the rights, wellbeing and participation of children and young people with disability across key systems in SA.
- Insufficient legal protections to prevent the sterilisation of children with disability without their consent.
- Few mechanisms to support the engagement and participation of children with disability in decision-making at the school, community and systemic level.
- Overrepresentation of children and young people with disability, particularly Aboriginal children and young people, in child protection and youth justice systems.
- Criminalisation of children in residential care, which disproportionately impacts children with disability.
- Concerningly high proportion of children with disability being suspended or excluded from primary and secondary schools.
- No child-focused safeguarding mechanisms or independent oversight to protect children with disability from exclusionary and restrictive practices across health, education, residential care and youth justice settings.



Education

In South Australia, all five UN Committee recommendations in relation to Education show 'some evidence' of progress.

Areas of concern include:

- Increased proportion of students reporting 'weekly' or 'monthly' verbal bullying, physical bullying and/or cyberbullying.
- Exceptions in anti-discrimination legislation continue to allow religious schools to discriminate against students and staff on the basis of sexuality and gender identity.
- Lack of consistently mandated comprehensive relationships and sexual health curriculum from Reception to Year 12.
- High proportions of children with disability, Aboriginal children and children in out-of-home care being excluded from primary schools. Primary school children should not be suspended, excluded or expelled from school.
- No child-focused safeguarding or independent oversight mechanisms in place to protect children with disability from exclusionary and restrictive practices in education settings.
- Decreased proportion of Aboriginal and Torres Strait Islander young people (aged 15–24) who are in employment, education or training.
- Less than half of children in residential care who were visited by the Child and Young Person's Visitor in 2022–23 were engaged in fulltime education.
- One third of students enrolled in South Australian government schools are in the lowest quartile of socio-educational advantage.



Environment

In South Australia, the two UN Committee recommendations in relation to the Environment show 'some evidence' of progress.

Areas of concern include:

- Disproportionate impacts of climate change on the rights of present and future generations of children and young people.
- Few mechanisms to support children and young people's participation in climate-related policy and decision-making, including legislative reviews and consultation processes.
- A lack of policy frameworks to support the delivery of consistent and substantive education on climate change or disaster resilience to children and young people.
- Key emissions reduction targets are not yet enshrined in legislation.
- Amendments to the *Summary Offences Act 1953* (SA) that include significant increases to the penalties for obstructing a public place, which have the potential to impact on children and young people who take climate action.



Physical Punishment

In South Australia, the two UN Committee recommendations relating to Physical Punishment show 'some evidence' of progress.

Areas of concern include:

- Despite considerable evidence identifying the harm caused by physical punishment and repeated calls by the UNCRRC for full prohibition, state and federal laws continue to permit violence against children by their parents.
- Children do not have the same protections as adults when it comes to assault and the experience of physical punishment by children remains unacceptably high.

To download individual reports go to:

CCYP Progress Report on Child Health:

<https://bit.ly/3GuGqCH>

CCYP Progress Report on Child Justice:

<https://bit.ly/2CJkmRu>

CCYP Progress Report on Child Protection:

<https://bit.ly/3GuGqGQ>

CCYP Progress Report on Disability:

<https://bit.ly/486Mp06>

CCYP Progress Report on Education:

<https://bit.ly/3uF2k7x>

CCYP Progress Report on Environment:

<https://bit.ly/48oo3iX>

CCYP Progress Report on Physical Punishment:

<https://bit.ly/47Kmagt>

To download a compilation of all seven reports (5.7MB):

<https://bit.ly/3R9GXmE>