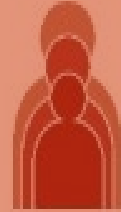


grandparents
VICTORIA



Young people and their elders speak out
about children's rights

A report of a survey
2019

Introduction

Since 2010 GPV/KCV has regularly visited the United Nations Convention on the Rights of the Child. It has been used as a filter through which GPV/KCV responses to topical issues have been refined and it has been used to remind kinship carers, and other people feeling let down by the system. That children and by default the families in which they are being raised have rights.

Many of the rights enshrined in the convention are not well recognised or adhered to. Therefore, every once in a while, GPV/KCV takes action to amplify them. This survey is one such act but is unique in that it draws on the opinions of five groups of people associated with d family.

The survey draws on the work of Megan Mitchell, the National Children's Commissioner.

Respondents were shown a list of 15 issues which had previously been raised in a report by the National Children's Commissioner as points of concern when considering Australia's progress in advancing the rights of children and young people. Each respondent was asked to choose up to six issues which they felt were of the most concern, requiring the most urgent action. Some respondents offered only five choices, others (1) as few as three.

Responses were collected in person at support groups and forums, and electronically via phone or email from five cohorts:

- Young people¹
- Parents
- Grandparents
- Kinship carers
- Staff/Orgs²

The survey responses were analysed in two ways. Rankings were calculated based on the entirety of the responses received, and also broken down to identify the way that different cohorts perceived the issues.



Kinship Carers Victoria is supported by the Victorian Government.

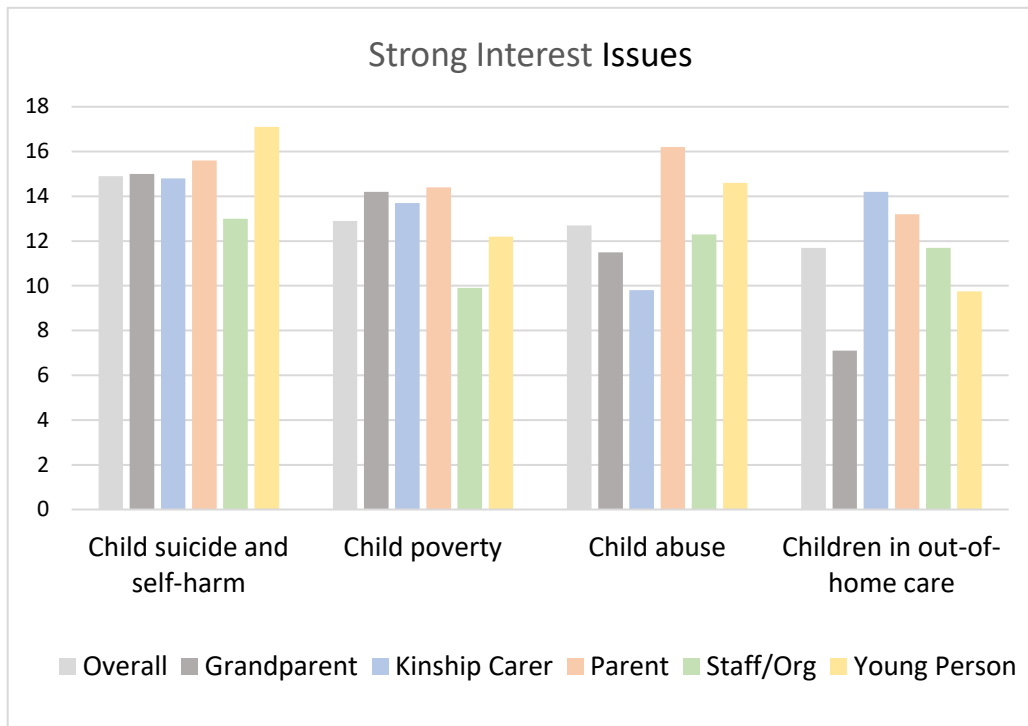
¹ Young people who are over the age of 18, and who have not yet had children of their own.

² People working in child-related work, such as CSOs – the family status of these workers was not ascertained.

1...Four rights attract strong interest from young people, parents, grandparents, kinship carers and professionals

When calculating the overall support awarded to the various items four issues stood out because they attracted double digit support and because all cohorts identified them in their top six issues. These four issues were:

- 1.1...Child suicide and self-harm
- 1.2...Child poverty
- 1.3...Child abuse
- 1.4...Children in out-of-home care



1.1... Child deaths by suicide and hospitalisations for intentional self-harm have increased

This statistic received overwhelming condemnation, with 87.5% (105 out of 120) respondents placing this in their top six. This issue also topped each individual cohort's top six, with the exception of the "parents" group, where it came in second place by only one vote.

According to the National Children's Commissioner ³:

*"The NCC's 2014 report found significant increases in the rates of suicide between those aged 10 and 14 years of age. For the purposes of this report to the Committee, the NCC updated her 2014 work using data from the National Coronial Information System (NCIS) for the time-period 2007–2015. The findings showed little improvement. Her updated work in intentional self-harm showed the number of hospitalisations in children aged 3–17 years almost doubled between 2007–2008 and 2016–2017."*⁴

"Taken together, suicide and self-harm account for a considerable portion of the burden of disability and mortality among young people. In those aged 10–24 years, self-harm is the seventh leading contributor to the burden of disease in both males and females. It is estimated that 21% of "years life lost" due to premature death among Australian youth was due to

³ National Children's Commissioner, Megan Mitchell operates within the Australian Human Rights Commission

⁴ Commissioner's Report - Australian Human Rights Commission, Submission to the Committee on the Rights of the Child, 1 November 2018

suicide and self-inflicted injury. In addition, non-fatal suicidal behaviour and self-harm are associated with substantial disability and loss of years of healthy life.”⁵

In the 2019-20 budget the federal government committed \$461 million investment in a youth mental health and suicide prevention strategy.

1.2... Approximately 17% of children under the age of 15 live in poverty

Second highest ranked overall, this issue was supported most highly among grandparents, but also appeared in the top six of all cohorts.

Approximately 17% of children under the age of 15 live in poverty in Australia.

*“Australia currently lacks a national poverty reduction plan and has yet to agree to a national definition of poverty. Single parent families are particularly at risk of poverty, with 40% of all children living in poverty in Australia coming from single-parent families.”*⁶

“The Salvation Army’s National Economic and Social Impact Survey 2017 found that effects of poverty on families with children aged under 17 included:

- *approximately one in five could not afford medical treatment and nearly one in three could not afford a yearly dental check-up for their child*
- *half could not afford school items and 56% did not have the money to participate in school activities*
- *more than half (55%) could not afford a hobby or outside activities for their child*
- *almost three in five respondents could not afford an internet connection for their child*
- *nearly two in five could not afford fresh fruit or vegetables every day and nearly one in four could not afford three meals a day for their child.”*⁷

1.3... 27% increase in reported substantiations of child abuse and neglect (2012-13 to 2016-17)

The third highest ranked issue overall, this issue was rated as the highest concern among the parent cohort, and second highest among the cohorts of young people and staff/orgs.

According to the National Children’s Commissioner:

“Violence against children is a serious problem in Australia. Child protection data indicates that in 2016–2017 there were 67,968 substantiations of child abuse and neglect, a 27% increase since 2012–2013. This includes emotional abuse (48% of substantiations), neglect (24%), physical abuse (16%) and sexual abuse (12%).

“Other data shows that:

- *13% of Australians aged 18 years and over have experienced physical and/or sexual abuse before age 15*
- *between 4% to 12% of girls and 1.4% to 7.5% of boys have experienced penetrative sexual abuse before the age of 16, and between 14% to 26.8% of girls and 5.2% to 12% of boys have experienced non-penetrative sexual abuse*
- *family violence resulted in 238 cases of filicide (children killed by their parent) between 2002–2012*
- *almost 896,700 men and 1.2 million women have witnessed violence against their mother, and 380,000 men and 440,900 women witnessed violence against their father before the age of 15.”*⁸

⁵ <https://headspace.org.au/health-professionals/information-and-guidelines/understanding-self-harm-for-health-professionals/>

⁶ Commissioner’s Report

⁷ Commissioner’s Report

⁸ Commissioner’s Report

1.4... The number of children in OOHC has increased by 18% over the last 5 years

The issue of increasing numbers of children in kinship care was rated fourth overall, but was the second highest ranked issue amongst kinship carers, and third amongst staff/orgs.

According to the National Children's Commissioner:

“Child protection systems in Australia are under substantial pressure, with increased reported incidents of harm requiring investigation, and increased rates of removal of children and placement in out-of-home care. There have been 24 separate inquiries since Australia last reported to the Committee, as well as a Senate Inquiry in 2015 at the federal level. Reform recommendations have been made in each inquiry.

“Despite this, evidence suggests that the situation is worsening, with increased numbers of children becoming involved with the child protection system. Aboriginal and Torres Strait Islander children continue to be overrepresented.¹⁶⁰ The number of children receiving child protection services has increased by 25% in the last five years, from 135,139 in 2012–2013 to 168,352 in 2016–2017.

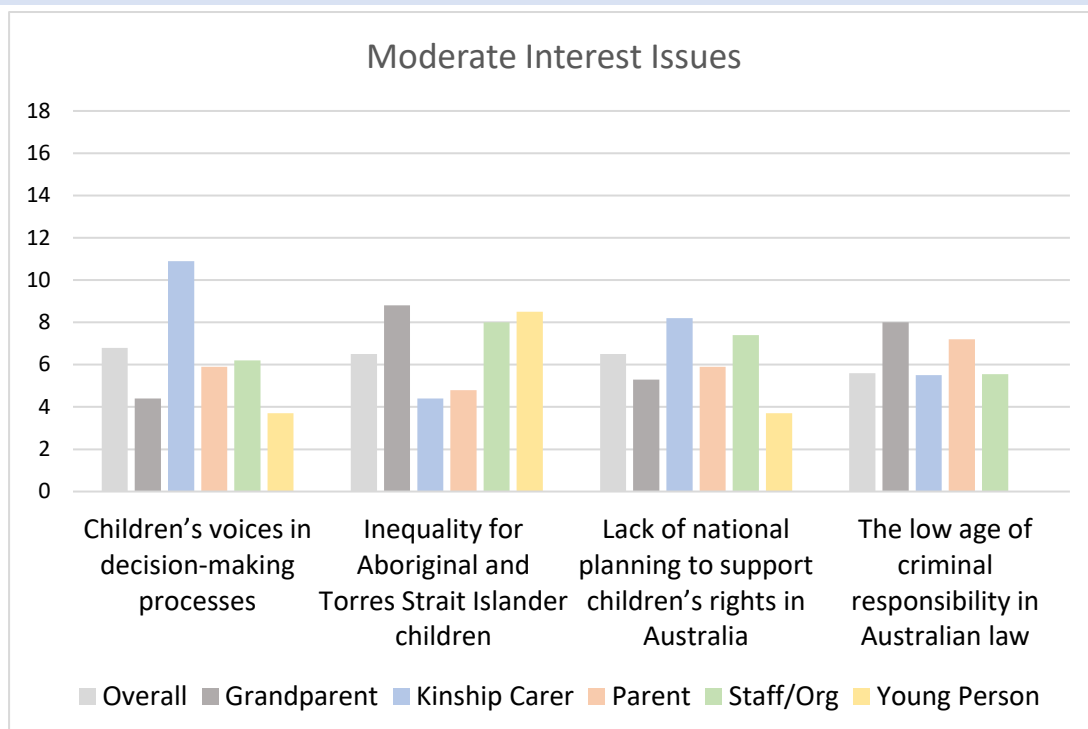
“The number of children in out-of-home care has increased by 18% over the last five years.¹⁶³ Of these children, 47% were in relative/kinship care, 38% were in foster care, 7% were in third-party parental care and 5% were in residential care.

“In 2016–2017, over 37% of all children in out-of-home care were Aboriginal and Torres Strait Islander, and ten times as likely to enter out-of-home care compared with non-Indigenous children.”⁹

2...Four rights attract moderate interest

Four issues attracted between five and ten% of the total votes cast. Whilst these issues were each represented in the top six of several cohorts, they did not receive universal support. These four issues were:

- 2.1... Children's voices in decision-making processes
- 2.2... Inequality for Aboriginal and Torres Strait Islander children
- 2.3... Lack of national planning to support children's rights in Australia
- 2.4... The low age of criminal responsibility in Australian law



⁹ Commissioner's Report

2.1... Changes to the family law system better protect women and children, but children’s voices and articles of the CRC require further prioritisation

“There has been a trend over the past decade of creating mechanisms for the participation of children in a variety of contexts. For example, child protection legislation in Australian jurisdictions supports involving children in decision-making to the extent that their age and maturity allows. At the policy development level, governments can engage with children through schools, youth advisory boards, youth parliaments and forums.

“A number of submissions to the NCC in 2018 called for more opportunities for children’s voices to be heard—especially in the context of the family court, on custody and related matters.”¹⁰

“Through talking to children about human rights, and their rights in particular, it has become clear that rights knowledge strengthens children’s agency and capabilities, and engenders respect for the rights of others.”¹¹

2.2... Inequalities on health, education, justice and child protection for Aboriginal and Torres Strait Islander children

“In March 2008, governments across the jurisdictions in Australia agreed to work together, through the Closing the Gap Strategy, to achieve equity between Aboriginal and Torres Strait Islanders and non-Indigenous Australians.

“Five of the targets specifically relate to children. Three of these targets expire in 2018, including child mortality, school attendance, reading and numeracy and Year 12 equivalent attainment.

“Three targets—child mortality, early childhood education and Year 12 equivalent attainment—are reported as being on track to be met. However, this is not occurring across all jurisdictions in Australia ... School attendance and literacy and numeracy targets are not on track to be met by the time that they expire in 2018.”¹²

2.3... No comprehensive national plan, policy, legislation or budget process to support children’s rights in Australia

The “parents”, “kinship carers” and “staff/orgs” cohorts all placed this issue within their top six most pressing issues.

“There is no national level coordination of the many policy initiatives that exist across all governments relating to children. Nor is there a national plan of action for the realisation of the principles and provisions of the CRC for children in Australia.”¹³

The National Children’s Commissioner has made three recommendations to improve Australia’s national planning to support children’s rights:

- The Australian Government develops a National Plan for Child Wellbeing, incorporating the National Framework for Child Safety, using the CRC as its foundation.
- Australian Governments facilitate a nationally consistent, standardised model for checking the suitability of people in child-related work across all jurisdictions.
- Australian Governments establish a Standing Ministerial Council to oversee the National Plan for Child Wellbeing and the National Framework for Child Safety.

“Australia does not have budgeting processes that specifically track the allocation of resources to all children.

“In 2017, the Royal Commission into the Protection and Detention of Children in the Northern Territory (NT Royal Commission) pointed out that:

Knowing where expenditure is directed is a basic requirement for assessing community needs and planning service delivery in a coordinated and resource-efficient manner.”¹⁴

¹⁰ Commissioner’s Report

¹¹ Commissioner’s Report

¹² Commissioner’s Report

¹³ Commissioner’s Report

¹⁴ Commissioner’s Report

2.4... The age of criminal responsibility is ten, which is low compared to other countries

This issue received no votes from young people. It was ranked in the top six by both parents and grandparents.

“The Commission notes that the minimum age of criminal responsibility in Australia is comparatively low compared with other countries. In her Children’s Rights Report 2016, the NCC recommended that the age of criminal responsibility be raised from 10 years to at least 12 years in the first instance, with preservation of doli incapax¹⁵. The Commission recognises that the Committee considers that 12 years is the lowest internationally acceptable age for criminal responsibility. It encourages raising the age to 14 or 16 years.

Reasons for raising the age of criminal responsibility include:

- many children involved in the criminal justice system come from disadvantaged backgrounds and have complex needs better addressed outside the criminal justice system
- research on brain development shows that 10- and 11-year olds have not developed the requisite level of maturity to form the necessary intent for full criminal responsibility
- the younger the child is when encountering the justice system, the more likely they are to reoffend
- it would bring Australia into line with its obligations under the CRC.¹⁶

3...Seven issues attract lesser interest

Seven issues each attracted less than five% of the total votes cast. Whilst these issues were each represented in the top six of several cohorts, they did not receive universal support. These four issues were:

3.1... Redress for victims of institutional child sexual abuse

3.2...Implementation of the NDIS

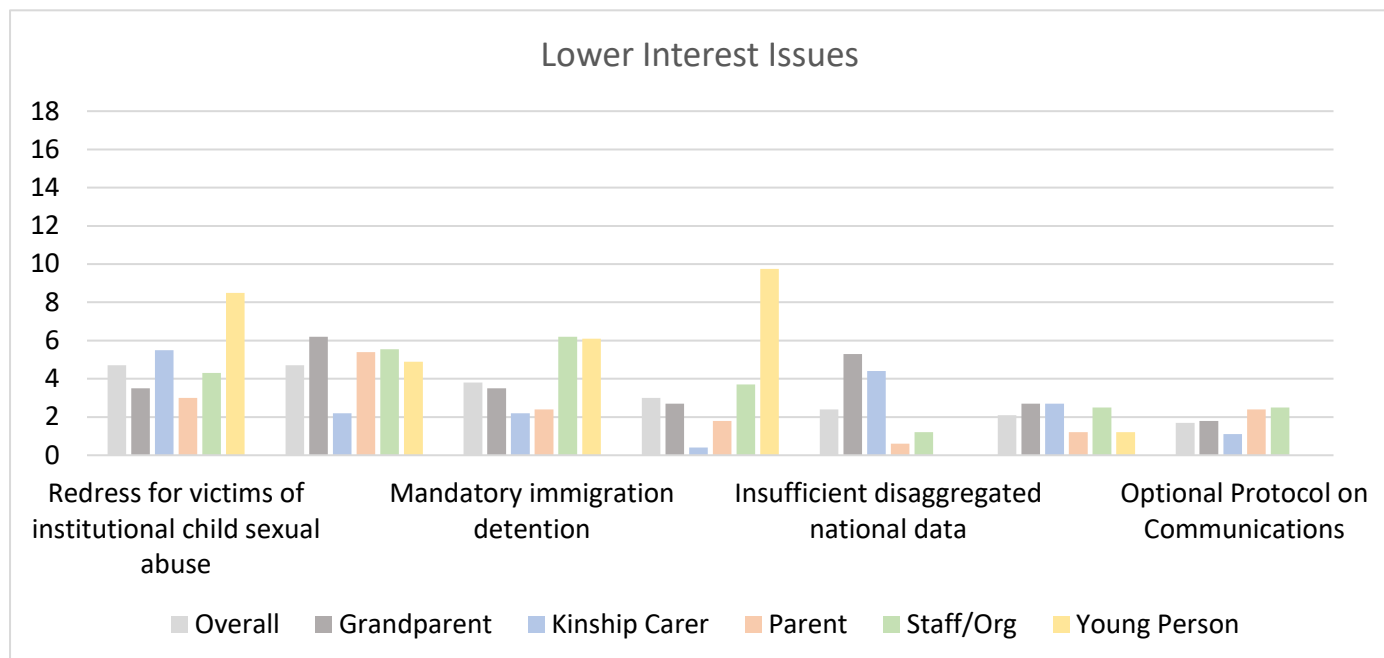
3.3...Mandatory immigration detention

3.4...Off shore processing in Nauru

3.5...Insufficient disaggregated national data

3.6...National security limits children’s rights

3.7...Optional Protocol on Communications



¹⁵ deemed incapable of forming the intent to commit a crime or tort, especially by reason of age (under ten years old).

¹⁶ Commissioner’s Report

3.1... National Redress Scheme for survivors of child sexual abuse in institutions commenced on 1 July 2018, but excluded some groups of survivors, including children currently under eight years of age.

This issue appeared in the top six of the “young people” cohort.

“The National Royal Commission recommended the establishment of a national redress scheme for survivors of child sexual abuse in institutions, including the elements of direct personal response, counselling and psychological care and monetary payments.

“On 1 July 2018, the Australian Government commenced a National Redress Scheme. While the Commission commends many aspects of the Scheme, it has also raised some concerns about its operation. The Commission’s major concerns are that the Scheme excludes the following groups of survivors from accessing redress, including access to counselling and psychological services:

- *non-citizens or non-permanent residents who were sexually abused in institutional settings in Australia.*
- *survivors who have been convicted of an offence and sentenced to imprisonment for five years or longer.*
- *children currently under eight years old, due to the requirement that a child cannot make an application for redress if they will not turn 18 during the 10-year life of the Scheme.”¹⁷*

3.2... Establishment of National Disability Insurance Scheme in 2013, but there are concerns about its implementation

“While the NDIS is designed to make it easier for individuals to access support services, a number of issues have been raised in submissions to the NCC regarding the implementation of the scheme in respect of children, including:

- *uncertainty about who is eligible*
- *a lack of clarity about the types of support covered by the scheme and the responsibility of other service systems*
- *insufficient funds to cover all supports required*
- *less funding than previously received*
- *administrative delays in entering the scheme and reviewing plans.”¹⁸*

3.3... Immigration detention remains mandatory for all unlawful non-citizens, including children

“In 2014, the Commission conducted a National Inquiry into Children in Immigration Detention. The inquiry found that Australia’s detention law, policy and practice do not address the particular vulnerabilities of asylum seeker children, nor do they afford them special assistance and protection. The blanket policy of mandatory detention does not consider the individual circumstances of children or address the best interests of the child as a primary consideration.

“The National Inquiry also found that prolonged detention had a profoundly negative impact on the mental and emotional health and development of children. The deprivation of liberty and the exposure to high numbers of mentally unwell adults were found to cause emotional and developmental disorders amongst children.”¹⁹

3.4... Serious concerns for the health and wellbeing of children and their families in Nauru subjected to third country off shore processing

This issue appeared in the top six of the “young people” cohort.

“Under Australia’s policy of third country processing, asylum seekers arriving by boat (including children) have been transferred to Nauru and Manus Island, Papua New Guinea, for processing their asylum claims. On 31 May 2018, there were 137 children in Nauru subject to third country processing arrangements, the majority of whom were aged 12 or under, and had been there for at least four years. On 22 October 2018, 52 children remained on Nauru.

“Numerous reports and inquiries have documented serious human rights concerns relating to third country processing in Nauru, particularly with regard to the impact of these arrangements on the mental health of children.”²⁰

¹⁷ Commissioner’s Report

¹⁸ Commissioner’s Report

¹⁹ Commissioner’s Report

²⁰ Commissioner’s Report

3.5... Insufficient disaggregated national data that meet the requirements set out by the UN

“Since commencing her term in 2013, the NCC has raised as a critical issue the lack of available data on children disaggregated by age, location, socio-economic status, cultural background, disability, lesbian, gay, bisexual, trans and intersex (LGBTI) status.

“This includes lack of national information across a range of health and wellbeing domains, such as:

- *child deaths, self-harm deaths and self-harm hospitalisations*
- *violence against children*
- *outcomes for children in or having left child protection services*
- *children with disability, including Foetal Alcohol Spectrum Disorder (FASD)*
- *school expulsions and suspensions*
- *drug and substance abuse...*

“These data gaps impede Australia’s capacity to monitor and report on child wellbeing, and its ability to understand when and how best to intervene in ways that will support all children to thrive.”²¹

3.6... National security measures limit children’s right disproportionately

“The Commission recognises the importance of ensuring that intelligence and law enforcement agencies have appropriate powers to protect Australia’s national security and to protect the community from terrorism. However, the Commission is concerned that a number of national security measures limit children’s rights disproportionately.”²²

Issues of concern in relation to national security laws include:

- Children as young as 14 may be made subject to a control order
- When making conditions on a control order, protecting the public from a ‘terrorist act’ is considered more important under the law than ‘the best interests of the child’
- Children as young as 14 may be stripped of Australian citizenship under anti-terrorism laws.

3.7... Australia has not ratified the Optional Protocol to the Convention of the Rights of the Child on Communications

“Since 2013, the NCC has recommended that the Australian Government ratify the Optional Protocol to the CRC on a Communications Protocol (the third Optional Protocol). Ratification of the third Optional Protocol would provide new protections for children, and a similar level of accountability for children’s rights as exist for rights under other UN Conventions.”²³

The third Optional Protocol allows children in countries that have ratified it to make complaints about abuses of their rights direct to the United Nations. Complaints may not be made direct to the UN by or about children in countries that have not ratified this protocol.

Sources

Information relating to Australia’s joint fifth and sixth report under the Convention on the Rights of the Child, second report on the Optional Protocol on the sale of children, child prostitution and child pornography, and second report on the Optional Protocol on the involvement of children in armed conflict.

Australian Human Rights Commission

Submission to the Committee on the Rights of the Child

1 November 2018

Suicide Prevention Australia, *Suicide prevention gets the attention it deserves during the Federal Budget*

<https://www.suicidepreventionaustralia.org/2019/04/03/suicide-prevention-gets-the-attention-it-deserves-during-the-federal-budget/>

UNICEF, *Strengthening the Convention on the Rights of the Child: Optional Protocols*

<https://www.unicef.org/child-rights-convention/strengthening-convention-optional-protocols>

²¹ Commissioner’s Report

²² Commissioner’s Report

²³ Commissioner’s Report

<p>707 votes were cast. That number has been used as the base number to determine the relative ranking by % for each item. 4 items attracted double digit percentage support 4 items attracted support in single digits above 5% 7 items attracted support below 5%</p>	# of votes	% Total
4. Child deaths by suicide and hospitalisations for intentional self-harm have increased	105	14.9
6. Approximately 17% of children under the age of 15 live in poverty	91	12.9
7. 27% increase in reported substantiations of child abuse and neglect (2012-13 to 2016-17)	90	12.7
8. The number of children in OOHC has increased by 18% over the last 5 years	83	11.7
14. Changes to the family law system better protect women and children, but children's voices and articles of the CRC require further prioritisation	48	6.8
5. Significant inequalities on health, education, justice and child protection for Aboriginal and Torres Strait Islander children	46	6.5
1. No comprehensive national plan, policy, legislation or budgeting processes to support children's rights in Australia	46	6.5
11. The age of criminal responsibility is ten, which is low compared to other countries	40	5.6
15. National Redress Scheme for survivors of child sexual abuse in institutions commenced on 1 July 2018, but excluded some groups of survivors, including children currently under eight years of age.	33	4.7
13. Establishment of National Disability Insurance Scheme in 2013, but there are concerns about its implementation	33	4.7
9. Immigration detention remains mandatory for all unlawful non-citizens, including children	27	3.8
10. Serious concerns for the health and wellbeing of children and their families in Nauru subjected to third country off shore processing	21	3.0
3. Insufficient disaggregated national data that meet the requirements set out by the UN	17	2.4
12. National security measures limit children's right disproportionately	15	2.1
2. Australia has not ratified the Optional Protocol to the Convention of the Rights of the Child on Communications Protocol	12	1.7
	707	100%

All but three items attracted attention from each cohort.	Young People	Parents	Grandparents	Kinship Carers	Staff/Orgs	Total
4. Child deaths by suicide and hospitalisations for intentional self-harm have increased	17.1	15.6	15	14.8	13	14.9
6. Approximately 17% of children under the age of 15 live in poverty	12.2	14.4	14.2	13.7	9.9	12.9
7. 27% increase in reported substantiations of child abuse and neglect (2012-13 to 2016-17)	14.6	16.2	11.5	9.8	12.3	12.7
8. The number of children in OOHC has increased by 18% over the last 5 years	9.75	13.2	7.1	14.2	11.7	11.7
14. Changes to the family law system better protect women and children, but children's voices and articles of the CRC require further prioritisation	3.7	5.9	4.4	10.9	6.2	6.8
5. Significant inequalities on health, education, justice and child protection for Aboriginal and Torres Strait Islander children	8.5	4.8	8.8	4.4	8	6.5
1. No comprehensive national plan, policy, legislation or budgeting processes to support children's rights in Australia	3.7	5.9	5.3	8.2	7.4	6.5
11. The age of criminal responsibility is ten, which is low compared to other countries	0	7.2	8.0	5.5	5.55	5.6
15. National Redress Scheme for survivors of child sexual abuse in institutions commenced on 1 July 2018, but excluded some groups of survivors, including children currently under eight years of age.	8.5	3	3.5	5.5	4.3	4.7
13. Establishment of National Disability Insurance Scheme in 2013, but there are concerns about its implementation	4.9	5.4	6.2	2.2	5.55	4.7
9. Immigration detention remains mandatory for all unlawful non-citizens, including children	6.1	2.4	3.5	2.2	6.2	3.8
10. Serious concerns for the health and wellbeing of children and their families in Nauru subjected to third country off shore processing	9.75	1.8	2.7	0.4	3.7	3.0
3. Insufficient disaggregated national data that meet the requirements set out by the UN	0	0.6	5.3	4.4	1.2	2.4
12. National security measures limit children's right disproportionately	1.2	1.2	2.7	2.7	2.5	2.1
2. Australia has not ratified the Optional Protocol to the Convention of the Rights of the Child on Communications Protocol	0	2.4	1.8	1.1	2.5	1.7

