



## **Australian Childhood Foundation submission to the Human Rights Commission on the State of Children's Rights in Australia, 2018**

The Australian Human Rights Framework states that 'a human rights culture carries with it responsibilities—not just on government, the Parliament, courts and tribunals but on all members of the community—to recognise and respect the human rights of others.' As a national not for profit organisation which delivers specialist therapeutic programs for children and young people who have been affected by trauma arising from abuse and family violence, we are pleased to be able to bring this submission reflecting our views and insights into the state of Children's Rights in Australia.

### **Observations of positive change and growth enabling children's rights in Australia**

In the last five years, Australia has hosted a range of Royal Commissions into areas of society that impact children and their rights, including those into Family Violence (Victoria), into Institutional Responses to Child Sexual Abuse (National), and that into Juvenile Detention (Northern Territory). It is the Foundation's position that the recommendations from these commissions are pertinent. We have begun to see some legislative change as a result of these recommendations, but would be worried if the full scope of the recommendation were to be shelved.

Some of the changes we welcome have been

- The introduction of legislated Child Safe Standards in Victoria has been an important step to increase the safety of children engaged in the services of organisations.
- State based legislative changes that improve information sharing practices in FV settings
- Introduction of failure to protect/notify legislation
- The introduction of grooming legislations which now make it clear that grooming is an offense punishable by law
- The strengthening of Working with Children Checks in all states and Territories of Australia.

We also note that among the issues under consideration in a review into the family law system presently underway at the Australian Law Reform Commission is how children can be better supported to participate in family dispute resolution processes.



## **Observations of the limitations or barriers to children's rights in Australia**

- There continues to be a lack of movement by governments despite the recommendations of the Committee on the Rights of the Child to address the lack of action on lawful correction and corporal punishment of children.
- We concur with the Committee's previous recommendations that children in Australia would benefit from a comprehensive child rights Act at the national level giving full and direct effect to the Convention in the State party's national law. The absence of such legislation has resulted in fragmentation and inconsistencies in the implementation of child rights across Australia, with children in similar situations being subject to variations in the fulfilment of their rights depending on the state or territory in which they reside.
- Aboriginal and Torres Strait Islander children continue to be significantly overrepresented in the criminal justice system and in out-of-home care; the rates of child removal due to protection concerns have risen, not decreased in the last five years.
- In Australia more broadly and even more so within statutory child protection systems, the mechanisms for facilitating meaningful and empowered child participation in the policies and decision-making affecting them are limited. Where they are present, they often rely heavily on individual practitioners to be both informed about children's rights and passionate about children and young people experiencing them for meaningful activity to take place.
- The legislations that exist in Australia to protect children and keep them safe have a disparate implementation. This is evidenced by;
  - a. The variable status of child safe standards for organisations in different areas; Western Australia has nine domains which are not legislated, Victoria has seven standards which are legislated, New South Wales has four areas which are under consultation, the Royal Commission recommended 10 elements which are not legislated and the Australian Human Rights Commission has draft principles which are under consultation. In principle, these are compatible, but the different systems, naming and areas create confusion for national bodies attempting to adhere to them.



- b. The variable experience of children and young people being placed in the Out of Home Care system; each state and territory have their own processes around how and when removal and placement take place, with decisions often being impacted by state based resourcing and system burdens. Further, the meaningful participation of children and young people in statutory child protection settings is almost entirely dependent on the individual practitioners working with them
  - c. The differences in mandatory reporting requirements in each state and territory further complicate the community messaging, the organisational engagement with and the importance of reporting in all instances.
- The recovery of children from the trauma associated with their experiences of violence and abuse which occurs in their family is not prioritised in social policy and public funding.

Children who have experienced abuse experience additional barriers to their rights due to a lack of accurate information, public discourse or commentary that accurately represents children's experiences of abuse and violence in Australia. The Australian Childhood Foundation, in conjunction with the Child Abuse Prevention Research Australia at Monash University and Quantum Market Research, has conducted a series of surveys which have sought to track community attitudes about children, child abuse and child protection (Tucci, Mitchell and Goddard, 2001, 2003, 2004a, 2004b, 2005, 2006, 2010).

Consistently, these studies have highlighted that child abuse, as a serious social problem, is poorly understood by the Australian public on a number of levels including its true extent and nature. Also, the findings illustrate a lack of understanding of the short and long term social and financial costs of child abuse to children, families and the community.

For example, child abuse was perceived as less of a concern than the rising cost of petrol and problems with public transport and roads. Almost half of the people surveyed felt so poorly informed on the issue that they could not even guess at the number of reported cases of child abuse in Australia. Worryingly for children, about a third of respondents in the survey stated that they would not believe children's stories about being abused.

Twenty percent of respondents also lacked the confidence to know what to do if they suspected a child was being abused. A quarter of respondents did not know that they could make an anonymous report to child protection authorities.



By ignoring child abuse, social responsibility for acting to protect children is positioned on the periphery of our collective consciousness.

The key to preventing child abuse is generating sustained community commitment to understanding the dimensions of the problem, believing in the magnitude of the problem and appreciating the suffering of children who are traumatised by abuse. We believe that the children's rights discourse strengthens community understanding of this problem.

Historically, there has been very limited Government support for ongoing campaigns to educate the community about child abuse and child protection.

### **Work of the Australian Childhood Foundation in addressing Children's Rights**

The Australian Childhood Foundation works directly with children and families (more than 6000 in the last five years), partners with seven indigenous communities and more than 20 partner organisations also working with vulnerable children and young people. It runs more than 600 days of training each year and hosts a blog for professionals with a total global audience of over 130,000 working in the field of childhood trauma.

We believe that with a better understanding of children's knowledge and experiences, decision-making can be more responsive to the reality of children's lives. Furthermore, collaborative consultation has a positive impact on the children and youth who engage in it. By enabling their right to be heard and supporting their evolving capacities, participation will lead to activities where "children acquire skills, build competences, extend aspirations, and gain confidence (Lansdown, Gerison. 2009)."

We have developed several methods to help promote awareness of children's rights and to capture children's beliefs, thoughts and opinions about their experiences during their time with us;

#### **Community based work**

In 2016 the Foundation worked in collaboration with secondary students (who were not clients of the Foundation), running an art competition, asking students to design posters that communicated to others about children's rights (or one of). We then published the finalists on our blog along with some information from each artist. We were surprised that most the young people engaged in the competition had little or no prior knowledge of children's rights – either that there was a charter of rights, or that our Government was a signatory of the treaty. In response, we believe more could be done in Australia to increase children and young people's awareness of children's rights and to ensure that curriculum based approaches to the dissemination of this information are experienced in a meaningful way by students.



## Sector development work

The Foundation has worked in two main ways to build workforce capacity to understand children's rights and to ensure their safety; we partner with organisations, supporting their efforts to safeguard the children who engage their services, and we train professionals in the sector through our RTO to increase skills, develop child centred frameworks and provide trauma-informed care for vulnerable children and young people.

Our Safeguarding Children Services, first developed in Victoria by the Australian Council for Children and Youth Organisations (ACCYO) and now managed by the Australian Childhood Foundation includes a voluntary accreditation scheme that facilitates organisations who undertake it to become compliant with seven key child protection standards. To date, more than 275 organisations in Australia, South Pacific and New Zealand have engaged our services to help them safeguard children. The Safeguarding Children accreditation program is the only Australian example of a capacity building initiative that can support funded and non-funded organisations to improve their approach to child protection.

As a Registered Training Organisation, in direct response to sector need, we have developed and delivered of three nationally accredited courses seeking to increase the ability of practitioners to understand the developing needs of vulnerable children and young people, as well as their evolving capacities for meaningful participation. These courses have been delivered to a wide variety of professionals working in the sector, including juvenile justice workers and residential out of home care workers.

## Direct work with children and young people

For children and young people who are direct recipients of services provided by the Foundation, we have also developed children's rights posters using child friendly language for use in our front line service centres and those of organisations for whom we are in partnership. We have implemented welcome kits which include a specialist-led discussion of children's rights which are mandatory in all client relationships, annual client census tools, and are currently piloting a custom developed feedback tool for use with children who have experienced family violence.

The latter feedback tool has produced some insights for us around how children and young people experienced our staff, our clinical environment, and their own experiences of change for themselves and their families in relation to the services. Children and young people were also asked about their experience of their rights. They were overwhelmingly positive about being given a chance to speak up if they didn't agree with something, and felt like they were able to say everything that was important to them.



Interestingly the majority of children's responses to the open-ended question about what the service does seem to locate the 'site for change' or 'reason they attend' to be something to do with a deficit within themselves, e.g. 'Kids with ADHD come here', 'Help kids become better people', 'Helps kids who are not perfect and are not well behaved', 'Helps kids who have been abused', 'It's for inappropriate sexualised behaviour' and 'Help kids when they get angry.' This is interesting, considering our service strives to help others to not locate the problem within the child, and we are using this data to further improve our service. We believe these beliefs are a further extension of the earlier discussion on socio-cultural narratives around child abuse in Australia.

It is our experience that Australia has a lack of participatory methodologies for children, in particular, those who are involved with statutory child protection services, compared to other countries with longer and stronger traditions in this field of practice. We are currently conducting interviews with key professionals in all Australian jurisdictions to explore this, and aim to use the content of these discussions to increase mechanisms to facilitate child participation for the population of vulnerable children, young people and the families with whom we work.

We are grateful to the Commission for this opportunity to submit our perspectives on the state of children's rights in Australia.

In addition to the submission, I welcome the opportunity to provide additional information if required. I can be contacted via email at [jtucci@childhood.org.au](mailto:jtucci@childhood.org.au).

Yours sincerely,

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