

Safeguarding Children: Using a child rights impact assessment to improve our laws and policies



Australian
Human Rights
Commission

unicef 
AUSTRALIA

for every child

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Safeguarding Children: Using a child rights impact assessment to improve our laws and policies

ISBN 978-1-925917-69-7

Acknowledgments

Safeguarding Children: Using a child rights impact assessment to improve our laws and policies was drafted by Susan Nicolson, Niamh Kealy, Susan Newell, Kelly Hand, Helen Potts, Ashlee Taylor, Sarah Mckenzie and Georgia Gilbert.

The National Children's Commissioner thanks the following staff of the Australian Human Rights Commission: Darren Dick.

Electronic format

This publication can be found in electronic format on the website of the Australian Human Rights Commission: <https://www.humanrights.gov.au/our-work/childrens-rights/publications>.

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Design and layout: Dancingirl Designs

Cover photography: iStock

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Acronyms

AHPPC	Australian Health Protection Principal Committee
AHRC	Australian Human Rights Commission
AIHW	Australian Institute of Health and Welfare
CALD	Culturally and linguistically diverse
CRC	Convention on the Rights of the Child
CRC Committee	United Nations Committee on the Rights of the Child
CRIA	Child Rights Impact Assessment
CRIE	Child Rights Impact Evaluation
CYDA	Children and Young People with Disability Australia
ECEC	Early childhood education and care
NGO	Non-government organisation
UN	United Nations



Anne Hollonds

*National Children's Commissioner
Australian Human Rights Commission*



Foreword

The needs and rights of children and young people are frequently 'side-lined' while policy tends to be dominated by the concerns of adults.

This was seen during the COVID-19 pandemic which disrupted our lives in unparalleled ways, exacerbating inequalities and amplifying systemic failures in the policies and service systems that are meant to help children and young people, especially those living with poverty, disadvantage and complex needs. COVID government regulations impacted on a broad range of children's rights, including their rights to health, education, and safety, with long term implications now evident, such as increased serious mental health disorders at younger ages and widespread school attendance anxiety.

In early 2020, the United Nations Committee on the Rights of the Child recognised the devastating short, medium, and long-term consequences of the pandemic on children across the globe. It called on nations to ensure children's rights were a priority in decision-making, and to develop alternative mechanisms to safeguard their health, development, learning, and wellbeing.

However, responses to the pandemic were largely developed for adults without robust consideration of the rights and wellbeing of children. Australian children and young people under the age of 19 represent 24% of the population, but their voices and needs were absent from the 'top' decision-making tables during the pandemic.

Australia's first national Child Rights Impact Assessment (CRIA) tool – *Safeguarding Children* – provides one mechanism for strengthening the voices of children and prioritising their needs. It provides an opportunity for decision-makers, across all jurisdictions, to assess and monitor the impacts of policy and legislation on children's rights and wellbeing, not only in crises and emergency situations, but in all government decisions that affect children and their families every day.

Australia needs to make child wellbeing a national priority in order to ensure that the needs and voices of children and young people are heard. We will all benefit because childhood experiences have long-term implications and costs for the whole community.

I recommend building Child Rights Impact Assessments into all policy development and monitoring mechanisms in order to strengthen protective factors for child health, development, learning and wellbeing. Children and their families need to be heard on the design and implementation of policies that are meant to help them.

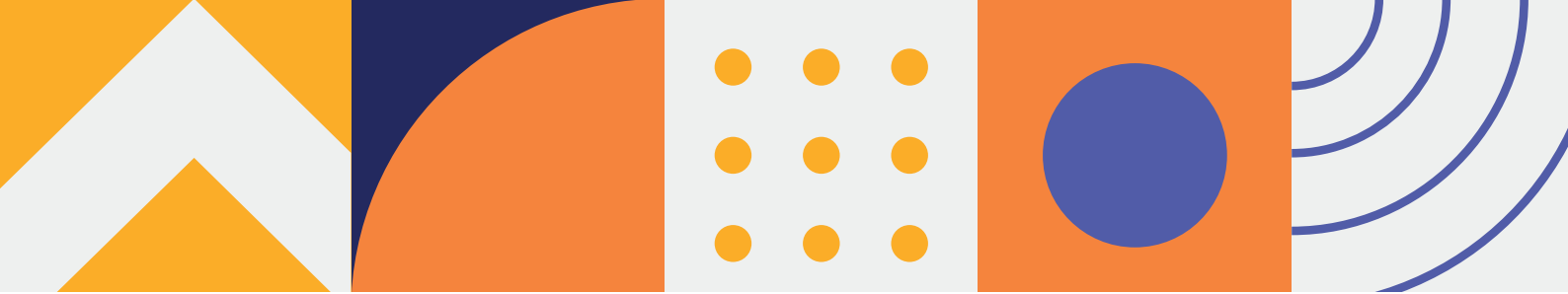
It is my hope that *Safeguarding Children* – Australia's Child Rights Impact Assessment tool is widely applied and continually improved as we learn how to build good policy, legislation and service systems with child wellbeing as our national priority.

A handwritten signature in black ink that reads "Anne Hollonds". The signature is fluid and cursive, written in a professional style.

Anne Hollonds
National Children's Commissioner

1

Introduction



In 2022, the National Children’s Commissioner, in collaboration with UNICEF Australia, commenced a project to develop a Child Rights Impact Assessment (CRIA) tool for policy-makers and legislators to use when assessing the potential impacts of policies and legislation on the rights and wellbeing of children.

Applying the tool to assess policy decisions that had already taken place provided an opportunity to explore how children’s rights and wellbeing can be considered in a systematic way, and what type of information might be available to policy-makers in Australia to do so. The intent was not to evaluate the decisions that were made by various jurisdictions to close early childhood and care (ECEC) and schools.

In addition to providing a systematic process for considering children’s rights, CRIAs highlight the need for children’s views and experiences to be incorporated into decision-making in policy and legislation. Under the *UN Convention on the Rights of the Child* (CRC), children have a right to express their views and have these views considered in all decisions that concern them, including in policy and law. The CRC defines children as any persons under the age of 18 years.

The inclusion of the voices of children and young people in the development of policy is gaining some traction in Australia. For example, Principle 3 in *Safe and Supported: The National Framework for Protecting Australia’s Children 2021-2031* (the National Framework) states that the work of the framework will be guided by ‘listening and responding to the voices and views of children and young people, and the voices and views of those who care for them’.¹

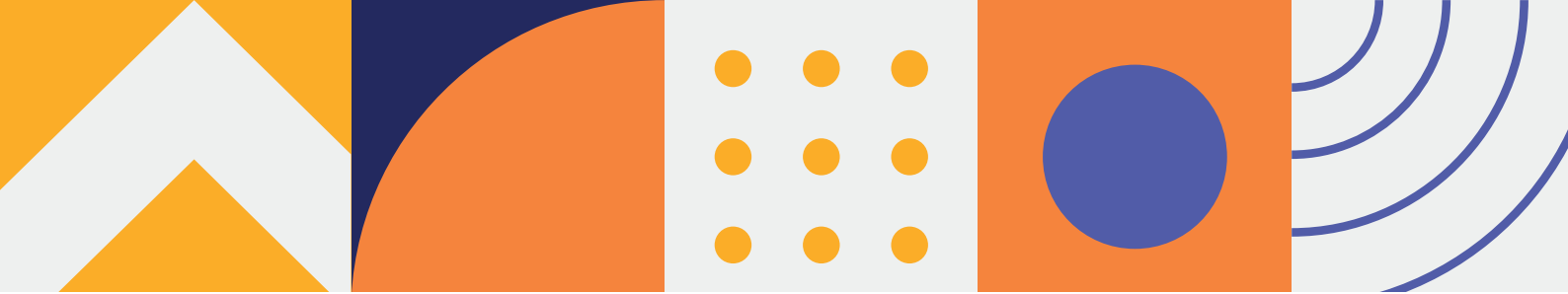
Bringing children into decision-making processes challenges historical attitudes to children and their capabilities—including their capacity to express their views about the things that affect them and the assumption that adult decision-makers will inherently act in the best interests of children.² However, despite some welcome developments, the views and needs of children and young people are rarely sought, nor considered in any systematic way in the development of policy and legislation.³ This is despite children being both directly and indirectly impacted by these policies and laws.⁴

This report outlines the reasons for using CRIAs in policy and legislative development, the process undertaken to develop the CRIA, including applying the tool to the issue of ECEC and school closures during the COVID-19 pandemic. It also describes how to use the tool. The CRIA tool template is included in Appendix 1.

The report concludes with some observations about the value of the tool and its application across policy and legislation in Australia.

2

**Why use a Child Rights
Impact Assessment?**



The use of CRIAs began in Europe in the late 1980s and 1990s. In 2003, they were endorsed by the United Nations Committee on the Rights of the Child (the CRC Committee) in General Comment 5 on general measures of implementation of the CRC.⁵

General Comment 5 calls for CRIA processes to be built into government decision-making at all levels and as early as possible. The CRC Committee also advocates for the use of Child Rights Impact Evaluations (CRIE) to guarantee that the provisions of the CRC are respected in the implementation of policy and legislation. CRIEs can play an important role in evaluating the effectiveness of a policy or law in promoting children's rights and wellbeing, and can be used to remove or amend actions, or inform the development of another similar law or policy.

Australia ratified the CRC on 17 December 1990. However, in 2023, Australia is yet to commit to the use of CRIAs and CRIEs across all jurisdictions and does not have a national tool whereby policy and legislation are systematically assessed for their impacts on children.

There are some existing mechanisms for the consideration of children's rights in law and policy-making in Australia. Three Australian jurisdictions have Human Rights Acts—the Australian Capital Territory (ACT), Victoria, and Queensland.⁶ This legislation requires the respective governments to produce statements of compatibility with human rights on proposed legislation introduced into Parliament.

At the Commonwealth level, while there is no Human Rights Act, all government and non-government bills or legislative instruments must be accompanied by a statement of compatibility with human rights that includes human rights as set out in the CRC.

However, these mechanisms are not sufficiently comprehensive of children's rights and focus on legislation only. In the ACT, Queensland, and Western Australia (WA), Children's Commissioners have developed CRIAs.⁷ These tools have been useful in assessing impacts of certain policies and projects but are not widely used in government decision-making.⁸

Different forms of CRIAs have been developed and applied overseas, influenced by local priorities.⁹ For example, the Welsh Government used a CRIA in the context of a proposed legislative amendment (the *Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020*), to remove a defence of 'reasonable punishment' in relation to corporal punishment of a child in Wales. New Zealand also piloted the use of local CRIAs in Auckland City and Manukau City Council areas to improve council processes of working with children. Although the councils did not fully complete the assessment, the individuals who took part in local consultation processes to inform the CRIA reported that it changed how they thought about and worked with children. They also reported identifying fresh ideas and providing useful input for councils to better consider children's issues and respond effectively.¹⁰

Other countries such as Finland, Sweden, Canada, Ireland and Scotland have used or implemented national CRIA tools that allow them to better consider the impacts of policies on children.¹¹

The aim of a CRIA is to embed child rights and interests in decision-making.¹² A CRIA is used to systematically assess the impact on children of laws, policies, budgetary allocations, or administrative decisions as measured against the CRC and domestic human rights/child wellbeing frameworks.

For CRIAs to be effective, there needs to be a clear mandate for their use with sustained political commitment; children's rights training for assessors who also have access to expert advice; tools to guide and shape the process; access to relevant data sets; and a clear expectation of involving children.¹³ The base level of what might be achieved by applying a CRIA is increased awareness of how policy and legislation impacts children.

Literature on CRIAs refers to 'direct' and 'indirect' impact. Direct impact refers to a proposed law, policy or administrative decisions which specifically targets children. Indirect impact refers to proposed law, policy, or administrative decisions which, while not targeting children, will affect them.

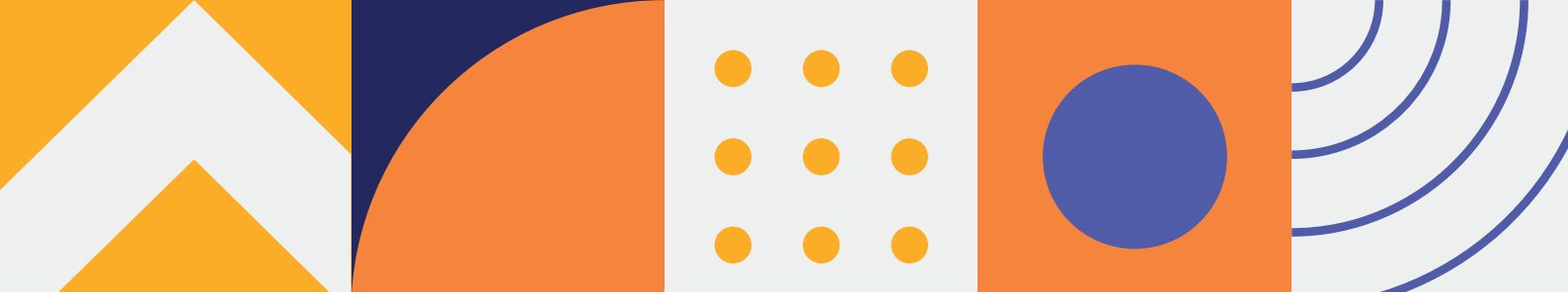
Both types of impacts can require a CRIA. The application of CRIA to measure indirect impact is significant because the impact on children may ordinarily be overlooked. A CRIA applied to indirect impacts may prompt an unforeseen consideration of children's interests.¹⁴

CRIAs measure 'anticipated impact'. A CRIA sets out key questions to enable policy-makers to consider how policy/legislation may impact on children's rights, and reflect on how the policy/legislation can be improved. Its utility depends on the policy and decision-makers who answer the questions having a nuanced understanding of child rights and a knowledge of the relevant policy area and domestic laws.



3

The Child Rights Impact Assessment tool



The aim of this project was to develop a CRIA tool that could be used by government decision-makers to assess the direct and indirect impact of legislation and policy on children's rights and ensure that children's voices, experiences, and priorities are built into government decisions that will impact on their lives.

The tool was to be adaptable to local contexts and to the needs of different jurisdictions, and able to be used in all situations, including emergency situations. The tool was not intended to replace the existing jurisdictional CRIA tools or assessment mechanisms, but to enable each jurisdiction to either adopt the national CRIA tool in whole or merge aspects of it into their existing tools.

By developing the tool, the National Children's Commissioner seeks to promote active consideration by decision-makers of the following:¹⁵

- the aim(s) of the law, policy, or practice for children
- whether children and their representative organisations have been involved in the development of the law, policy, or practice
- whether particular groups of children will be affected
- what human rights are impacted and whether that impact can be assessed
- where there is negative impact, whether that impact can be mitigated or negated in the situation.

The tool is designed to be used at the development stage of policy/legislation in order to mitigate any potential risks and challenges impacting the rights and wellbeing of children and strengthen potential positive impacts. However, it should be noted that conducting a CRIA may require seeking and considering information at various stages of the policy or law development process.

Completed CRIAs may also act as an evidence base for future decision-making, or as an evaluation mechanism (a CRIE), as described in section 2.

3.1 Design and development of the tool

A design thinking approach was used to develop the tool. Design thinking is a 'systematic approach to problem solving'.¹⁶ The problem to be solved for this project was 'how might we develop a tool that supports policy-makers and legislators in assessing the impacts of policies or legislation that they develop on children's rights and wellbeing?'.

Interviews were conducted with a variety of government and non-government stakeholders and potential users of the tool. The Victorian Commission for Children and Young People also sought and provided feedback from members of their youth advisory group. Shared themes from this engagement included:

- strong support for a CRIA tool as a concept and acknowledgement that children are seldom engaged with as stakeholders on policy/legislation
- policy is usually developed with little time and few resources
- most policy-makers have limited knowledge of children and their needs

- it is difficult to access relevant supporting data about children
- politics often outweighs evidence
- for a CRIA tool to be implemented successfully and consistently, there needs to be oversight and coordination.

Following the interviews and reflecting on the themes gathered, a workshop was conducted with 2 Children's Commissioners and some of their teams to consider the initial design question together. This discussion led to several ideas that were used to prototype the tool, including that the tool needed to be simple and the importance of children's voices as part of the assessment process. Other feedback was that the tool should be explicitly inclusive of the CRC.

A prototype tool was developed. This was workshoped with a broader group who agreed that the tool needed to be simpler, shorter, and written in plain English.

Consideration was also given to the CRIA tools increasingly used by governments and non-government organisations (NGOs) overseas,¹⁷ and to the CRIA tools used in ACT, Queensland, and WA.¹⁸ The tool also largely draws on the European Network of Ombudsperson for Children's *Common Framework of Reference on Child Rights Impact Assessment*.¹⁹

The prototype tool was refined by applying it to the policy and legislative decisions to close ECEC and schools between March 2020 and March 2022 during the COVID-19 pandemic. The process of applying this tool is discussed in detail in section 3.2. The tool was subsequently modified based on learnings from this process, and consideration of how to best assess policy/legislation using available information.

3.2 Applying the CRIA tool to the closure of ECEC and schools during the COVID-19 pandemic

In Australia, the COVID-19 pandemic led to ECEC and schools being closed intermittently between 2020 and 2022. New South Wales (NSW) and Victoria were most affected due to the spread of the COVID-19 virus, and lockdown measures put in place by their respective governments to limit the spread of the virus. See Appendix 2 for background information on ECEC and school closures during the pandemic in Australia.

The closure of ECEC and schools during the first 2 years of the pandemic presented an opportunity to explore how the CRIA tool could be applied in the Australian policy or legislative context.

The aim of applying the CRIA tool to ECEC and school closures was not to review or evaluate the decisions made in the various jurisdictions, but to assess the usefulness of the CRIA process, in order to develop a CRIA sufficiently flexible to apply across all Australian jurisdictions and all circumstances affecting children and young people, including emergency situations.

Decisions about ECEC and school closures during the COVID-19 pandemic were considered relevant for testing the CRIA tool for several reasons:

- There was significant community concern about the potential for negative impacts of ECEC and school closures on children, especially for children experiencing poverty or disadvantage.

- There were emerging indications that the closure of ECEC and schools had a significant impact on not only children's academic development, but also on their psychosocial development. Additionally, children missed out on services conventionally provided by schools, such as breakfast and lunch programs, health programs, and counselling.

To apply the tool, information on ECEC and school closures was gathered through:

- desktop research on the impacts of the pandemic experienced by children, including published research from government departments; NGOs; academic sources; ministerial releases; and government websites. The majority of this research was qualitative and based on experiences in early 2020 and 2021
- requests for information from Education Ministers across jurisdictions about their decision-making processes
- the views of children, gathered using survey results from the National Children's Commissioner's national survey on children and young people's mental health during the pandemic. The results of this engagement are published in the AHRC's *'Mental health shapes my life': COVID-19 and kids' wellbeing* report.²⁰

By applying the CRIA tool to the issue of ECEC and school closures, the following issues were identified and were used to further refine the tool:

- **Availability of information and data:** The majority of Australian research available on the impacts of the pandemic is based

on surveys and consultations with children, and it corresponds to the early stages of pandemic restrictions in 2020 and early 2021. While current policy by the federal Department of Education, Skills and Employment, as of January 2022, states that schools will be 'the last to close and the first to open', the trajectory of the pandemic is uncertain and data on the longer-term impacts is not available at this time.²¹

This highlights the importance of policy and law-makers identifying data and information gaps early on, and, where possible, gathering information to fill those gaps, and/or ongoing monitoring of emerging data throughout the process.

- **Information on specific groups of children:** It was difficult to find information on the impacts on specific groups of children, including those living with disability, Aboriginal and Torres Strait Islander children, CALD children, LGBTIQ+ children,²² children living in out-of-home care, and children from refugee backgrounds.

The Australian Institute of Health and Welfare (AIHW) notes that while some groups are included in surveys, the small sample sizes often prevent any significant differences being detected between groups.²³

Applying a CRIA tool to policy/legislation would help identify data gaps and could assist with identifying how to fill these gaps.

- **Including the views of children:** As shown in Appendix 3, while there were some measures taken to seek the views of children and young people on the impacts of COVID-19 and the policy responses at the time, these were inconsistent. It is unclear how any views that may have been expressed by children and young people influenced decisions to close schools, or actions to mitigate against the negative impacts.

While seeking the views of children and young people may be difficult in an emergency response situation, the application of the CRIA process revealed that there are a number of other mechanisms for seeking the views of children and young people, that could be employed by policy-makers when assessing potential impacts, including through the Children's Commissions across Australia.

- **Confirmation bias:** There were both negative and positive impacts identified as a result of the ECEC and school closures. However, it is clear that care needs to be taken to avoid bias when assessing positive and negative impacts, during the identifying and gathering information stages, and the assessment stages. A systematic consideration of all rights affected will help to mitigate this bias.

While it is not possible to determine whether the positive and negative impacts of ECEC and school closures would have been different if a CRIA had been used by policy-makers/law-makers at the development stage, applying this CRIA tool retrospectively provides some important information when considering emergency measures in the future.

Once the tool had been applied to the issue of ECEC and school closures, it was further refined, drawing on learnings from the process. The final template of the CRIA tool is included in Appendix 1.

3.3 Using the tool

The tool template (see Appendix 1) is split into 7 sections, which include 18 questions on the nature of the proposed policy/legislation being assessed, the types of information to be considered when assessing impacts on the rights of children, the potential impacts, how impacts can be mitigated or strengthened, and an overall consideration about how the policy/legislation acts in the best interests of children.

Key considerations when using the tool:

Confirmation bias: Care should be taken to avoid bias when assessing positive and negative impacts by exploring all available research and evidence before making judgements.

Knowledge: Policy/decision-makers undertaking a CRIA require a general understanding of human rights and the CRC. A simplified version of the CRC is provided in Appendix 4.

Capacity: Sufficient resources and time must be allocated to collecting appropriate information and completing a rights-based analysis, including by having access to expert advice; tools to guide and shape the process; access to relevant data sets; and a clear expectation of involving children.

Identifiable information: No identifiable information should be included in a CRIA.

Stage 1: Screening

1. Describe the issue being addressed and the overall aim of the policy/legislation.
2. Using the checklist, identify whether children's rights are likely to be advanced or restricted by the policy/legislation.
3. Using the checklist, are there particular groups of children (including their families and carers) who are more likely to be impacted by the policy/legislation?
4. Based on the findings of the screening, is a full impact assessment required? If yes, continue to Stage 2. If no, end here.

Conducting a full CRIA requires commitment, time and resources, and it is not practical to carry out a full CRIA for every piece of policy/legislation. Screening acts as an initial check to determine whether children's rights are impacted and a full CRIA is required. It may also be a record for decisions made.

Some policies/legislation have more than one issue impacting on children's rights. Where this occurs, it may be beneficial to screen each issue independently, rather than attempting to explore all issues together.

Information at this stage is brief and informative. Questions prompt assessors to briefly describe the aims and goals of the policy/legislation and whether it impacts on children's rights.

Question 2 includes the 4 guiding principles of the CRC:

- Article 2 (right to non-discrimination)
- Article 3 (right to best interests of the child)
- Article 6 (right to life, survival and development)

- Article 12 (right to express own views freely and for those views to be given due weight and respect).

Additional children's rights such as Article 19 (right to safety) or Article 28 (right to education) may be added into the table where they are impacted by the policy/legislation. A list of children's rights can be found in Appendix 4 or the [CRC](#).

Assessors should consider whether the policy/legislation directly or indirectly impacts on children's rights. A direct impact on children's rights refers to policy/legislation that explicitly impacts on a child's life. For example:

- If the policy/legislation changes how children and families access school and early childhood education (i.e. COVID-19 school closures), the right to education is impacted.
- If the policy/legislation results in the redevelopment of community and recreational spaces (i.e. replacing parks with commercial office spaces), the right to rest and leisure is impacted.

- If the policy/legislation results in the collection of personal information that relates to children, the right to privacy is likely to be engaged.

An indirect impact on children's rights occurs where policy/legislation predominantly impacts on those other than children, but children are impacted as a consequence. For example:

- If the policy/legislation impacts the ability of a parent to care for their child (i.e. mandatory sentencing), the best interests of that child must be considered as their wellbeing will be impacted as a result.
- If the policy/legislation impacts on parental access to social or economic benefits, a number of children's rights may be impacted as a consequence of their parent being unable to afford basic necessities.

Negative impacts on the rights of children may be permissible as long as the impact is reasonable, necessary, and proportionate. Stage 4 of the CRIA

discusses this in more detail. It should be noted that some rights are absolute, meaning that they cannot be limited for whatever reason. These rights include:

- freedom from torture and other cruel, inhuman or degrading treatment or punishment ([International Covenant on Civil and Political Rights](#) (ICCPR) Article 7)
- freedom from slavery and servitude (ICCPR Article 8)
- freedom from imprisonment for inability to fulfil a contractual obligation (ICCPR Article 11)
- prohibition against the retrospective operation of criminal laws (ICCPR Article 15)
- right to recognition as a person before the law (ICCPR Article 16).

If the policy/legislation has a negligible impact on children, or rights are positively upheld, question 4 prompts the assessor to end the assessment.

Stage 2: Identifying sources of information

5. What types of information are available in order to make an assessment on the potential impacts of the policy/legislation?
6. What types of information are missing that would be beneficial to this assessment?
7. Who are the stakeholders that need to be engaged with?
8. How have children been engaged in the process of policy/legislation design to ensure their views and experiences inform decision-making? Does this include groups of children who are more likely impacted?

This stage considers the types of information available to complete a CRIA of the policy/legislation. The CRC Committee recommends that CRIAs should be 'based on input from children, civil society and experts, as well as from relevant government departments, academic research and experiences documented in the country or elsewhere'.²⁴

The UN Human Rights Council's *Guiding Principles on Human Rights Impact Assessment of Economic Reforms* emphasises the importance of securing the 'meaningful participation' of those likely to be affected by economic policy in any human rights impact assessment.²⁵

Questions in this section prompt assessors to consider how children are involved in policy/legislation processes, and what methods are being used to ensure authentic engagement.

In engaging with children, global CRIA expert, Lisa Payne, recognises that there is a high degree of apprehensiveness about how to involve children in the policy development process. She suggests that assessors consider the following issues:

- How are you going to identify who you need to talk to, about what, using what means?
- What are the safeguarding issues?
- What are you going to do with this information?
- Is this engagement just a tokenistic or a tick-box exercise?
- How are you going to let the children you've consulted know how you've used the information they've given you?²⁶

Stage 3: Identifying potential impacts

9. What are the positive impacts of the policy/legislation on the rights of children?
10. What are the negative impacts of the policy/legislation on the rights of children?
11. What are the impacts on different groups of children of the policy/legislation?

Stage 3 identifies the positive and negative impacts that the policy/legislation will have on children. This includes direct and indirect impacts on specific groups of children, as identified in Stage 1.

Stage 4: Analysis of impacts and mitigating factors

12. What measures or safeguards are included in the policy/legislation to mitigate negative impacts or to advance positive impacts on the rights of children?
13. Are there specific measures or safeguards included in the policy/legislation to address impacts on specific groups of children who may be more adversely affected? If yes, explain.

Stage 4 explores how the potential impacts discussed in Stage 3 will influence the policy/legislation process, and whether considerations need to be implemented in order to mitigate negative impacts or strengthen positive impacts. Assessors should consider how specific groups of children are impacted.

Consideration should be taken to recognise how both positive impacts can be sustained in the future, and negative impacts can be alleviated. Negative impacts or limitations on rights may be permissible if it can be demonstrated that the policy/legislation is reasonable, necessary, and proportionate. In this section, if this applies, it will be important for the assessor to include evidence-based information as to what safeguards in the policy/legislation are in place to protect children's rights, and justification of how the limitation is required.

For example, policy and legislation pertaining to the COVID-19 school and early childhood centre closures limited children's right to education. This limitation was considered as permissible as the policy and legislation protected children's right to health in an emergency event. Safeguards such as remote learning, the national rollout of telehealth and increased financial assistance to parents/families were provided by governments to reduce other negative pressures on children's lives.

Stage 5: Result and recommendations

14. Summarise how this assessment demonstrates why the proposed policy/legislation is in the best interests of children.
15. Are there any further changes that need to be made to the policy/legislation to ensure children's rights are not negatively impacted?

In Stage 5, the assessor is required to draw conclusions and make recommendations to either advance or amend the policy/legislation based on the information collected in Stages 1 to 4. It asks the assessor to make an informed judgement as to whether a child's best interests are supported by the policy/legislation. The CRC does not explicitly define a child's best interests. However, its meaning can be derived from the content in other CRC Articles, including:

- In the case of actions and decisions affecting an individual child, it is the best interests of that individual child which must be taken into account
- It is in a child's best interest to enjoy the rights and freedoms set out in the CRC. For example, it is in children's best interests to develop respect for human rights and for other cultures (Article 29.1(b) and (c)). It is in a child's best interest to maintain contact with both parents in most circumstances (Article 9.3)
- It is in the best interests of Indigenous children to be raised in their Indigenous community (Articles 5, 8.2, and 30)
- A child capable of forming a view on their best interests must be able to give it freely and it must be taken into account (Article 12)
- Parents have primary decision-making responsibility on behalf of their children (Articles 5 and 18.1) but, if they fail to make children's best interests a basic concern, the State may intervene to protect those interests (Article 9.1).²⁷

Stage 6: Publish the CRIA

16. Should the full assessment or a summary be published?
17. Will a child-friendly version be produced?

Questions in this section refer to whether the assessment will be published. Publishing the CRIA is important for transparency and promoting its wider use. Article 13 of the CRC recognises the value of providing children with information that they can understand and easily access. As such, a child-friendly version of the CRIA should also be published.

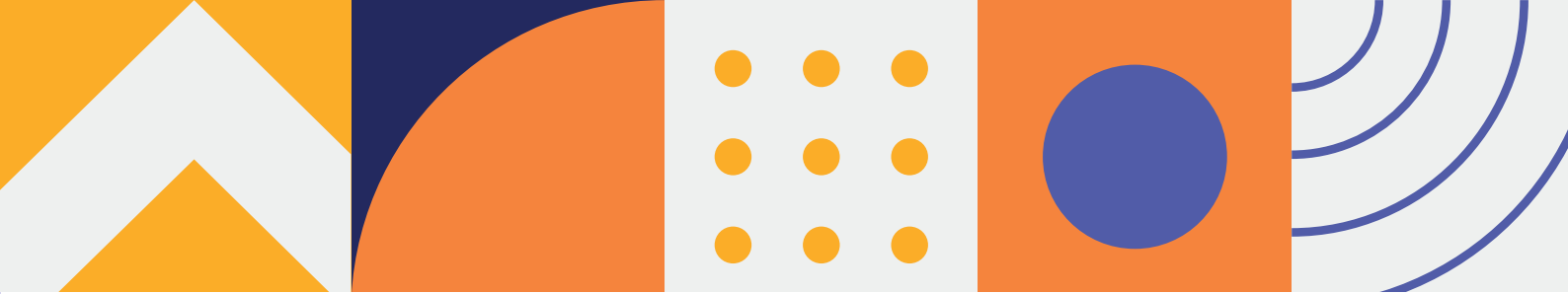
Stage 7: Monitor and review

18. Describe the resources allocated to monitoring the key findings and recommendations of this assessment or explain why resources have not been allocated.

Stage 7 refers to monitoring and reviewing the CRIA. This is an important stage for evaluating the effectiveness of policy/legislation. Appropriate resources and time should be allocated to enable this process.

4

Conclusion



A CRIA is a starting point for decision-makers to apply a child rights lens to their work. If applied comprehensively, the application of a CRIA can strengthen policy and legislation, reducing unintended negative impacts on the wellbeing of children. This includes both direct and indirect impacts.

By considering these impacts, decision-makers are taking the first steps towards ensuring government laws and policies produce outcomes that are in the best interests of children and their families. The CRIA tool provides a systematic approach for government to incorporate these considerations into its decision-making.

Although the CRIA tool in this project was applied to policy decisions that had already taken place—the decision to close ECEC and schools across jurisdictions—the process of developing the tool showed the extent and type of information that is needed for a comprehensive CRIA analysis. This process assisted the tool to be further refined.

The Secretariat of the Parliamentary Joint Committee on Human Rights piloted the CRIA in January 2023. Its feedback was incorporated into the tool.

Appendices

**Appendix 1: Child Rights
Impact Assessment (CRIA)
tool template**

Child Rights Impact Assessment (CRIA) tool

Key considerations when using the tool:

- **Confirmation bias:** Care should be taken to avoid bias when assessing positive and negative impacts by exploring all available research and evidence before making judgements.
- **Knowledge:** Policy/decision-makers undertaking a CRIA require a general understanding of human rights and the CRC (see Appendix 4).
- **Capacity:** Sufficient resources and time must be allocated to collecting appropriate information and completing a rights-based analysis, including by having access to expert advice; tools to guide and shape the process; access to relevant data sets; and a clear expectation of involving children.
- **Identifiable information:** No identifiable information should be included in a CRIA.

Policy/legislation name:

Date:

Responsible government agency/department:

Key contact:

Stage 1: Screening

Question 1: Describe the issue being addressed and the overall aim of the policy/legislation.

Some policies/legislation have more than one issue impacting on children's rights. Where this occurs, it may be beneficial to screen each issue independently, rather than attempting to explore all issues together.

Question 2: Using the checklist below, identify whether children's rights are likely to be advanced or restricted by the policy/legislation.

All the rights included in the **Convention on the Rights of the Child** (CRC) are necessary to the basic development of a child. No one right is given more importance than any other. They function as integrated components. While individual rights are identified in this section, they may impact all aspects of a child's or family's life.

A direct impact on children's rights refers to policy/legislation that explicitly impacts on a child's life. For example:

- If the policy/legislation changes how children and families access school and early childhood education (i.e. COVID-19 school closures), the right to education is impacted.
- If the policy/legislation results in the redevelopment of community and recreational spaces (i.e. replacing parks with commercial office spaces), the right to rest and leisure is impacted.
- If the policy/legislation results in the collection of personal information that relates to children, the right to privacy is likely to be engaged.

An indirect impact on children's rights occurs where policy/legislation predominantly impacts on those other than children, but children are impacted as a consequence. For example:

- If the policy/legislation impacts the ability of a parent to care for their child (i.e. mandatory sentencing), the best interests of that child must be considered as their wellbeing will be impacted as a result.
- If the policy/legislation impacts on parental access to social or economic benefits, a number of children's rights may be impacted as a consequence of their parent being unable to afford basic necessities.

Refer to the [CRC](#) or Appendix 4 to add more rights, if impacted.

Rights	Advanced	Restricted	Negligible or no impact
Article 2 right to non-discrimination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 3 right to best interests of the child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 6 right to life, survival and development	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 12 right to express own views freely and for those views to be given due weight and respect	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 3: Using the checklist below, are there particular groups of children (including their families and carers) who are more likely to be impacted by the policy/legislation?

- Aboriginal and Torres Strait Islander children
- Culturally and linguistically diverse children (CALD)
- Children with a disability
- LGBTIQ+ children²⁸
- Children experiencing homelessness
- Children in the child protection system
- Children in the youth justice system
- Children from refugee or asylum-seeker backgrounds
- Children living in regional or remote areas
- Children living in low socio-economic households
- Other ... please describe:
- Not applicable

Question 4: Based on the findings of the screening, is a full impact assessment required? If yes, continue to Stage 2. If no, end here.

A full assessment is required if there is clear indication that the policy/legislation will impact on the rights of children or specific groups of children. If the policy/legislation does not engage with children's rights, the impact will be negligible or there are only positive impacts, the assessment may be ended here.

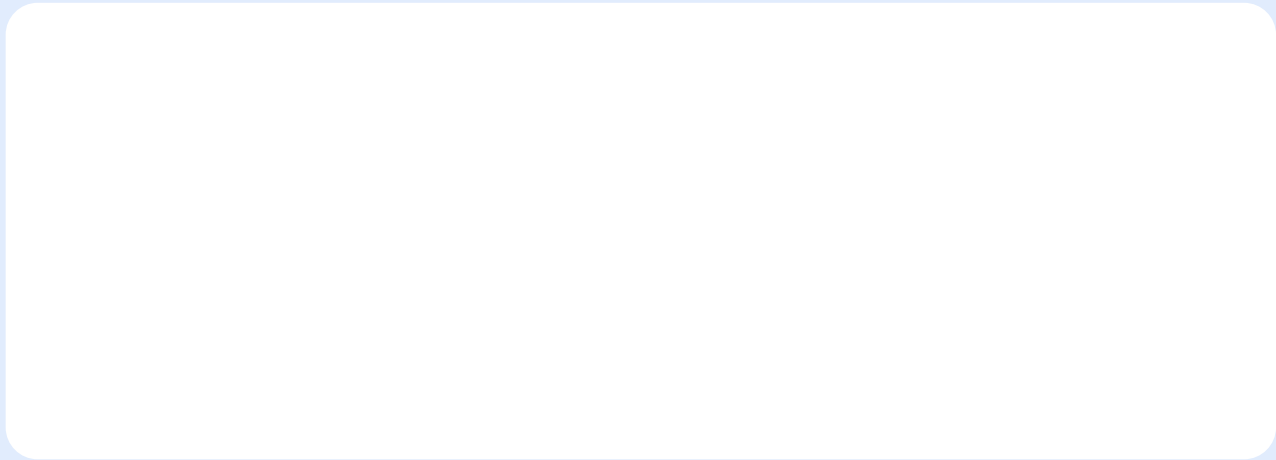
Yes No

If no, briefly explain reasoning.

Stage 2: Identifying sources of information

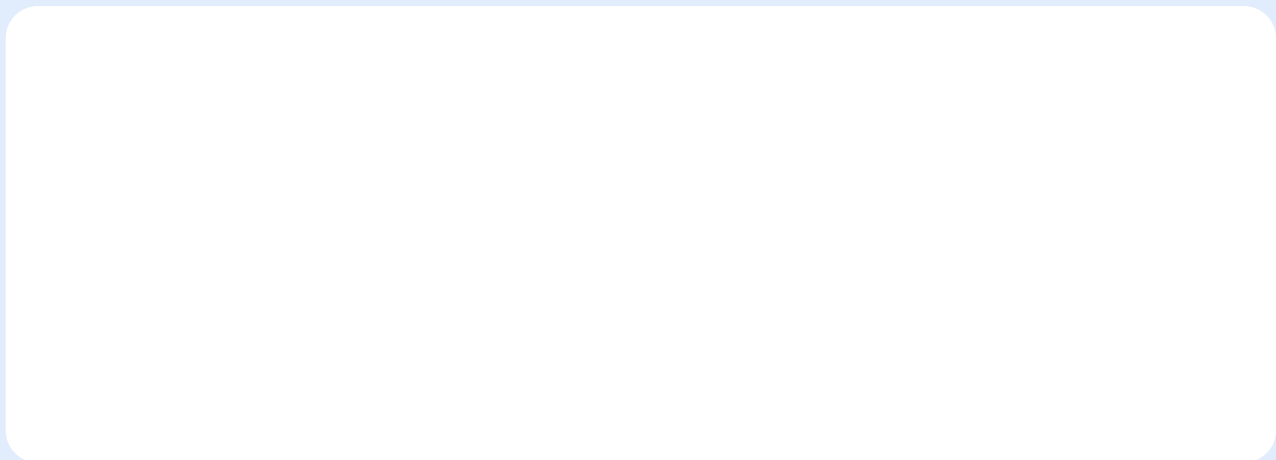
Question 5: What types of information are available in order to make an assessment on the potential impacts of the policy/legislation?

This can be information on issues specific to the policy/legislation, as well as information on similar issues, policies or legislation. For example, similar policy/legislation may be used as evidence to show outcomes of advancing or restricting certain rights.



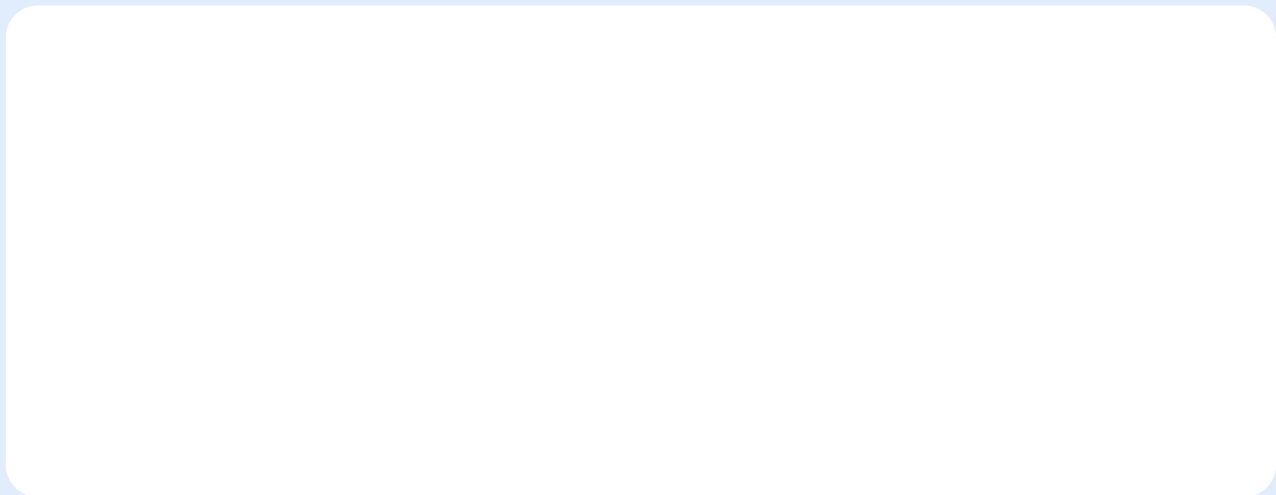
Question 6: What types of information are missing that would be beneficial to this assessment?

It may be beneficial to consider whether similar policy/legislation has been used in the past and whether there were any evaluations. Academic and grey literature (reports, working papers, government documents, policy documents, white papers, working papers, conference proceedings) is also useful.



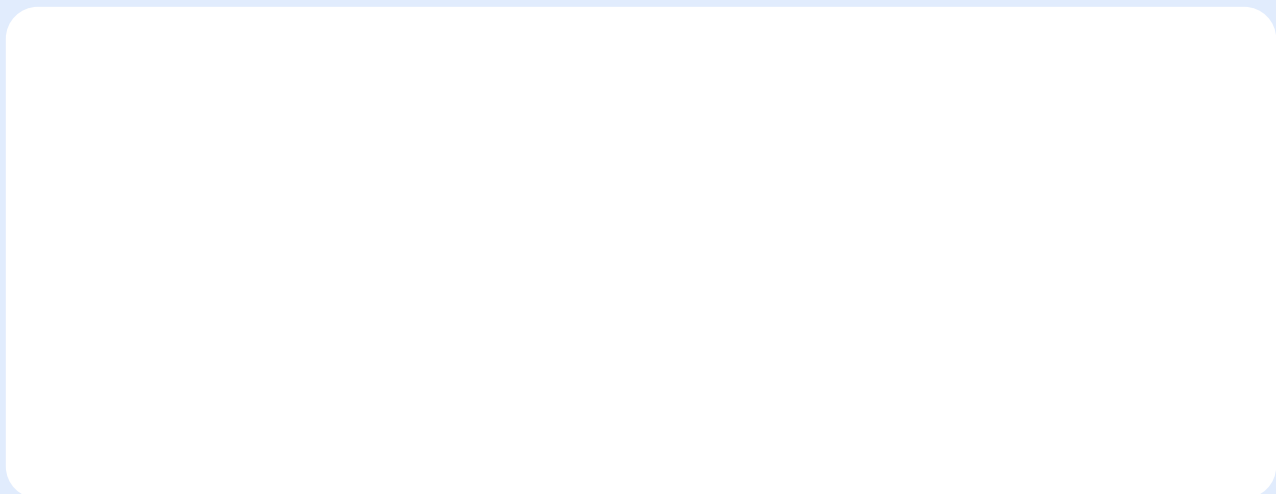
Question 7: Who are the stakeholders that need to be engaged with?

Consider stakeholders that represent or engage with children. This may include family and community members, Children's Commissioners, paediatricians, teachers, learning support staff, child psychologists, Aboriginal and Torres Strait Islander communities, CALD communities, and/or social workers.



Question 8: How have children been engaged in the process of policy/legislation design to ensure their views and experiences inform decision-making? Does this include groups of children who are more likely impacted?

Explain processes of engagement and how these processes enabled children to share their voices and experiences, how they were listened to, how that information was used, and how the processes were in the best interests of children.



Stage 3: Identify potential impacts


Question 9: What are the positive impacts of the policy/legislation on the rights of children?

Provide evidence-based detail of the impacts described in question 2. Consider how these impacts may directly or indirectly restrict the rights of children. If the right is absolute, provide detail about measures or safeguards in the policy/legislation that ensure the right is not limited.



Question 10: What are the negative impacts of the policy/legislation on the rights of children?

Provide evidence-based detail of the impacts described in question 2. Consider how these impacts may directly or indirectly restrict the rights of children. If the right is absolute, provide detail about measures or safeguards in the policy/legislation that ensure the right is not limited.



Question 11: What are the impacts on different groups of children (including their families and carers) of the policy/legislation?

Consider the processes of how and why different groups are impacted using the groups identified in the checklist in question 3.

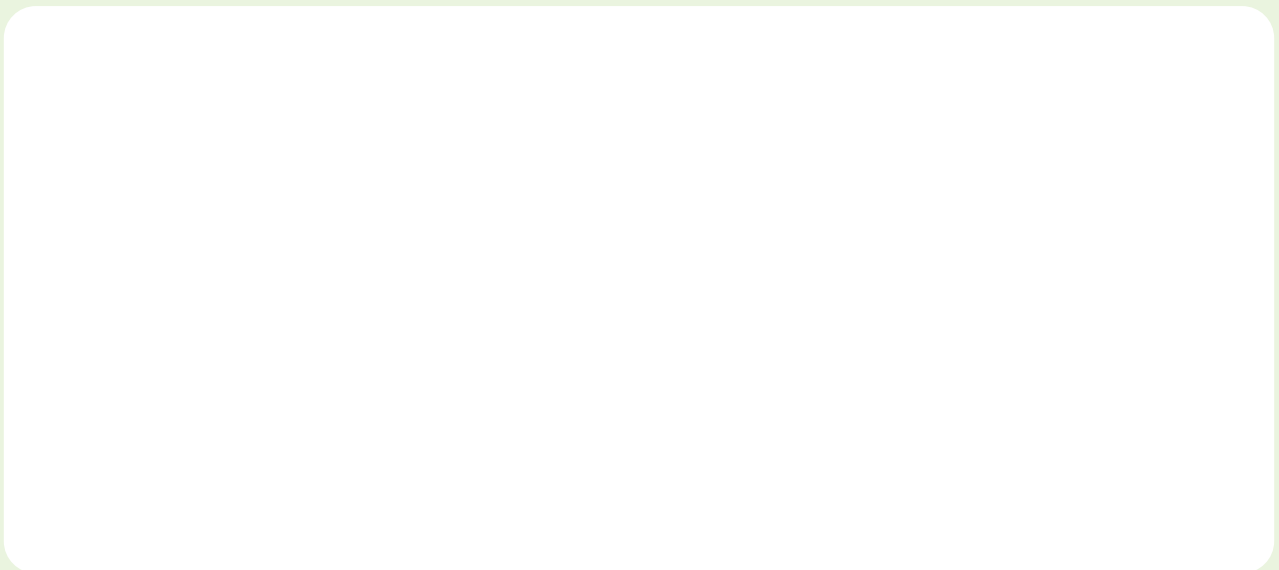
Group	Impact

Stage 4: Analysis of impacts and mitigating factors

Question 12: What measures or safeguards are included in the policy/legislation to mitigate negative impacts or advance positive impacts on the rights of children?



Question 13: Are there specific measures or safeguards included in the policy/legislation to address impacts on specific groups of children who may be more adversely affected? If yes, explain.



Stage 5: Result and recommendations

Question 14: Summarise how this assessment demonstrates why the proposed policy/legislation is in the best interests of children.

Make an informed judgement as to whether a child's best interests are supported by the policy/legislation. The CRC does not explicitly define a child's best interests. However, its meaning can be derived from the content in other CRC Articles, including:

- In the case of actions and decisions affecting an individual child, it is the best interests of that individual child which must be taken into account.
- It is in a child's best interests to enjoy the rights and freedoms set out in the CRC. For example, it is in children's best interests to develop respect for human rights and for other cultures (Article 29.1(b) and (c)). It is in a child's best interest to maintain contact with both parents in most circumstances (Article 9.3).
- It is in the best interests of Indigenous children to be raised in their Indigenous communities (Articles 5, 8.2, and 30).
- A child capable of forming a view on their best interests must be able to give it freely and it must be taken into account (Article 12).
- Parents have primary decision-making responsibility on behalf of their children (articles 5 and 18.1) but, if they fail to make children's best interests a basic concern, the State may intervene to protect those interests (Article 9.1).²⁹

Question 15: Are there any further changes that need to be made to the policy/legislation to ensure children's rights are not negatively impacted?

Stage 6: Publish the CRIA

Question 16: Should the full assessment or a summary be published?

Yes No

If no, why?

Question 17: Will a child-friendly version be produced?

Yes No

If no, why?

Stage 7: Monitor and review

Question 18: Describe the resources allocated to monitoring the key findings and recommendations of this assessment or explain why resources have not been allocated.





Appendix 2: Background information on ECEC and school closures during the COVID-19 pandemic in Australia



(a) The COVID-19 pandemic in Australia and its effect on schools

The World Health Organization declared a Public Health Emergency of International Concern on 30 January 2020, and on 11 March 2020 it made the assessment that COVID-19 could be characterised as a pandemic.³⁰ Australia's first case of COVID-19 was recorded by Victorian authorities on 25 January 2020. Together, these announcements, set in motion national coordination arrangements to combat the spread of the virus.

Australia's federal, state and territory health agencies began meeting daily as did the Australian Health Protection Principal Committee (AHPPC) to provide governments with up-to-date advice on the pandemic. In early March, the Australian Government commissioned the National Coordination Mechanism to coordinate engagement with non-health sectors including transport, police, public safety and education.

The National Cabinet, comprising the Prime Minister, state Premiers, and territory Chief Ministers, was established as a crisis cabinet on 13 March 2020. The AHPPC and the National Coordination Mechanism were tasked with advising the National Cabinet, which aimed to provide a coordinated response to COVID-19 across the states and territories. The National Cabinet made decisions to guide the emergency. The states and territories remained responsible for implementing the decisions utilising their respective Public Health Acts and Emergency Management Acts.³¹

All states and territories, except NSW, declared a public health emergency under their respective Public Health Acts. Additionally, Tasmania, WA and South Australia (SA) declared a state of emergency under their respective Emergency Management Acts, conferring special powers on police and non-health officials. NSW used the general powers provided by the *Public Health Act 2010* (NSW). Victoria subsequently declared a state of disaster on 2 August 2020 giving police greater powers to enforce public health directions.³²

As the pandemic unfolded, the AHPPC advised against the pre-emptive closure of schools and ECEC as there was limited information on the contribution of children to COVID-19 transmission.³³ However, the states and territories were more risk-averse and enacted more comprehensive measures, including school closures, to prevent the spread of infection and to reduce the prospect of overwhelmed public hospitals.³⁴

The COVID-19 pandemic significantly affected education across the globe, reducing student learning.³⁵ The CRC Committee issued a statement warning of the grave physical, emotional and psychological effect of the COVID-19 pandemic on children and called on States to protect the rights of children.³⁶ The statement sets out 11 measures that it calls on States to implement, many of which are relevant to ECEC and school closures.

Schools are about much more than the development of literacy and numeracy skills. Beyond teaching, they can also foster students' development of their self-esteem, self-confidence, identity, emotional skills, social networks, and overall well-being. Schools provide places for the delivery of services such as breakfast and lunch programs, health programs, access to the arts, counselling, and other services.

Given the breadth of factors contributing to human development that schools influence, it was inevitable that the policy of ECEC and school closures would have direct and indirect negative impacts on the human rights of children.

(b) The education system in Australia

Formal education in Australia spans 4 educational stages – ECEC, primary education, secondary education, and tertiary education. Tertiary education institutions are universities, technical and further education, and other vocational colleges.

(i) Early childhood education and care

Childcare services provide education and care services to children aged 0–12 years. The services include:

- centre based day care
- family day care
- outside school hours care

- other care, including services supporting children with additional needs or in particular situations— including Aboriginal and Torres Strait Islander children, children from culturally and linguistically diverse (CALD) communities, children with disabilities, and children living in regional and remote areas—mobile services, playschools and nannies.³⁷

Preschool services deliver a preschool program – structured, play-based learning, delivered by a qualified teacher, aimed at children in the year or 2 before they commence full time schooling.

Responsibility for ECEC is shared by the federal government, state and territory governments and, in some cases, local governments.³⁸ In 2020–21, the Australian Government's main roles and responsibilities included paying the Child Care Subsidy, generally to childcare providers and:³⁹

- provide funding to state and territory governments to support the achievement of universal access to early childhood education, through the National Partnership Agreement on Universal Access to Early Childhood Education
- provide operational and capital funding to some providers.

The state and territory government roles and responsibilities vary across jurisdictions but principally include:

- providing funding and/or preschool services and, in some case, providing funding to childcare services

- providing funding to support the implementation of the National Partnership Agreement on Universal Access to Early Childhood Education
- regulating approved services under the National Quality Framework and licensing and/or registering childcare services not approved under the National Quality Framework
- implementing strategies to improve the quality of ECEC programs
- providing curriculum, information, support, advice, and training and development to ECEC providers.⁴⁰

Local governments also plan, fund, and deliver ECEC.

(ii) Primary and secondary school

School education is similar across Australia, with minor variations between the states and territories. There are 2 main types of schools—primary and secondary—differentiated by the level of education they provide. There is 6 years of primary school (years 1–6) followed by 6 years of secondary school (years 7–12). Primary school age entry requirements vary by jurisdiction. Students normally begin primary school around 5 years of age and finish high school at around 17–18 years old.⁴¹

Australian schools can be broadly categorised into 3 sectors:

- government schools, owned and managed by state and territory governments
- Catholic schools
- independent schools.

The latter 2 are owned and managed by non-government entities.

State and territory governments have been responsible for delivering school education in their jurisdiction since federation. This includes registering and regulating schools (whether government or non-government) and operating government schools. The Australian Government has a role in education funding and national policy. While the federal government does not operate any school, funding responsibility is shared between the federal government and state and territory governments, and national education policy is decided by all governments working together through the National Cabinet. The levels of government work together to progress and implement national education policy priorities, such as: a national curriculum; national statistics and reporting; national testing; and teaching standards.

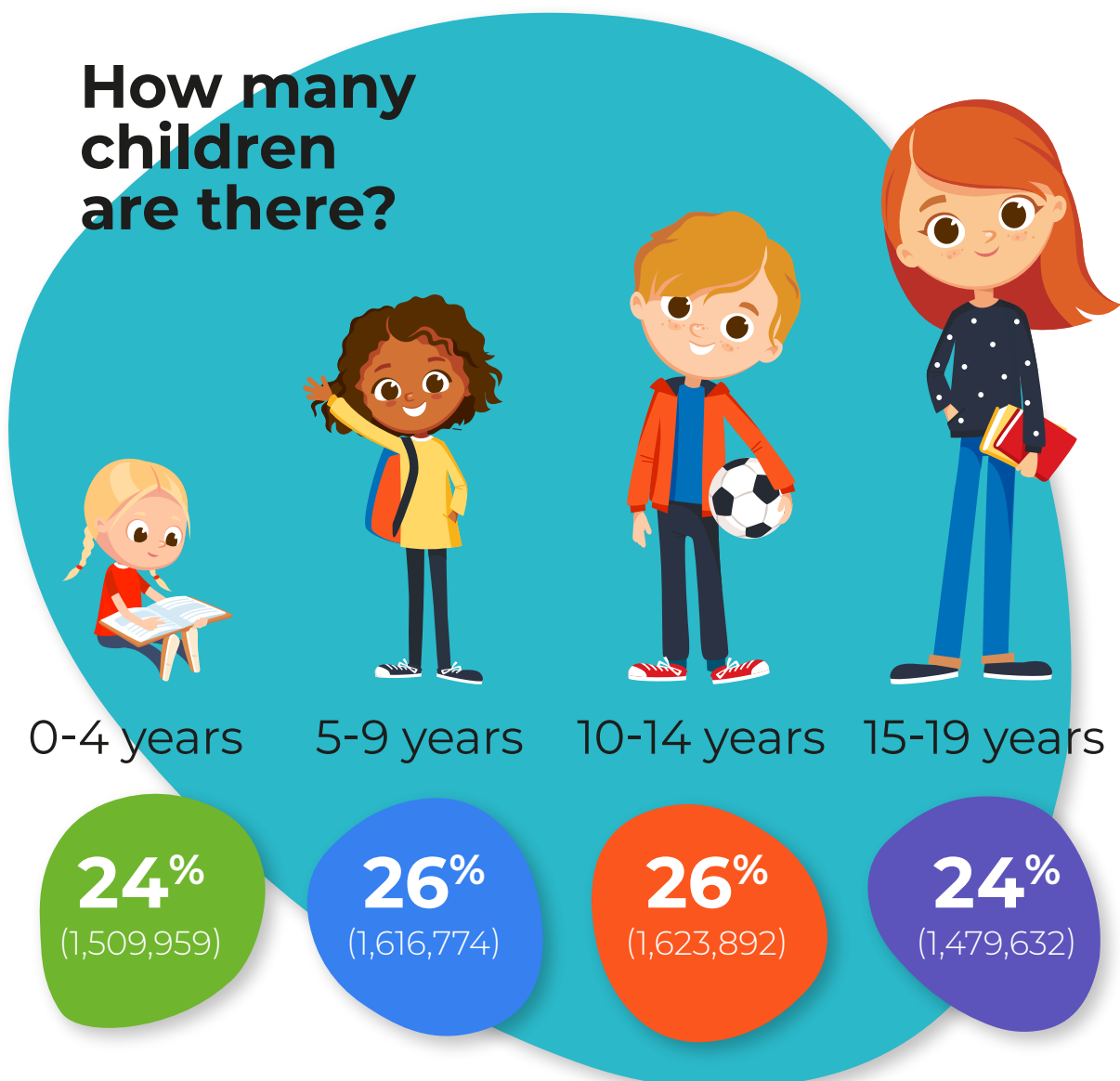
Non-government schools operate under conditions determined by state and territory government registration authorities. State, territory and non-government education authorities are responsible for delivering the Australian Curriculum, including decisions about: implementation timeframes; classroom practices; and resources that complement teaching of the curriculum.⁴²

(c) Demographics of children in Australia

Children and young people up to the age of 19 years are included in these demographics as disaggregated by the Australian Bureau of Statistics.

(i) How many children are there?

As at June 2021, there were 6,230,257 children and young people aged 19 and under in Australia:⁴³



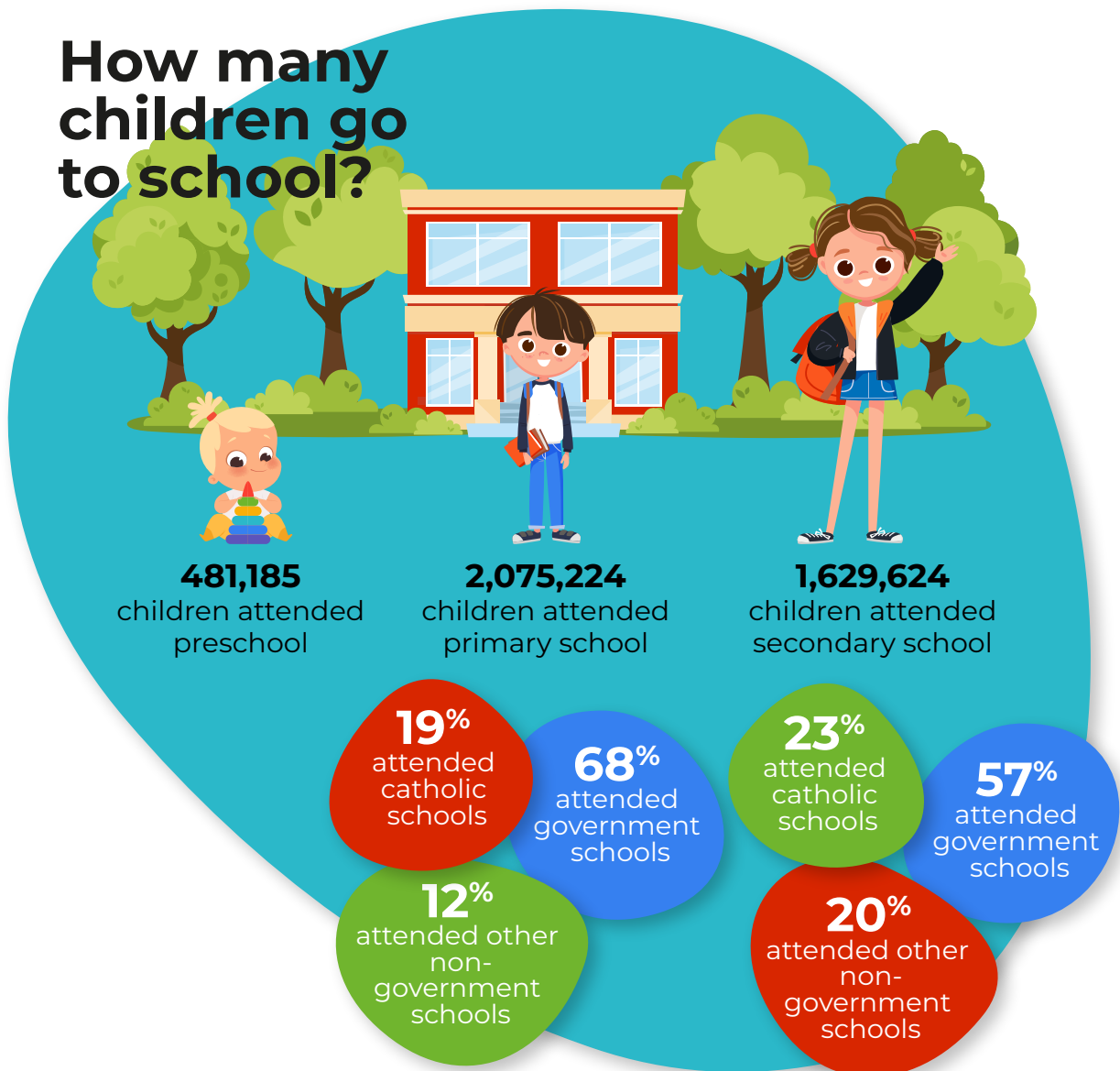
3,024,898 of these children were female and 3,205,359 were male. As at June 2021, 211,821 children (aged 0-19) required assistance with core activities as a result of a long-term health condition or disability.⁴⁴ 14,002 (7%) of these children attended preschool, 96,251 (45%) attended primary school, and 62,227 (29%) attended secondary school.⁴⁵

As at June 2021, there were 345,052 Aboriginal and Torres Strait Islander children and young people aged 19 and under in Australia:⁴⁶



(ii) How many children go to school?

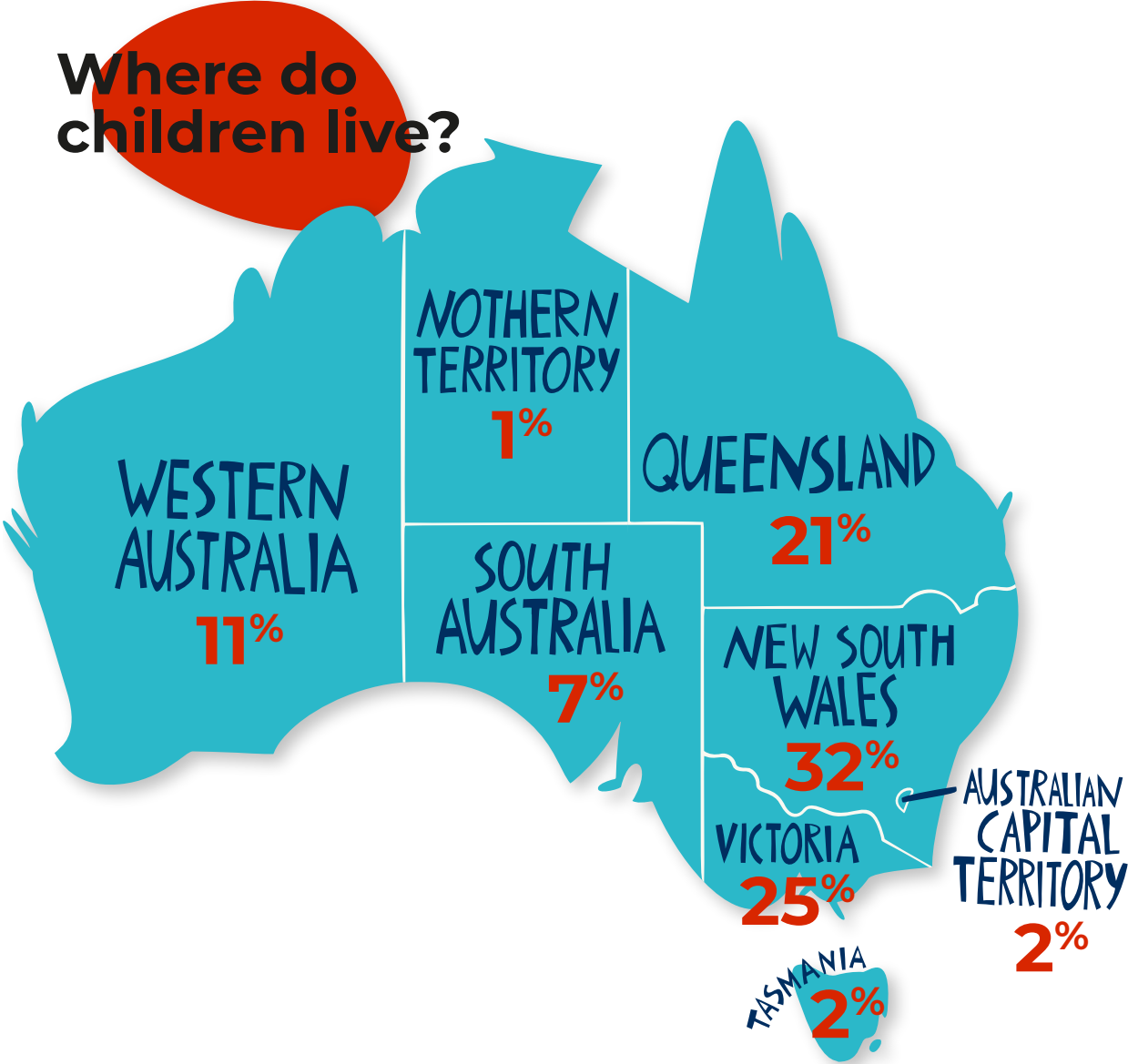
In 2021, 4,189,033 children attended early learning, primary or secondary schools in Australia:⁴⁷



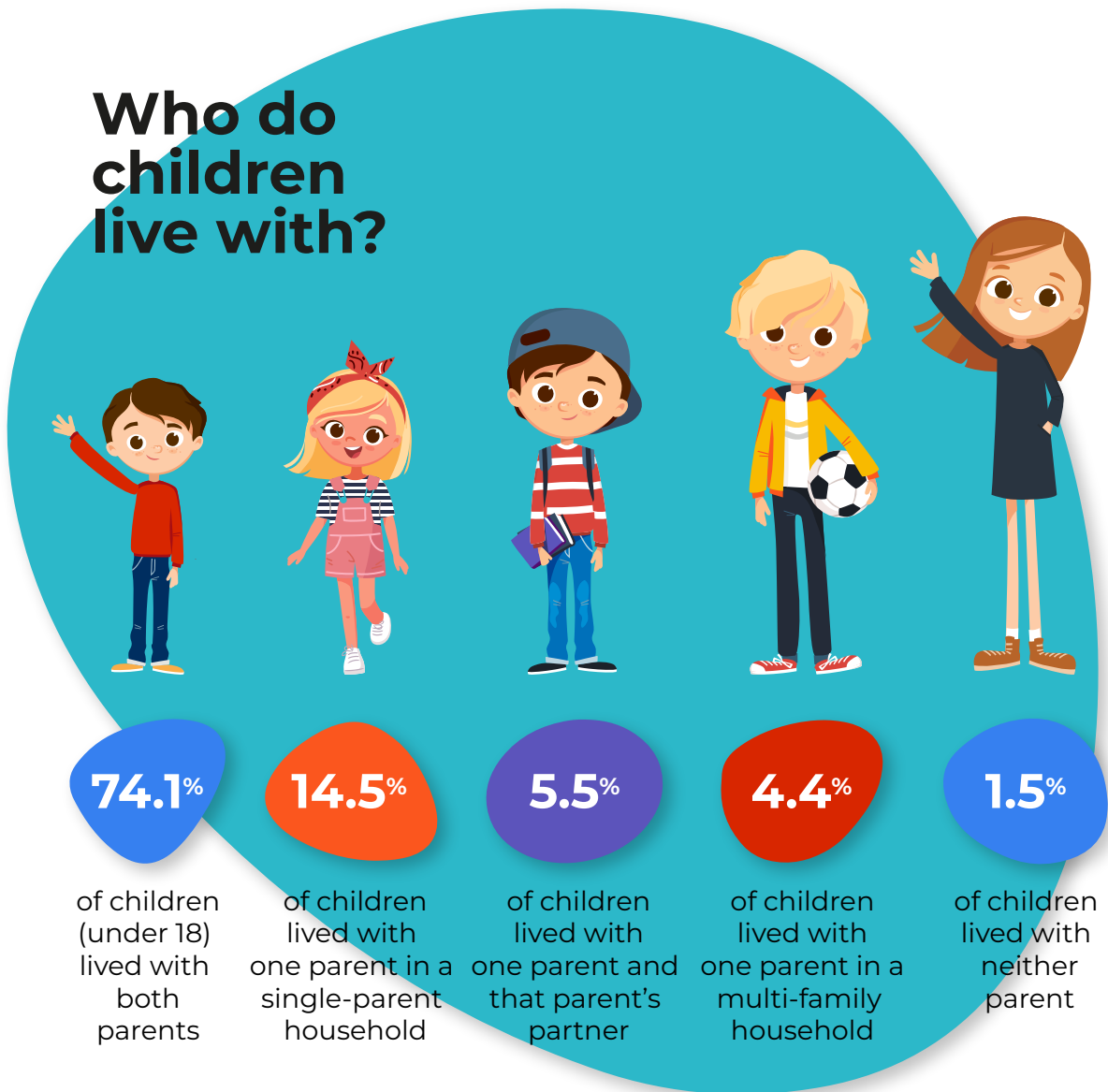
Aboriginal and Torres Strait Islander students comprised 5% of preschool students (25,485), 6% of primary students (120,864), and 2% of secondary school students (83,631).⁴⁸

(iii) Where do children live?

As at June 2021, children in Australia aged 0-19 lived in:⁴⁹



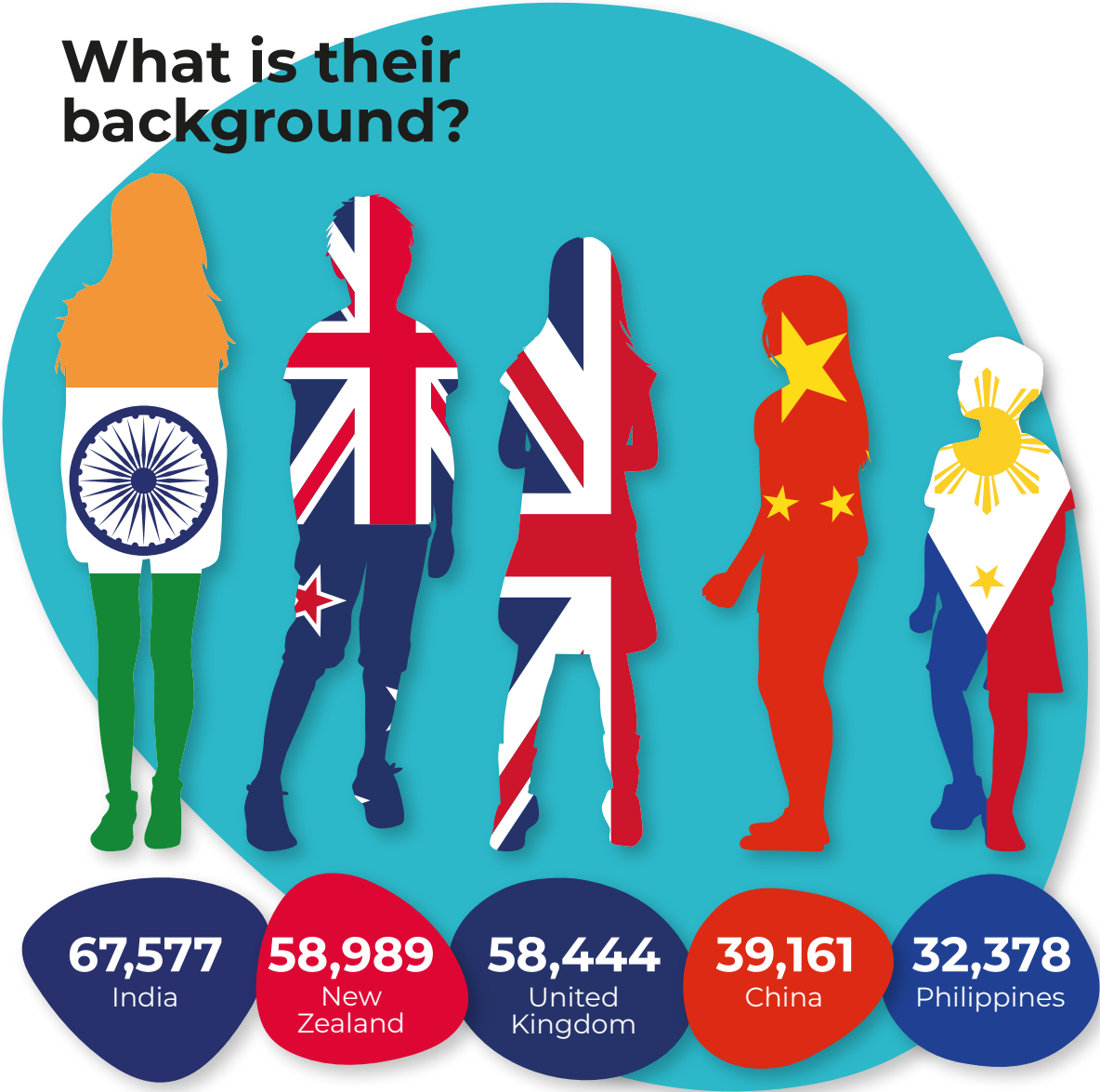
According to the 2020 Household, Income and Labour Dynamics in Australia survey, in 2018:⁵⁰



Across Australia, 1 in 32 children received assistance from child protection services, as of 2020-2021.⁵¹ Of these children 120,800 were the subject of an investigation, 72,700 were on care and protection orders and 56,900 were in out-of-home care.

(iv) What is their background?

As at December 2021, estimated 16% of children (aged 0-19) were born overseas. The top 5 countries of birth other than Australia were:⁵²



The most common languages spoken at home other than English included Arabic, Vietnamese, Punjabi, Greek and Italian.⁵³

(d) The impact of disasters on children (before COVID-19)

The Senate Select Committee on COVID-19 identified that before the pandemic, inequalities in outcomes for children in Australia were known and the pandemic has exposed and ‘probably widened a number of those inequalities.’⁵⁴ The Special Rapporteur on the right to education has also identified that while new grounds of discrimination may be of increasing importance in the post COVID-19 context, such as the lack of access to the internet, the new grounds simply reflect pre-existing structural inequalities.⁵⁵

The WA Commission for Children and Young People noted in their 2021 *Speaking Out Survey* that the negative findings on mental health, the gender gap in wellbeing and perceptions of safety of children were all evident in the 2019 survey, which predated the pandemic.⁵⁶ Previous disease outbreaks, natural disasters and financial downturns, also provide sufficient evidence to show that children would also be particularly vulnerable to child abuse and neglect during COVID-19.⁵⁷

Australian communities have long experienced disasters. Following the drought, bushfires and flooding in NSW during 2019 to early 2020, the NSW Office of the Advocate for Children and Young People consulted with over 1400 children via focus groups and an online poll to hear their experiences, and to provide them a platform to inform decision-makers on how best to support their needs before, during and after disaster.⁵⁸ The outcome report provides invaluable information on the impact of disasters on children.⁵⁹ The *10 Years Beyond Bushfires Report* also notes that even very young children can be affected by the disaster for years afterwards, and that all children should be involved in recovery decisions and activities in age appropriate ways.⁶⁰

Developing responsive policies to address the impact of disasters on children requires appropriately disaggregated data. AIHW notes gaps in child-specific data due to national data sources being predominantly administrative – information collected as part of service delivery with surveys generally administered only to those aged 15 and over or 18 and over.⁶¹ This means that the voices of young people under 15 years and sometimes 15–18 years are missing. Reporting on the voices of young people may require looking at different modes of data collection and understanding how children and young people would like to see their opinions and data reported.⁶²

Reporting data for different population groups, critical for understanding issues of inequity, are also missing. The groups include:

- children and young people of refugee and asylum seeker families
- children and young people from CALD backgrounds or children born overseas
- children and young people living and who have lived in out-of-home care
- incarcerated children and young people
- children and young people with disability
- children and young people who identify as LGBTQIA+.⁶³

(e) Regulatory basis for decision-making during the pandemic

In Australia, there is no single law which gives one level of government sole power to formulate and implement a national response to an emergency or disaster. However, the federal government has powers and functions in various federal laws which may be exercised during states of emergency to assist the states and territories in responding to and managing the emergency.

(i) Federal

In Australia, under the *Biosecurity Act 2015* (Cth), a human biosecurity emergency can be declared where it is reasonably necessary to prevent or control a disease posing a severe and immediate threat of harm. On the 18 March 2020, the Governor-General declared a 'human biosecurity emergency' across Australia that conferred extraordinary powers on the Minister for Health to issue targeted, legally enforceable directions and requirements to combat COVID-19.⁶⁴

At the federal level, the Parliamentary Joint Committee on Human Rights, established in 2012, examines all bills and legislative instruments for compatibility with human rights, and reports to both Houses of Parliament on its findings. During COVID-19 lockdowns, the Committee continued to meet and report to the Parliament and paid particular attention to scrutinising laws relating to the COVID-19 response. The Committee noted that Australia's human rights obligations require it to take effective measures to protect the rights to life and health, meaning measures to protect Australians from the spread of COVID-19.

Human Rights Compatibility statements were made on amendments to the *Family Assistance Legislation Amendment (Child Care Subsidy) Act 2021* (Cth), *Family Assistance Legislation Amendment (Child Care Subsidy) Act 2021* (Cth), *Family Assistance Legislation Amendment (Early Childhood Education and Care Coronavirus Response and Other Measures) Act 2021* (Cth), *Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020* (Cth) Schedule 4, *Coronavirus Economic Response Package Omnibus Act 2020* (Cth) Schedule 9, *Family Assistance Legislation Amendment (Building on the Child Care Package) 2019* (Cth).⁶⁵ These statements are found in the explanatory memorandums for the legislation.

The federal government was not involved in the development or implementation of any legislation that had been used in closing schools or ECEC services.⁶⁶

(ii) Australian Capital Territory

The ACT Government declared a public health emergency pursuant to the *Public Health Act 1997* (ACT) on 16 March 2020.⁶⁷ This provided the Chief Health Officer with additional powers to do what is necessary to contain the spread of COVID-19. When making public health emergency directions, the Chief Health Officer considered the impact of the measures on human rights. On 12 May 2022, the seventh public health emergency direction on restricted activities was extended to the end of the pandemic. The decision to close schools was strongly informed by the public health advice both at a national level and in the context of the COVID-19 situation in the ACT.

The ACT Government also relied upon the *Education Act 2004* (ACT), *Education and Care Services National Law Act 2011* (ACT), the Public Health Declarations under the *Public Health Act 1997* (ACT) and the Education and Case Service National Regulations to support the closure of schools.⁶⁸

(iii) New South Wales

The NSW Government has the power to deal with public health risks under the *Public Health Act 2010* (NSW). A 'State of Emergency' does not need to be declared to use these powers. A series of public health orders were issued by the Minister for Health under section 7 of the *Public Health Act 2010* (NSW) in response to COVID-19.⁶⁹ Orders made under the public health powers expire after 90 days unless they are withdrawn or made to expire sooner.

The NSW Government did not direct ECEC services to close, unless under directions issued by NSW Health.⁷⁰

(iv) Northern Territory

The Minister for Health declared a public health emergency for the whole of the Northern Territory (NT) under the *Public and Environmental Health Act 2011* (NT) in response to COVID-19.⁷¹ The declaration gave powers to the Chief Health Officer to take action and give directions necessary to alleviate the public health risk posed to the community by COVID-19. In addition to the declaration of a public health emergency, other declarations included border closures and importantly exclusion zones to help prevent the spread of COVID-19 to Indigenous communities.⁷²

(v) Queensland

Queensland was the first to declare a public health emergency on 29 January 2020 pursuant to the *Public Health Act 2005* (Qld). The legislation was strengthened by the *Public Health (Declared Public Health Emergencies) Amendment Act 2020* (Qld) on 6 February 2020.⁷³ The amended legislation gave the Queensland Chief Health Officer—rather than the Minister for Health—broad powers to assist in containing or responding to the spread of COVID-19 in the community. On 18 March 2022, the declared public health emergency for COVID-19 was extended to 24 June 2022.⁷⁴

All ECEC services that closed did so based on their own choice unless directed to by Queensland Health under a health direction.⁷⁵

(vi) South Australia

The State Coordinator for SA declared a 'Major Emergency' pursuant to section 23(1) of the *Emergency Management Act 2004* (SA) on 22 March 2020.⁷⁶ It gave the State Coordinator (and Authorised Officers) broad powers to manage and co-ordinate the response to, and recovery from, the outbreak of COVID-19 within SA. The Governor can extend the Emergency Declaration for a period of 28 days. This occurred during 2020 to 2022 and was recently extended for a further period from 2 April 2022 for 28 days.⁷⁷ A Public Health Emergency can also be declared under the *South Australian Public Health Act 2011* (SA).

(vii) Tasmania

The *Public Health Act 1997* (Tas) authorised the Director of Public Health to declare a public health emergency. On 17 March 2020, the Director of Public Health declared a public health emergency for Tasmania, and on 19 March, the Premier declared a 'State of Emergency' pursuant to the *Emergency Act 2006* (Tas).⁷⁸ Since then the public health emergency declaration was extended multiple times. A further extension of the declaration was declared until 30 June 2022.⁷⁹

(viii) Victoria

On 16 March 2020, the Victorian Government declared a 'State of Emergency' under the *Public Health and Wellbeing Act 2008* (Vic) for 4 weeks to strengthen measures to 'flatten the curve' and give the Victorian health system its best chance of managing COVID-19.⁸⁰ The *Public Health and Wellbeing Act 2008* (Vic) sets time limits on the 'State of Emergency'. The time limit was extended by the Victorian Parliament multiple times over the course of 2020–2021.

The Victorian Government introduced a framework specific to pandemics in the *Public Health and Wellbeing Act 2008 (Vic)* – Part 8A in 2021. The framework is meant to ensure that Victoria can continue to effectively manage the COVID-19 pandemic from December 2021. Several accountability mechanisms were introduced, including an assessment of any human rights that were restricted by the pandemic orders, released by the Minister for Health.⁸¹

(ix) Western Australia

On 15 March 2020, the Minister for Emergency Services declared a ‘State of Emergency’ from 16 March 2020 pursuant to section 56 of the *Emergency Management Act 2005 (WA)*.⁸² On 16 March 2020, the Minister for Health declared a ‘Public Health State of Emergency’ from 17 March 2020 under section 167 of the *Public Health Act 2016 (WA)*. Both declarations were reviewed and extended during 2020-2022.⁸³

The postponement of Term 1, 2021 for one week was enacted under the *Stay at Home and Closure (Perth, Peel and the South West Regions) Directions (No 2)*. Permitting students to participate in remote learning was within the remit of school principals under the *School Education Act 1999 (WA)*.⁸⁴

(f) Summary of school closures in Australia

(i) National Cabinet

Initially, the AHPPC advised against pre-emptive closure of schools and ECEC as there was limited information on the contribution of children to the transmission of COVID-19.⁸⁵ Advice was reviewed daily as the AHPPC identified that

school closures for shorter periods could be considered as part of a suite of more stringent distancing measures later in the outbreak, and short-term reactive school closures could also be warranted to allow for cleaning and contact tracing to occur in response to an outbreak in a given school. Boarding schools were treated differently as they were considered to be at high risk of transmission due to the shared living arrangements and higher frequency of face-to-face contact.⁸⁶ Schools and parents were to consider the risks and benefits, and make their own decision, noting that the pandemic was considered likely to span more than 6 months.

As case numbers increased in the community, National Cabinet agreed that while it was preferable that schools remained open, parents would be allowed to keep their children away from school.⁸⁷ Changes to face-to-face education and ECEC were introduced across the jurisdictions – with variations – from 24 March 2020.

(ii) Australian Capital Territory

The ACT Minister for Education and Early Childhood Development announced on 22 March 2020 that ACT schools would move to pupil-free days from 24 March 2020 through to the school holidays, as the ACT school system prepared to transition to alternative teaching models from Term 2.⁸⁸ Subsequently, the Minister announced the planned return to on-campus learning for government schools, with a staged return starting from 18 May 2020.⁸⁹

In 2021, a 7 day lockdown was announced on 12 August 2021, and further extended to 15 October 2021.⁹⁰

Since 2020, ACT public schools continued to remain open for children who needed to attend the school, such as children of essential workers and vulnerable children, and all ACT Specialist Schools continued to remain open for children with disability. ECEC services were also not required to close and children who needed to attend were able to keep attending services, although alternative care was preferred.⁹¹

(iii) New South Wales

On 23 March 2020, the NSW Premier announced new restrictions following the decision by the National Cabinet in which non-essential activities and businesses would be temporarily shut down.⁹² Schools would continue to remain open, however, parents were encouraged to keep their children at home. The ECEC sector was never directed to close. When certain geographical hot spots went into lockdown, families were encouraged to keep their children home, though the services were not closed.

Schools were at times temporarily closed, as a risk mitigation strategy, where there was a confirmed case of COVID-19 within the school environment, for deep cleaning and contact tracing to reduce the risk of transmission in schools. NSW Government primary and secondary schools remained open for vulnerable students and children of front-line workers for most of 2020–21.⁹³

Throughout 2021, schools were temporarily closed in response to specific outbreaks across NSW.⁹⁴ Exemptions were always in place for vulnerable students and the children of essential workers to come to school.

(iv) Northern Territory

The NT's approach to the potential closure of schools and ECEC during 2020–21 was to prioritise face-to-face learning for all children by mandating that schools and ECEC were to be the first to open and the last to close.⁹⁵

The only school closures that occurred in the NT were for a short duration and initiated by schools and ECEC based on local conditions. For instance, the last 4 days of Term 1 2020 became student-free days to enable better planning for Term 2.⁹⁶ COVID-19 did not have a significant impact on learning in 2020–21, enrolments remained high and in the case of ECEC, enrolments increased in 2020.⁹⁷

There were some changes to this situation in 2022 with widespread community transmission of the Omicron variant. As a result, measures were introduced to ensure schools were safe for children to return, including by encouraging face masks and vaccinations, and placing proper ventilation in classrooms.⁹⁸ However, the majority of students and young children's education was uninterrupted.

(v) Queensland

In Queensland, a pupil free week was declared at the end of March 2020, and schools transitioned to remote learning for the first 5 weeks of Term 2, 2020.⁹⁹ Children of essential workers and students experiencing vulnerability remained able to attend.

There were several 3 to 8 day circuit-breaker closures in selected local government areas (LGAs) during 2021.¹⁰⁰ The start of the 2022 school year was delayed until 7 February 2022, and remote learning for students in Years 11 and 12 to commence from 31 January 2022. Schools were open to students experiencing vulnerability and children of essential workers from 24 January 2022.¹⁰¹

(vi) South Australia

On 13 March 2020, the SA Minister for Education communicated advice to education agencies that schools would close for a minimum of 24 hours in the event of a confirmed COVID-19 case and only reopen on the advice of health experts when safe to do so.¹⁰² Families were urged to send their children to school or preschool from the start of Term 2 2020, based on the advice of SA Health that schools, preschools and early childhood facilities were low-risk and should remain open.

The management of cases and decisions to close schools was directed by SA Health on a case-by-case basis. Any short-term site closures related to the need for close contacts to isolate and for undertaking thorough cleaning of the site to ensure the health and safety of children, staff and the wider community. For example, on the 30 March 2020, all SA schools, early childhood facilities and out of school hours care services in and between the towns of Nuriootpa, Tanunda, Angaston, Lyndoch and Williamstown were closed to stop the spread of COVID-19.¹⁰³ The schools reopened at the end of April 2020.¹⁰⁴ During 2020 and 2021, apart from case-by-case circumstances and a 6 day circuit-breaker, schools remained open in SA. At this time, devices and internet dongles were provided to students that needed them to ensure that they were able to participate in remote learning.

(vii) Tasmania

On 25 March 2020, the Minister for Education and Training Tasmania announced that parents could choose to keep their children at home, with learning at home opportunities to be provided as much as practicable.¹⁰⁵

In addition, school holidays were brought forward to 9 April 2020, with school staff using the pupil-free days to plan and prepare for learning at home in Term 2. On 24 April 2020, the Minister announced that all government and Catholic schools in the North-West of Tasmania would remain closed, with Term 2 commencing on 4 May 2020.¹⁰⁶ Government schools outside this region would commence Term 2 on 28 April 2020.

Term 2 recommenced with students being urged to learn from home, but could learn on-site, if they required. Restrictions in the North-West of Tasmania remained, meaning all students must learn from home. These restrictions were lifted on 4 May 2020, allowing students to return to school if they needed to.¹⁰⁷ On 8 May 2020, a roadmap to recovery was introduced, detailing a staged return to on-site learning, starting with kindergarten to Year 6, and Year 11 and 12 students from 25 May 2020 and for all remaining students on 9 June 2020.¹⁰⁸

Southern Tasmania, across 12 LGAs experienced a 3-day snap lockdown between 15-18 October 2021.¹⁰⁹ Between these dates, students in these areas were required to learn at home, unless they needed support.

No other restrictions to on-site learning applied across 2021 and 2022.

(viii) Victoria

On 7 April 2020, the Victorian Government announced that all government primary, secondary and special schools would move to remote and flexible learning.¹¹⁰ Under these measures, on-site learning was only available for children whose parents could not work from home and vulnerable students without access to a suitable learning environment at home. Changes were also announced to the academic timetable for Victorian Certificate of Education (VCE) and Victorian Certificate of Applied Learning (VCAL) students.

Following a brief return to on-site learning in May and June 2020, Stage 3 restrictions were reinstated in metropolitan Melbourne and Mitchell Shire on 8 July 2020 for a period of 6 weeks.¹¹¹ All Year 11 and 12 students in metropolitan Melbourne and Mitchell Shire were to go back to school for Term 3 along with special schools. For students in Prep to Year 10, school holidays were extended by one week.¹¹²

On 12 July 2020, most Victorian students in the areas under Stage 3 'Stay at Home' restrictions moved to flexible and remote learning for the start of Term 3, 20 July 2020, until at least 19 August 2020.¹¹³ All Victorian students returned to remote learning following the declaration of a 'State of Emergency' on 2 August 2020, with the exception of children whose parents were permitted workers and vulnerable children who could not learn from home.¹¹⁴ Melbourne entered Stage 4 restrictions with a curfew from 8pm to 5am.¹¹⁵ These changes would be in place for at least the next 6 weeks until 13 September 2020.

Face-to-face learning for students in regional and rural Victoria recommenced on 5 October 2020, with schools able to stagger the return of different grades, depending on local circumstances.¹¹⁶ Students in metropolitan Melbourne resumed in-person learning, from 12 October 2020 utilising a staggered approach depending on their year level.¹¹⁷

In 2021, all students returned to learning on-site for Term 1 on 27 January 2021.¹¹⁸ To ensure the health and safety of all students and staff, free rapid antigen tests (RATs) were made available in schools and masks were made mandatory. With the rise of COVID-19 cases, a 'circuit-breaker' lockdown was introduced on 15 February 2021, taking place until 17 February 2021, as part of reintroduced Stage 4 restrictions.¹¹⁹ Masks were no longer required in schools by 28 February 2021 but were strongly recommended.

A second circuit-breaker lockdown with Stage 4 restrictions commenced in Term 2 on 28 May 2021.¹²⁰ It concluded on 3 June 2021 for all regional Victorian students and only students in Years 11 and 12 in metropolitan Melbourne. All students returned to on-site learning the following week on 11 June 2021.

Students across Victoria returned to remote learning arrangements on 20 July 2021, in line with another reintroduction of Stage 4 lockdown restrictions as the Delta-variant rapidly spread across Victoria.¹²¹ This lasted until 28 July 2021 and recommenced on 5 August 2021.¹²² In Term 3, the Year 12 General Achievement Test was also delayed by one month to 9 September 2021 to restrict face-to-face contact and protect the broader school community.¹²³

Returning to school was approached through a staggered plan with only some grades in regional Victoria returning on 11 October 2021, before all could return on 22 October 2021.¹²⁴ For metropolitan Melbourne, with a staggered approach, all students returned to in-person learning on 26 October 2021 as vaccination rates rapidly increased.¹²⁵

In 2022, students returned to school as normal, with masks recommended indoors.

(ix) Western Australia

On 23 March 2020, the WA Premier announced the introduction of Stage 1 restrictions, with the expectation that the restrictions would be in place for at least 6 months.¹²⁶ Schools would remain open until the end of the school term, as agreed by National Cabinet; however, parents would not face the usual consequences if they decided not to send their children to school.

On 26 March 2020, the WA Government announced new learning arrangements for government schools from 30 March 2020.¹²⁷ While schools would remain open, families were encouraged to keep children at home. In April 2020, the WA Government announced that government schools would be open to all parents and carers who chose to send their children to school from the beginning of Term 2 and distance education resources would be provided to students who continued to learn at home.¹²⁸ All school students were required to return to school from 18 May 2020, with an exemption for students who were medically vulnerable or had a family member with a chronic health condition.¹²⁹

In 2021, the commencement of Term 1 was postponed for one week.¹³⁰ The week was deemed an extra week of holidays for staff and students and no online learning was provided. Schools reopened as normal in Week 2, Term 1, 2021.

**Appendix 3: Applying the
CRIA tool to COVID-19
pandemic policy and
legislation relating to the
closure of schools and early
childhood education and
care in Australia**

Child Rights Impact Assessment (CRIA) tool

Key considerations when using the tool:

- **Confirmation bias:** Care should be taken to avoid bias when assessing positive and negative impacts by exploring all available research and evidence before making judgements.
- **Knowledge:** Policy/decision-makers undertaking a CRIA require a general understanding of human rights and the CRC (see Appendix 4).
- **Capacity:** Sufficient resources and time must be allocated to collecting appropriate information and completing a rights-based analysis, including by having access to expert advice; tools to guide and shape the process; access to relevant data sets; and a clear expectation of involving children.
- **Identifiable information:** No identifiable information should be included in a CRIA.

Policy/legislation name:

Date:

COVID-19 pandemic policy and legislation relating to the closure of schools and early childhood education and care (ECEC) across Australia between 03/2020-03/2022.

31/03/2022

Responsible government agency/department:

Key contact:

Assessment completed by the Australian Human Rights Commission.

N/A

Stage 1: Screening

Question 1: Describe the issue being addressed and the overall aim of the policy/legislation.

Some policies/legislation have more than one issue impacting on children's rights. Where this occurs, it may be beneficial to screen each issue independently, rather than attempting to explore all issues together.

The issue under consideration is the policy and legislative impacts of ECEC and school closures across Australia during the COVID-19 pandemic.

The overall aim of the closures was to prevent spread of infection and reduce the prospect of overwhelmed public hospitals.¹³¹

Each jurisdiction closed schools and ECEC at various times during 2020 and 2022 because of different infection rates between communities, and government priorities. The overall impact of the closures affected all ECEC and school students.

Background information relevant when considering this issue includes:

- the COVID-19 pandemic in Australia
- the education system in Australia
- demographics of children
- what did we know about the impact of disasters on children before COVID-19
- the regulatory basis for decision-making relating to public health and emergency declarations
- summary of school closures in Australia.

Details of this background information are provided in Appendix 2. This information shows that the policy and legislation changes impact all children across Australia directly and indirectly.

Question 2: Using the checklist below, identify whether children’s rights are likely to be advanced or restricted by the policy/legislation.

All the rights included in the [Convention on the Rights of the Child](#) (CRC) are necessary to the basic development of a child. No one right is given more importance than any other. They function as integrated components. While individual rights are identified in this section, collectively they can influence all aspects of a child’s or family’s life.

A direct impact on children’s rights refers to policy/legislation that explicitly impacts on a child’s life. For example:

- If the policy/legislation changes how children and families access school and early childhood education (i.e. COVID-19 school closures), the right to education is impacted.
- If the policy/legislation results in the redevelopment of community and recreational spaces (i.e. replacing parks with commercial office spaces), the right to rest and leisure is impacted.
- If the policy/legislation results in the collection of personal information that relates to children, the right to privacy is likely to be engaged.

An indirect impact on children’s rights occurs where policy/legislation predominantly impacts on those other than children, but children are impacted as a consequence. For example:

- If the policy/legislation impacts the ability of a parent to care for their child (i.e. mandatory sentencing), the best interests of that child must be considered as their wellbeing will be impacted as a result.
- If the policy/legislation impacts on parental access to social or economic benefits, a number of children’s rights may be impacted as a consequence of their parent being unable to afford basic necessities.

Refer to the [CRC](#) or Appendix 4 to add more rights, if impacted.

Appendix 3 | Applying the CRIA tool to COVID-19 pandemic policy and legislation relating to the closure of schools and early childhood education and care in Australia

Rights	Advanced	Restricted	Negligible or no impact
Article 2 right to non-discrimination	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Article 3 right to best interests of the child	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 6 right to life, survival and development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 12 right to express own views freely and for those views to be given due weight and respect	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 19 right to protection from violence, abuse and neglect	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Article 24 right to health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 27 right to adequate standard of living	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Article 28 right to education	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Article 30 right to culture and language	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Article 31 right to rest, leisure and play	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Question 3: Using the checklist below, are there particular groups of children (including their families and carers) who are more likely to be impacted by the policy/legislation?

- Aboriginal and Torres Strait Islander children

 - Culturally and linguistically diverse children (CALD)

 - Children with a disability

 - LGBTIQA+ children¹³²

 - Children who are homeless

 - Children in the child protection system

 - Children in the youth justice system

 - Children from refugee or asylum-seeker backgrounds

 - Children living in regional or remote areas

 - Children living in low socio-economic households

 - Other ... please describe:

 - Not applicable
-

Question 4: Based on the findings of the screening, is a full impact assessment required? If yes, continue to Stage 2. If no, end here.

A full assessment is required if there is clear indication that the policy/legislation will impact on the rights of children or specific groups of children. If the policy/legislation does not engage with children's rights, the impact will be negligible or there are only positive impacts, the assessment may be ended here.

Yes/No (If no, briefly explain reasoning.)

Stage 2: Identifying sources of information

Question 5: What types of information are available in order to make an assessment on the potential impacts of the policy/legislation?

This can be information on issues specific to the policy/legislation, as well as information on similar issues, policies or legislation. For example, similar policy/legislation may be used as evidence to show outcomes of advancing or restricting certain rights.

- previous reporting on the impacts of Australian disasters – including the NSW bushfires and flooding reports (these sources are described in more detail in Appendix 2(d))
- academic material, including journal articles
- reporting by Children’s Commissioners across Australia
- reporting by research institutions and NGOs – for example, Children and Young People with Disability Australia (CYDA), Mission Australia and SNAICC
- data provided by the AIHW and the Australian Bureau of Statistics
- material gathered from government departments
- engagement with children and young people’s advisory groups.

Question 6: What types of information are missing that would be beneficial to this assessment?

It may be beneficial to consider whether similar policy/legislation has been used in the past and whether there were any evaluations. Academic and grey literature (reports, working papers, government documents, policy documents, white papers, working papers, conference proceedings) is also useful.

Limited material was available on the impacts of previous disasters in Australia, and no information was found about previous school closures. It would also be helpful to have information about how specific groups of children are impacted by disasters.

Question 7: Who are the stakeholders that need to be engaged with?

Consider stakeholders that represent or engage with children. This may include family and community members, Children’s Commissioners, paediatricians, teachers, learning support staff, child psychologists, Aboriginal and Torres Strait Islander communities, CALD communities, and/or social workers.

- statutory Children’s Commissioners/Guardians/Advocates
 - principals, teachers, and school support staff
 - paediatricians and child psychologists
 - families and communities that are more likely to be impacted – including families living in low socio-economic households, communities in rural and remote areas, Aboriginal and Torres Strait Islander communities and CALD communities
 - social workers supporting children who are homeless, in out-of-home care and in detention
 - academic and policy experts in children’s issues
 - community specific research and advocacy organisations – including SNAICC, Minus 18, Headspace and CYDA.
-

Question 8: How have children been engaged in the process of policy/legislation design to ensure their views and experiences inform decision-making? Does this include groups of children who are more likely impacted?

Explain processes of engagement and how these processes enabled children to share their voices and experiences, how they were listened to, how that information was used, and how the processes acted in the best interests of children.

The federal Department of Health established several National Advisory Bodies on COVID-19 to inform national decision-making. Some of these advisory bodies did include members who work with children and young people. For example, the CALD Advisory Committee included representatives of the Royal Children’s Hospital and the Multicultural Youth Advocacy Network. The People with Disability Advisory Committee included the Australian Human Rights Commission (AHRC) and People with Disability Australia – they were one of many voices at the table.¹³³ An advisory committee dedicated to the COVID-19 response for children was not established.

The federal government told the National Children’s Commissioner that their engagement with children was through the Early Childhood Policy Group (states and territories) and the Early Childhood Education and Care Reference Group (peaks and providers). The federal government also noted their ongoing consultation and engagement with a range of consultative groups that provide feedback on policy issues, and the use of surveys to gather views of stakeholders.¹³⁴

In correspondence with the National Children’s Commissioner, Education Departments in states and territories indicated:

- **Australian Capital Territory:** The ACT Minister for Education and Youth Affairs, the ACT Education Directorate and the ACT’s Regulatory Authority established several and regular avenues for consultation and information sharing – including ministerial forums with providers, provider advisory meetings, sector wide information sessions and sector wide surveys. These avenues and forums were made open and accessible to a range of sectors to respond to the diverse needs of children but did not target specific groups.¹³⁵
- **New South Wales:** The State Emergency Operations Centre coordinated the whole of government response to the pandemic and was used to bring all agencies together to address community needs. The Department of Education also worked closely with the Department of Communities and Justice, to ensure learning, wellbeing and access to curriculum needs were met for students in out-of-home care. The NSW Government also engaged with the NSW Office of the Advocate for Children and Young People to ensure children’s voices were heard in consultations. The Department of Education also engaged with the Early Childhood Education Advisory Group.¹³⁶
- **Northern Territory:** The NT Government consulted through its school education advisory group, the NT Early Childhood Key Stakeholder Advisory Group, the NT Council of Government School Organisations, the Isolated Children’s Parents Association, and the NT Remote and Regional Taskforce.¹³⁷
- **Queensland:** The Department of Education regularly consulted with key stakeholders, including relevant unions, professional associations, representatives from the non-government sector and parent bodies.¹³⁸
- **Western Australia:** The Minister of Education and Training indicated to the National Children’s Commissioner that decisions about school operations were taken on the basis of health advice from the WA Chief Health Officer. The Minister indicated that the WA Government did not consult as it did not close schools other than extending school holidays by one-week in Term 1, 2021. As principals were given the authority to close schools as needed, it was deemed their authority to consult with their school board or council to understand the best interests of their students.¹³⁹

The SA Government did not indicate the level of engagement with children or stakeholders for policy and legislation regarding school closures during 2020 and 2021. However, it indicated minimal school closures in SA.

Education Departments in Tasmania and Victoria did not provide a response to the National Children's Commissioner's request for information.

Some jurisdictions also have youth advisory bodies. For example, the NSW Ministerial Student Council and the Queensland Ministerial Student Advisory Council.¹⁴⁰ Both were consulted by their Ministers for Education during the pandemic.¹⁴¹

Children's Commissioners/Guardians/Advocates across the states and territories were not systematically consulted prior to schools closing. Where consultation did occur, it is not clear if it directly influenced decision-making.¹⁴² The NSW Office of the Advocate for Children and Young People and the Tasmanian Commission for Children and Young People indicated regular meetings occurred with the Department of Education to provide advice and updates around decision-making. Victoria's Commission for Children and Young People indicated it was not approached by the Victorian Government for advice, although they actively sought engagement and briefings with Victorian Government agencies to elevate the needs and experiences of children during the pandemic.

Commencing early in 2020, Children's Commissioners, the AHRC and several NGOs conducted consultations with children and young people regarding their experiences and the impact of the pandemic on their lives – including the Mission Australia Youth Survey and WA's 'Speaking Out' survey. It is unclear whether the final reports from these consultations directly influenced state/territory and federal policy/legislation decision-making.¹⁴³

Stage 3: Identify potential impacts

Question 9: What are the positive impacts of the policy/legislation on the rights of children?

Provide evidence-based detail of the impacts described in question 2. Consider how these impacts may directly or indirectly restrict the rights of children. If the right is absolute, provide detail about measures or safeguards in the policy/legislation that ensure the right is not limited.

Article 24: Right to health

- **Protection from virus:** Limiting the spread of the COVID-19 virus. The AIHW reported in 2021 that the key aim of the federal government's COVID-19 policy – to protect hospitals from being overwhelmed – was achieved.¹⁴⁴ Only 12.5% of infected individuals needed hospital treatment.¹⁴⁵

Some academic studies suggest school closures act as an efficient measure to curb the spread of novel viruses, such as influenza.¹⁴⁶

- **Improved accessibility to healthcare:** Increased accessibility to healthcare through telehealth allowing children and families to receive health care without travelling and risking spread of infection. Some children and families may also be able to access specialist services otherwise inaccessible due to their location.¹⁴⁷

Article 28: Right to education

- **Increased learning outcomes:** Qualitative studies on children's experiences during the pandemic show that remote learning proved to be a positive experience for some children, where they were properly resourced with equipment and support from schools and parents/carers.¹⁴⁸ While most children needed some time to adjust to new ways of working, some expressed an appreciation for the flexibility of remote learning and fewer distractions. Some children also reported feeling safer and more settled at home, particularly if they had experienced bullying at school.

Article 6: Right to life, survival and development

- **Improved family relationships:** Research suggests more fathers were spending time with their children on learning and schoolwork and that parents had more time to spend with children teaching life skills, such as cooking, reading, and caring for pets.¹⁴⁹

Question 10: What are the negative impacts of the policy/legislation on the rights of children?

Provide evidence-based detail of the impacts described in question 2. Consider how these impacts may directly or indirectly restrict the rights of children. If the right is absolute, provide detail about measures or safeguards in the policy/legislation that ensure the right is not limited.

Research commissioned by the Australian Government in 2020 predicted the potential effects of remote learning as a result of COVID-19 restrictions.¹⁵⁰ The research identified that nearly half (46%) of Australian children and young people were at risk of adverse effects on their educational outcomes, nutrition, physical movement, social, and emotional wellbeing by being physically disconnected from school.

Information and material published during the pandemic described negative impacts of ECEC and school closures on the following rights:

Article 2: Right to non-discrimination

- **Exacerbation of the digital divide:** A common concern raised in research is the unequal impacts felt by children and young people across Australia by virtue of access to digital technologies for education and health services.¹⁵¹ These specific impacts are discussed in detail in question 11.

Article 6: Right to life, survival and development

- **Behavioural issues for children under 5 years:** The Centre for Community Child Health suggests that the COVID-19 public health measures and their impact on family dynamics led to many negative issues for children aged 0–5 years, including worsening behaviour and mood; increased clinginess, anxiety and levels of stress; increased hyperactivity and inattention; increased abuse and neglect; decreased physical activity and increased screen time; and possible disruptions to the length and quality of sleep.¹⁵²

Article 19: Right to protection from violence, abuse and neglect

- **Reduced ability to report safety concerns:** Child abuse or neglect is often reported by schools and ECEC centres. They are the second highest reporters after the police.¹⁵³ The closure of schools and ECEC limits reporting of suspected child abuse and neglect.¹⁵⁴
 - **Reduced ability to refer to other support services:** School personnel being less able to adequately assess risks faced by children and refer them and their families to other support services.
-

Article 24: Right to health

- **Poor mental health and wellbeing:** Research broadly reflects that the COVID-19 pandemic had a strong negative impact on children and young people's mental health and wellbeing, and exacerbated risk factors and experiences of poor mental health.¹⁵⁵ Social isolation as a result of remote learning and lockdown mandates, worry and stress about catching or spreading the virus, and changes to daily routines have increased poor mental health outcomes among children and young people.¹⁵⁶
- **Reduced physical exercise:** Research across Australia, and globally show that declining physical exercise and activity, and poor mental health has been a growing trend over the last decade.¹⁵⁷ The COVID-19 pandemic lockdowns and social isolation mandates – including remote learning acted as a barrier to meeting health and development needs, exposed existing vulnerabilities, and widened gaps in services and supports, further exacerbating this negative trend.¹⁵⁸
- **Overwhelmed health system:** With the increase in prevalence and exacerbation of mental health issues, mental health services across Australia saw a large surge in referrals and requests.¹⁵⁹ Many service providers were overburdened and under resourced to support the influx of demand.¹⁶⁰ As a result, many children and families reported inadequate access with long wait-time, high out-of-pocket expenses to access specialised or private services, and lack of tailored services to meet specific needs.¹⁶¹

Article 27: Right to adequate standard of living

- **Reduced access to fresh and nutritious food:** Some schools provide breakfast and lunch programs. In Australia there are 1.2 million children living in food insecure households. Almost half of severely food insecure parents (45%) say their children go an entire day without eating fresh fruit and vegetables at least once a week. A similar proportion (43%) of severely food insecure parents said their children went a whole day without eating at least once a week.¹⁶² School closures likely placed many children at risk of not having enough food. There was a 200% increased demand for food relief reported by Foodbank NSW and ACT in 2021.¹⁶³ Foodbank Victoria saw the same demand in its International Student Pop Up Store which experienced a 42% increase in students accessing free food relief.¹⁶⁴
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Article 28: Right to education

- **Barriers to achieving learning and academic goals:** Mission Australia's 2021 *National Youth Survey*, capturing the voices of Australian young people aged 15–19, revealed that 46.6% of respondents identified barriers to achieving their study or work goals.¹⁶⁵ The barriers included mental health challenges, academic ability and concerns related to COVID-19.¹⁶⁶ Other research describes increased anxiety and stress due to isolation, poor learning and educational outcomes as a result of families lacking space, experience, time and resources to support a home-learning environment.¹⁶⁷ In UNICEF's 2020 survey and consultation with children and young people, 67% of respondents said they were worried about their education being disrupted or held back.¹⁶⁸
 - **Difficulty in transitioning between remote and in-person learning environments:** Young people reported having struggled with the transition to remote learning, managing their workload and remaining motivated. Research revealed varied reasons for the difficult transition; the loss of a deep connection with their teachers, being unable to concentrate in a non-school environment, lack of support from school, feeling disengaged and unmotivated, and overwhelmed with the workload.¹⁶⁹ 68% of parents reported their children being disengaged from education impacted by limited attendance at school.¹⁷⁰
 - **Concerns with using digital technologies and exacerbation of the digital divide:** The move to remote learning revealed the digital divide as a significant issue for some children and families. Access to digital technology is essential to ensuring that education and social supports are available for all children and their families, and to ensure children and young people remain connected to their community and culture.¹⁷¹ Children and young people reported connectivity issues, the cost of internet services, needing to share devices and data with others in their household, and in some cases the only device was a mobile phone.¹⁷² Research indicates that many children and young people, especially younger children do not have the technological 'know-how' to adequately learn from home using digital technologies.¹⁷³
 - **Not having a learning environment at home:** Children reported that they lacked a quiet space to work.¹⁷⁴ Organisation for Economic Co-operation and Development (OECD) data records that 88% of Australian students reported having a quiet place to study at home, which is lower than the OECD average (91%).¹⁷⁵ For students from lower socio-economic households, the percentage was 78%, which is lower than the OECD average (85%).¹⁷⁶ Access to a quiet place to study may have deteriorated during the crisis with parents working from home, and siblings also remote learning.¹⁷⁷
-

- **Teacher shortages:** Returning to on-site learning across Australia in 2022, particularly in rural and remote areas in NSW, led to challenges with teaching shortages.¹⁷⁸ While teaching shortages were a concern before the pandemic, reporting indicates that stresses caused by the pandemic exacerbated this with teachers leaving the profession due to stress and workload concerns. This resulted in some schools resorting back to remote learning, combining classes or sharing teachers between classes. This creates greater disparity in learning outcomes for some students.

Article 30: Right to culture and language

- **Language and cultural barriers restricting health and education:** A report by the AHRC reported that during the COVID-19 pandemic, children from CALD backgrounds, especially those with English as a second language and Aboriginal and Torres Strait Islander children and families, found it difficult to learn from home and access telehealth supports as language and cultural barriers created challenges.¹⁷⁹ There was also fear of stigma and traumatisation associated with accessing services that were not culturally competent.¹⁸⁰

Article 31: Right to rest, leisure and play

- **Lack of social connectedness:** In the National Mental Health Survey conducted by AHRC, children aged 9–17 indicated that the lack of social connectedness during the COVID-19 pandemic as a result of lockdowns and school closures was a key concern.¹⁸¹ Children expressed loneliness and stress from being unable to play with friends and engage in recreational activities or sports that would usually occur during school.¹⁸² School was often described as the main way to connect with friends. When children were asked if they were happy to return to school in 2022, the most common response was that they were excited to see their friends in person.¹⁸³ For many children, this meant falling outside of the Australian physical activities and exercise guidelines for 5 to 17-year-olds.¹⁸⁴
-

Question 11: What are the impacts on different groups of children (including their families and carers) of the policy/legislation?

Consider the processes of how and why different groups are impacted using the groups identified in the checklist in question 3.

Group	Impact
<p>Aboriginal and Torres Strait Islander children</p>	<p>Positive – Article 28: Right to education; Article 6: Right to life, survival and development</p> <ul style="list-style-type: none"> <p>Increased use of ECEC: Due to reduced administrative requirements to access Centrelink during 2020–21, and the provision of ECEC relief packages, SNAICC reported some ECEC centres saw increased attendance and increased hours of attendance by Aboriginal and Torres Strait Islander families who were previously not accessing centres.¹⁸⁵ Almost 60% of survey respondents attributed the uptake of services to the reduced administrative requirements required to interact with Centrelink.</p> <p>Negative – Article 28: Right to education; Article 24: Right to health</p> <ul style="list-style-type: none"> <p>Digital divide: Social isolation restrictions and remote learning exacerbated the technological divide that excludes many Aboriginal and Torres Strait Islander families from accessing and using digital technology. SNAICC reported 11% of survey respondents had no internet access, 3% had no phone and 3.5% had neither.¹⁸⁶ Mission Australia’s Youth Survey indicated that 62% of Aboriginal and Torres Strait Islander young people identified their education had been negatively impacted by the pandemic, with females experiencing greater negative impacts of COVID-19 across all areas.¹⁸⁷</p> <p>Aboriginal and Torres Strait Islander students were more likely to face challenges with remote learning, including reduced opportunities for interaction with Indigenous teaching assistants and poor or no inclusion of culturally appropriate teaching methods into online resources.¹⁸⁸</p>

Aboriginal and Torres Strait Islander children
(continued)

- **Mental health concerns:** Research suggests that the pandemic had a negative impact on Aboriginal and Torres Strait Islander children’s mental health and wellbeing – such as increased rates of suicide, substance abuse and domestic violence as a result of social isolation, increased stresses throughout COVID-19 lockdowns, lack of community supports, limitations on travelling, inability to engage with culture, and sensationalised media reporting.¹⁸⁹ These impacts were experienced at higher levels compared to the general population due to racism, intergenerational trauma, social, cultural and legal discrimination, and limitations placed on protective factors such as family and community supports.¹⁹⁰

Children living in low socio-economic households and/or rural and remote areas

Positive – Article 24: Right to health

- **Increased access to healthcare:** The introduction of telehealth created greater accessibility to health services that were previously unreachable or unaffordable (due to physical travel costs) for some families living in low socio-economic households and/or rural and remote areas.¹⁹¹

Negative – Article 28: Right to education; Article 24: Right to health

- **Digital divide:** Research indicates that low-income households and those in remote areas have on average half as many desktop, laptop, or tablet computers as middle-income households.¹⁹² Some students did not have access to an appropriate device for online learning or were required to share a device with parents or siblings.
- **Reduced access to health services:** Services and supports provided through schools were not available when schools were closed.

Children from culturally and linguistically diverse and refugee backgrounds

Negative – Article 28: Right to education; Article 24: Right to health; Article 6: Right to life, survival and development

- **Reduced learning supports:** Remote learning was reported as particularly difficult for some students whose parents spoke limited English, had lower levels of education, high levels of stress, and/or complex problems like mental ill-health or disabilities, as they were unable to offer the support that their children required.¹⁹³
- **Not having a conducive learning environment at home:** Some children reported difficulties in finding a quiet place to study.¹⁹⁴ Some families from refugee backgrounds and First Nations families have large extended families, often crossing several generations, and living in small homes.¹⁹⁵

Children from culturally and linguistically diverse and refugee backgrounds

(continued)

- **Mental health concerns:** Studies recognise the negative impacts on the mental health of children from First Nations and CALD backgrounds as a result of racism and stigma associated with the virus and the lack of culturally appropriate resources and information that met the needs of diverse communities.¹⁹⁶

Children with disability

Positive – Article 28: Right to education; Article 6: Right to life, survival and development

- **Home as a better learning environment:** Victoria’s Commission for Children and Young People reported some children with disability found remote learning a positive experience as they were able to learn at their own pace, had less distractions, experienced less social anxiety and bullying.¹⁹⁷

Negative – Article 28: Right to education; Article 24: Right to health; Article 6: Right to life, survival and development

- **Apprehension around learning:** Distress, hopelessness and uncertainty around school closures and remote learning was a common theme identified in research conducted by children and young people with disability.¹⁹⁸ Many children with disabilities also reported feeling stressed about losing learning progress due to remote education.¹⁹⁹
- **Reduced learning supports at home:** Research conducted by CYDA suggested families with children with disability found it challenging to provide the support and attentiveness that their children required when schools were closed.²⁰⁰ Parents often reported that it was difficult to do this on top of their existing and other responsibilities.²⁰¹

Those working with children and young people with disability in Victoria reported ‘limited access to appropriate online learning, and that supports were not tailored to students’ individual needs or were unavailable’.²⁰²

Children with disability
(continued)

- **Exacerbated learning difficulties:** CYDA suggests that remote learning exacerbated difficulties already being faced by children with disability; including access to inclusive education, support for reasonable adjustments and accessing learning supports. Without appropriate assistance, remote learning placed enormous pressure on them and their families.²⁰³ CYDA noted that ‘without movement on these issues, any future emergencies will likely produce significant destabilisation for’ children and young people with disabilities and their families ‘with significant detrimental impacts’.²⁰⁴
- **Reduced access to essential needs and supports:** Many children with disability and their families reported difficulties accessing essential products, appropriate information, and services and supports. Social isolation and school closure restrictions resulted in support worker cancellations, inaccessibility to National Disability Insurance Scheme (NDIS) services, and difficulties accessing health services such as COVID-19 testing and telehealth.²⁰⁵
- **Disorientation and disconnection:** Children, particularly those with learning difficulties and cognitive disorders, reported struggling with losing their daily routines, social isolation, and becoming disconnected from education as a result of not having access to face-to-face or specialised learning supports.²⁰⁶

Children in out-of-home care

Positive – Article 28: Right to education; Article 6: Right to life, survival and development

- **Better learning environment:** Some schools remained open for specific groups of children. Victoria’s Commission for Children and Young People reported that where children in out-of-home care continued to attend school despite closures, they found it easier to engage in learning due to smaller class sizes and less bullying.²⁰⁷

Negative – Article 28: Right to education; Article 6: Right to life, survival and development

- **Developmental concerns:** For some children in out-of-home care, schools are critical for their emotional and behavioural development and communication skills. This development can be impeded outside of a schooling environment.²⁰⁸
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Children in out-of-home care
(continued)

- **Digital divide:** Research conducted by the Victorian Government suggests that children in out-of-home care often have limited access to technology which impacts on their ability to engage in remote learning.²⁰⁹ Some community service organisations indicated that some children in out-of-home care do not know how to use digital technologies independently for their education.²¹⁰

LGBTIQA+ children²¹¹

Negative – Article 24: Right to health

- **Mental health challenges:** Mission Australia reported that 83.2% of gender diverse young people said that their mental health was a barrier impacting on their education and this was negatively impacted by the pandemic, compared to 56.9% of cisgender females and 35% of cisgender males.²¹²
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Stage 4: Analysis of impacts and mitigating factors

Question 12: What measures or safeguards are included in the policy/legislation to mitigate negative impacts or advance positive impacts on the rights of children?

These mitigants were brought to our attention whilst undertaking this project. We are unable to assess the effectiveness of them at this time.

On 13 January 2022, National Cabinet agreed to a framework to promote a nationally consistent approach to the ongoing delivery of high-quality education for all students during COVID-19. This is known as the *National Framework for Managing COVID-19 in Schools and Early Childhood Education Care (ECEC)*.²¹³ This Framework is based on 6 national guiding principles:

- ECEC services and schools are essential and should be the first to open and the last to close wherever possible in outbreak situations, with face-to-face learning prioritised.
- Baseline public health measures continue to apply.
- No vulnerable child or child of an essential worker is turned away.
- Responses to be proportionate and health risk-based.
- Equip ECEC services and schools to respond on the basis of public health advice and with support from public health authorities where required.
- Wellbeing of children and education staff to be supported.²¹⁴

While the ECEC and school closures were managed by states and territories, the federal government introduced a range of measures to support children and their families. The Australian Government Department of Education, Skills and Employment reported introducing measures to assist childcare centres to remain open to vulnerable children and those from families of essential workers, reduce the cost of care for families and ensure services remain financially viable during the pandemic.²¹⁵

These measures included granting business continuity payments and grants to services, additional allowable absence days for families, waiving the requirement for services to recover gap fees, temporarily relaxing activity and administrative requirements to qualify for the Child Care Subsidy, increasing the cap of Child Care Subsidy payments, and allowing third party payments to be made without reducing the rate of the Child Care Subsidy.²¹⁶

The Department of Health also:

- doubled the annual cap on rebated psychological appointments to 20 rebated sessions through mental health treatment plans
- increased funding for mental health services across states and territories
- fast-tracked the national roll-out of telehealth to ensure universal access to health services across Australia
- increased information and resources about access to health services and supports to ensure children would be mentally well during emergencies.²¹⁷

State and territory governments are responsible for drafting individual operational plans in consultation with relevant stakeholders and ECEC and school sectors.

Some measures taken by governments include:

- In 2020, Victoria (August), NSW (April) and Queensland (April) expanded access to ECEC by providing free childcare to families.²¹⁸
 - In 2020, states and territories provided school students with free/borrowed laptops, SIM-card and internet dongles to address the digital divide.²¹⁹ Physical learning resources were also provided to students in rural and remote areas and to students without digital access through schools, in NSW and NT.²²⁰
 - In 2020, SA (March), NSW, Victoria (April), Queensland and ACT developed alternative teaching methods and new websites to better adjust to online learning and engage students remotely.²²¹
 - In 2020, ACT (April), NSW (September) and Victoria (April) provided flexibility for final year student assessments to reduce stress and pressure.²²²
 - In April 2020, the Queensland Government announced the Online Student Hub (a digital counselling service), and isolation care-packs, pre-prepared meals, and other living expense payments for international students.²²³
 - In April 2020, the NT Government continued to pay casual school staff wages in the event of school closures.²²⁴
 - In May 2020, the SA Government launched a free parenting webinar for parents struggling during the pandemic. The webinar addressed issues such as increased screen time among children and young people.²²⁵
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- In July 2020, a range of wellbeing resources for students, parents and teachers were developed to assist Victorian children with mental health.²²⁶ The resources included simple wellbeing activities, video tips developed in partnership with the Melbourne Football Club and resources developed by Smiling Mind for senior secondary students. The resources complemented existing mental health and wellbeing support available to all Victorian Government school children. Secondary school students could also access counselling via a voice call or video conference through the Headspace counselling partnership or via their school-based mental health practitioner.
 - In Terms 3 and 4 2020, ACT school psychologists engaged in telehealth services, a central telehealth service was established to boost service delivery, and online mental health resources were developed to address student's wellbeing.²²⁷ In NSW, school counselling, support and wellbeing staff were also given access to online platforms to conduct sessions via telehealth or over the phone.²²⁸
 - In August 2021, the NT government invested in arts and culture programs in schools and ECEC.²²⁹
 - In September 2021, the ACT Government provided free transport for anyone travelling to a vaccination clinic.²³⁰
 - In September 2021, the NSW Government allowed for a 'friends bubble' for children to socialise with friends during school holidays, and 'study bubbles' for HSC students to study with friends.²³¹
 - In February 2022, the SA Government developed new mental health services in schools.²³²
 - COVID-19 care packages, including masks and RATs delivered to schools.²³³
 - The ACT Government provided support to ECEC providers in the development of risk management plans and procedures to support their service operations. Providers were also supported with a specific trauma-informed practice forum as well as written resources to engage in practice that supports parents and children.²³⁴
 - The WA Government introduced learning plans for students required to isolate at home to ensure they remained engaged with their education.²³⁵
 - In NSW, schools were required to record non-attendance to remote learning and provide individual support to students as needed.²³⁶
 - The NSW Government introduced the 'COVID-Intensive Learning Support Program' in 2021 to support learning through targeted small group tuition for those students whose learning had been impacted by the pandemic.²³⁷
 - The NT Department of Education developed Special Assistance Grants to support ECEC services to manage pandemic changes to keep children and staff safe.²³⁸
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Question 13: Are there specific measures or safeguards included in the policy/legislation to address impacts on specific groups of children who may be more adversely affected? If yes, explain.

- Schools and ECEC remained open to children experiencing adversity to mitigate potential negative issues of remote learning. Principle 3 of the *National Framework for Managing COVID-19 in Schools and Early Childhood Education and Care* states that ‘no vulnerable child or child of an essential worker is turned away’ from school.²³⁹
 - Nationally, many schools provide breakfast programs in partnership with Foodbank. During the Victorian lockdowns, innovative ways to continue providing the School Breakfast Club programs, classified as an essential service, were developed. In addition to providing the program for students attending on-site, participating schools were urged to consider options for distributing provisions to students and families during remote and flexible learning including packaging up supplies in small parcels for students to take home, packaging up supplies for collection by parents/carers from the school, providing ‘grab and go’ options such as fruit, fruit cups, mini milks or lunch bowls for any students attending school on site, facilitating contactless delivery of supplies to students homes (such as leaving supplies at the gate/front door). Where collecting supplies, parents/carers were requested to collect them at the same time as other necessary supplies and did not require a permit to do so.²⁴⁰
 - Schools in the NT worked closely with nutrition program providers and health clinics to ensure supports were available for vulnerable children, including those in remote communities.²⁴¹
 - By waiving gap payments and lowering administrative requirements to access the Child Care Subsidy, some groups of children, including Aboriginal and Torres Strait Islander children and/or children with disabilities and chronic health conditions were better supported to access services during the pandemic.²⁴²
 - The Queensland Government published resources for parents to support students with disability to learn from home including how to use assistive technology. The Department for Education also supported accessibility for students by embedding deaf/hard of hearing services into online resources and in online classrooms.²⁴³
 - The Queensland Government provided workshops about student wellbeing provided by the Department of Education’s Autism hub for parents and educators.²⁴⁴
 - The Queensland Government provided information for teachers to support for Indigenous English as an Additional Language or Dialect (IEAL/D) students learning from home.²⁴⁵
 - NSW out-of-home care students were encouraged to attend face-to-face learning and were provided with technologies and resources to support their learning.²⁴⁶
 - NSW Health provided specific health support plans for at-risk and vulnerable students and school staff, and developed risk assessments to identify the needs of specific groups of children and families including those with additional needs. These assessments helped families access additional supports from NSW Health including food, at-home testing, mental health supports and social workers.²⁴⁷
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Stage 5: Result and recommendations

Question 14: Summarise how this assessment demonstrates why the proposed policy/legislation is in the best interests of children.

Make an informed judgement as to whether a child's best interests are supported by the policy/legislation. The CRC does not explicitly define a child's best interests. However, its meaning can be derived from the content in other CRC Articles, including:

- In the case of actions and decisions affecting an individual child, it is the best interests of that individual child which must be taken into account.
- It is in a child's best interests to enjoy the rights and freedoms set out in the CRC. For example, it is in children's best interests to develop respect for human rights and for other cultures (Article 29.1(b) and (c)). It is in a child's best interest to maintain contact with both parents in most circumstances (Article 9.3).
- It is in the best interests of Indigenous children to be raised in their Indigenous communities (Articles 5, 8.2, and 30).
- A child capable of forming a view on their best interests must be able to give it freely and it must be taken into account (Article 12).²⁴⁸

Parents have primary decision-making responsibility on behalf of their children (articles 5 and 18.1) but, if they fail to make children's best interests a basic concern, the State may intervene to protect those interests (article 9.1).

The evidence provided in the CRIA illustrates that children were both positively and negatively impacted by ECEC and school closure policy and legislation. The nature and extent of these impacts varies between different cohorts of children. Predominantly, the impacts of the policy and legislation were on 2 key rights – education and health (both physical and mental). Although children reported difficulties with remote learning, and with their mental health and wellbeing, their physical health was protected from the COVID-19 virus as the policy and legislation restricted transmission of the virus through schools. Governments also demonstrated responsiveness to challenges within the education and health systems to act within the best interests of children and families.

As this assessment is taking place within the context of the COVID-19 pandemic, research is still emerging on the long-term impacts on children as a result of remote learning. Governments will need to remain vigilant to monitor impacts and act accordingly to mitigate long-term challenges. This will take place through the *National Framework for Managing COVID-19 in Schools and Early Childhood Education and Care*.

Predominantly, the assessment shows that the best interests of the child were protected. Although children's rights to health and education were restricted in some ways, mechanisms and safeguards were introduced to overcome negative outcomes. The policy and legislation introduced across all Australian jurisdictions overall protected children and their family's/communities' health and right to life, survival which was necessary due to the emergency nature of the pandemic.

Question 15: Are there any further changes that need to be made to the policy/legislation to ensure children's rights are not negatively impacted?

To ensure children's needs are prioritised in future policy and legislation planning, consideration should be given to the following:

- Decision-makers should work in collaboration with children's organisations, advocates and representatives who understand and can champion children's rights and their needs.
 - Regular opportunities should be provided for children to give their views in relation to policy and legislation that affects them.
 - Significant and long-term investment in recovery from the pandemic needs to address long-term negative impacts on children as a result of school closures.
 - Existing plans for working with and responding appropriately to the needs of children during a pandemic should be reviewed regularly and updated.
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Stage 6: Publish the CRIA

Question 16: Should the full assessment or a summary be published?

Yes/No (If no, why?)

No – This assessment will only be published as an Appendix of this report for guidance in the application of the tool.

Question 17: Will a child-friendly version be produced?

Yes/No (If no, why?)

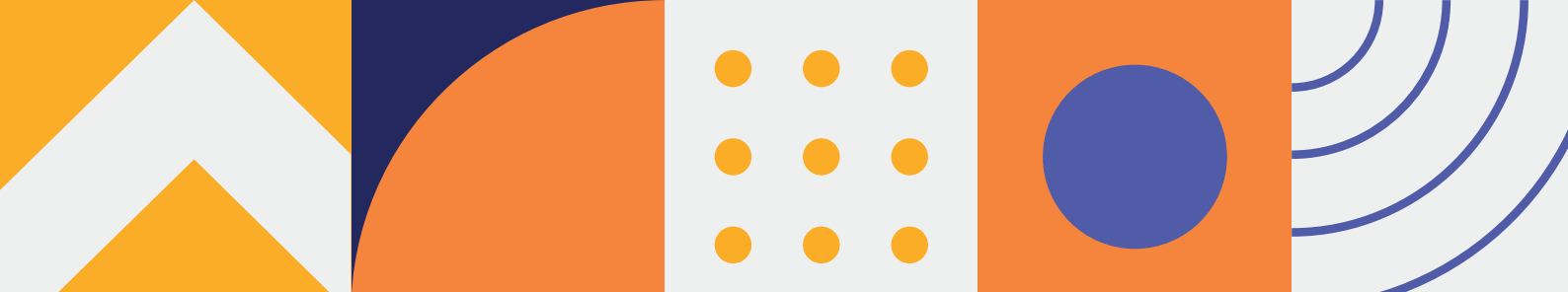
No – A child-friendly version will not be developed as this assessment was conducted as part of developing the CRIA tool.

Stage 7: Monitor and review

Question 18: Describe the resources allocated to monitoring the key findings and recommendations of this assessment or explain why resources have not been allocated.

N/A

Appendix 4: Convention on the Rights of the Child (simplified)



The following rights may be useful to consider when completing a child rights impact assessment. All children's rights, in accordance with the Convention on the Rights of the Child are available [online](#).

The rights highlighted in orange are absolute rights, meaning they cannot lawfully be limited in any way.²⁴⁹

Right	Simplified description ²⁵⁰
Article 2: No discrimination	All children have all these rights, no matter who they are, where they live, what language they speak, what their religion is, what they think, what they look like, what their sex is, if they have a disability, if they are rich or poor, and no matter who their parents or families are or what their parents or families believe or do. No child should be treated unfairly for any reason.
Article 3: Best interests of the child	When adults make decisions, they should think about how their decisions will affect children. All adults should do what is best for children. Governments should make sure children are protected and looked after by their parents, or by other people when this is needed. Governments should make sure that people and places responsible for looking after children are doing a good job.
Article 4: Making rights real	Governments must do all they can to make sure that every child in their countries can enjoy all the rights in this Convention.
Article 5: Family guidance as children develop	Governments should let families and communities guide their children so that, as they grow up, they learn to use their rights in the best way. The more children grow, the less guidance they will need.
Article 6: Life, survival and development	Every child has the right to be alive. Governments must make sure that children survive and develop in the best possible way.
Article 7: Name and nationality	Children must be registered when they are born and given a name which is officially recognised by the government. Children must have a nationality (belong to a country). Whenever possible, children should know their parents and be looked after by them.
Article 8: Identity	Children have the right to their own identity – an official record of who they are which includes their name, nationality and family relations. No one should take this away from them. If this happens, governments must help children to quickly get their identity back.

Article 9: Keeping families together	Children should not be separated from their parents unless they are not being properly looked after – for example, if a parent hurts or does not take care of a child. Children whose parents don't live together should stay in contact with both parents unless this might harm the child.
Article 10: Contact with parents across countries	If a child lives in a different country than their parents, governments must let the child and parents travel so that they can stay in contact and be together.
Article 11: Protection from kidnapping	Governments must stop children being taken out of the country when this is against the law – for example, being kidnapped by someone or held abroad by a parent when the other parent does not agree. ²⁵¹
Article 12: Respect for children's views	Children have the right to give their opinions freely on issues that affect them. Adults should listen and take children seriously.
Article 13: Sharing thoughts freely	Children have the right to share freely with others what they learn, think and feel, by talking, drawing, writing or in any other way unless it harms other people.
Article 14: Freedom of thought and religion	Children can choose their own thoughts, opinions and religion, but this should not stop other people from enjoying their rights.
Article 15: Setting up or joining groups	Children can join or set up groups or organisations, and they can meet with others, as long as this does not harm other people.
Article 16: Protection of privacy	Every child has the right to privacy. The law must protect children's privacy, family, home, communications and reputation (or good name) from any attack.
Article 17: Access to information	Children have the right to get information from the internet, radio, television, newspapers, books and other sources. Adults should make sure the information they are getting is not harmful. Governments should encourage the media to share information from lots of different sources, in languages that all children can understand.

Article 18: Responsibility of parents	Parents are the main people responsible for bringing up a child. When the child does not have any parents, another adult will have this responsibility and they are called a 'guardian'. Parents and guardians should always consider what is best for that child. Governments should help them. Where a child has both parents, both of them should be responsible for bringing up the child.
Article 19: Protection from violence	Governments must protect children from violence, abuse and being neglected by anyone who looks after them.
Article 20: Children without families	Every child who cannot be looked after by their own family has the right to be looked after properly by people who respect the child's religion, culture, language and other aspects of their life.
Article 21: Children who are adopted	When children are adopted, the most important thing is to do what is best for them. If a child cannot be properly looked after in their own country – for example by living with another family – then they might be adopted in another country.
Article 22: Refugee children	Children who move from their home country to another country as refugees (because it was not safe for them to stay there) should get help and protection and have the same rights as children born in that country.
Article 23: Children with disabilities	Every child with a disability should enjoy the best possible life in society. Governments should remove all obstacles for children with disabilities to become independent and to participate actively in the community.
Article 24: Health, water, food, environment	Children have the right to the best health care possible, clean water to drink, healthy food and a clean and safe environment to live in. All adults and children should have information about how to stay safe and healthy.
Article 25: Review of a child's placement	Every child who has been placed somewhere away from home – for their care, protection or health – should have their situation checked regularly to see if everything is going well and if this is still the best place for the child to be.
Article 26: Social and economic help	Governments should provide money or other support to help children from poor families.

Article 27: Food, clothing, a safe home	Children have the right to food, clothing and a safe place to live so they can develop in the best possible way. The government should help families and children who cannot afford this.
Article 28: Access to education	Every child has the right to an education. Primary education should be free. Secondary and higher education should be available to every child. Children should be encouraged to go to school to the highest level possible. Discipline in schools should respect children's rights and never use violence.
Article 29: Aims of education	Children's education should help them fully develop their personalities, talents and abilities. It should teach them to understand their own rights, and to respect other people's rights, cultures and differences. It should help them to live peacefully and protect the environment.
Article 30: Minority culture, language and religion	Children have the right to use their own language, culture and religion – even if these are not shared by most people in the country where they live.
Article 31: Rest, play, culture, arts	Every child has the right to rest, relax, play and to take part in cultural and creative activities.
Article 32: Protection from harmful work	Children have the right to be protected from doing work that is dangerous or bad for their education, health or development. If children work, they have the right to be safe and paid fairly.
Article 33: Protection from harmful drugs	Governments must protect children from taking, making, carrying or selling harmful drugs.
Article 34: Protection from sexual abuse	The government should protect children from sexual exploitation (being taken advantage of) and sexual abuse, including by people forcing children to have sex for money, or making sexual pictures or films of them.
Article 35: Prevention of sale and trafficking	Governments must make sure that children are not kidnapped or sold, or taken to other countries or places to be exploited (taken advantage of).

Article 36: Protection from exploitation	Children have the right to be protected from all other kinds of exploitation (being taken advantage of), even if these are not specifically mentioned in this Convention.
Article 37: Children in detention	Children who are accused of breaking the law should not be killed, tortured, treated cruelly, put in prison forever, or put in prison with adults. Prison should always be the last choice and only for the shortest possible time. Children in prison should have legal help and be able to stay in contact with their family.
Article 38: Protection in war	Children have the right to be protected during war. No child under 15 can join the army or take part in war.
Article 39: Recovery and reintegration	Children have the right to get help if they have been hurt, neglected, treated badly or affected by war, so they can get back their health and dignity.
Article 40: Children who break the law	Children accused of breaking the law have the right to legal help and fair treatment. There should be lots of solutions to help these children become good members of their communities. Prison should only be the last choice.
Article 41: Best law for children applies	If the laws of a country protect children's rights better than this Convention, then those laws should be used.
Article 42: Everyone must know children's rights	Governments should actively tell children and adults about this Convention so that everyone knows about children's rights.

Endnotes

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- 9 Andressa Gadda et al, *Human Rights Monitoring and Implementation: How To Make Rights 'Real' in Children's Lives* (Routledge, 2020) 94.
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- 12 Andressa Gadda et al, *Human Rights Monitoring and Implementation: How To Make Rights 'Real' in Children's Lives* (Routledge, 2020) 94.
- 13 Lisa Payne, 'Child Rights Impact Assessment as a Policy Improvement Tool' (2019) 23(3) *The International Journal of Human Rights* 408, 415-19.
- 14 Lisa Payne, 'Child Rights Impact Assessment as a Policy Improvement Tool' (2019) 23(3) *The International Journal of Human Rights* 408, 415-19.
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