



Civil rights and freedoms

Birth registration

Digital rights

Access to information for children and young people in care

Freedom of expression in religious schools

A child rights approach would:

.....

Continue commitment through the *Closing the Registration Gap Strategy Plan 2021–2024* to ensure that Aboriginal and Torres Strait Islander children are registered at birth and receive free birth certificates.

.....

Praise the Queensland Government for passing the *Births, Deaths and Marriages Act 2023* to ensure that a person’s legal identity aligns with their lived identity.

.....

Involve children and young people in decision-making processes regarding digital rights to stay up to date with evolving technologies and consider digital rights as a child protection issue.

.....

Implement measures to ensure that children and young people in out-of-home care are aware of their right to access their personal information. Provide appropriate and supportive means for them to exercise this right, ensuring they can access and understand their information, empowering them to participate in decisions about their own lives.

.....

Establish a comprehensive framework for non-state schools that adheres to anti-discrimination principles.

.....

Provide children and young people with child- and youth-friendly, accessible and balanced information from a variety of channels including social media and traditional media. Ensure information is readily available to children and young people living in rural or remote areas, with disability and who speak a language other than English.

.....

Under the UNCRC, children and young people have the right to a name and nationality, which they should be granted at birth (Article 7, UNCRC). They also have a right to an identity, including name, nationality, race, culture, religion, language, appearance, abilities, gender identity and sexual orientation (Article 8, UNCRC).

Children and young people have the right to freedom of expression and freedom to find out information about themselves (Article 13, UNCRC). Not only does the UNCRC ensure that children and young people have the right to choose their own religion, but they also have the right to freedom of thought and conscience (Article 14, UNCRC). Children and young people have the right to reliable information, including from the media, and should be protected from media that could harm them (Article 17, UNCRC). Media should also be available in formats that are accessible to children and young people with disability.

These articles apply to all children and young people, including those in youth detention, out-of-home care or who speak a language other than English.

Birth registration

Article 7 of the UNCRC grants children and young people the right to immediate birth registration, name, and nationality and, ideally, to be cared for by their parents. Birth registration is critical for obtaining a birth certificate and establishing a child's legal identity. Without it, children are invisible, missing out on their rights and essential services. Birth registration is crucial to safeguarding children's rights and ensuring legal recognition and protection of their identity.

Closing the registration gap

In Queensland, a child's birth must be registered within 60 days of birth. The requirements for birth registration are set out in the *Births, Deaths and Marriages Registration Act 2023*. It is free to register a child's birth however a fee applies to obtain a birth certificate. In 2019, 89.7 per cent of non-Indigenous births were registered within 60 days of birth, whereas only 62.1 per cent of Aboriginal and Torres Strait Islander children were registered within the same timeframe.

Closing the Registration Gap Strategy Plan 2021–2024 is Queensland's cross-agency strategy to increase the birth registration rate for Aboriginal and Torres Strait Islander people. By 2024, the strategy aims to increase Aboriginal and Torres Strait Islander birth registrations to 80 per cent within 60 days of birth and 90 per cent within one year of birth.

Efforts have been made to close the gap in birth registrations for Aboriginal and Torres Strait Islander children. In 2021, the Queensland government released the *Closing the Registration Gap Strategy 2021–2024* to increase the birth registration rate of Aboriginal and Torres Strait Islander people.¹⁷⁰ The strategy addresses barriers outlined by the Queensland Ombudsman. These include lack of access to online and paper registration services in remote communities, financial difficulties caused by fees and penalties, confusion between registration and certification processes, language barriers and a shortage of culturally sensitive services, limited understanding of the significance of registration for children, and inconsistent information regarding the registration process.¹⁷¹

The Registry of Births, Deaths and Marriages' Our Kids Count campaign is part of the Closing the Registration Gap Strategy. The Deadly Choices Birth Certificate initiative is another effort that promotes 'deadly choices' commemorative birth certificates and reminds new parents to register their child.

Despite these efforts, the gap in birth registrations between Aboriginal and Torres Strait Islander and non-Indigenous children in Queensland persists and requires ongoing attention. The QFCC awaits updated reporting and an evaluation of the *Closing the Registration Gap Strategy*.

Births, Deaths and Marriages Registration Act

On 14 June 2023, the Queensland Parliament passed the *Births, Deaths and Marriages Registration Act 2023* which ensures that a person's legal identity aligns with their lived identity, bringing Queensland in line with most other jurisdictions. It removes the requirement for transgender and gender diverse people to undergo gender affirming surgery to legally change their gender. For children under 16 years, there are two pathways to alter the record of sex: parents or guardians can apply directly to the registrar if certain criteria are met, or the Children's Court can be used. Additionally, the new legislation allows both parents to be registered as either 'mother', 'father' or 'parent', which was not previously permitted.¹⁷²

In December 2022, QFCC Youth Advocates held a roundtable discussion where non-binary and transgender young people shared their experience of discrimination and associated mental health impacts. A 19-year-old Youth Advocate shared:¹⁷³

“ I identify as non-binary, but while that isn't in of itself a mental disorder, the anxiety, resulting from years of not having my gender affirmed by my peers, is a mental disorder.

“ There was a lot of struggles with wanting to identify as non-binary, like that I still felt too connected to my gender assigned at birth, or that identifying as non-binary was just attention seeking or was 'just a phase'.

Youth surveys indicate that gender diverse children and young people experience poorer mental health and increased levels of discrimination. Almost 6000 young people from across Queensland responded to the QFCC's *Growing Up in Queensland 2020* survey, with 2 per cent (almost 120 young people) identifying as gender diverse. This survey revealed that 77 per cent of gender diverse young people had been treated unfairly because of their gender identity, compared with 27 per cent of female participants and 10 per cent of male participants. Only 32 per cent of gender diverse young people felt their community is a place they feel they belong to, compared with 57 per cent of female participants and 65 per cent of male participants.¹⁷⁴

“ In my earlier school years, I was surrounded by people who thought they knew my gender identity better than me. I was bullied for not having a very feminine appearance, called by male pronouns at least half of the time and told that I should just shave my body hair to fit in with the other girls. It may not seem like the bullying was 'that bad', but it made me feel like it was my fault I was being misgendered when really, I was just following what felt comfortable to me. It was a big factor that contributed to my social anxiety, and it made me feel very unseen for who I really was. I felt like a ghost.

In Mission Australia's 2022 youth survey of 5680 young Queenslanders, 4.3 per cent identified as gender diverse (over 240 young people). Almost 66 per cent of gender diverse young people were very or extremely concerned about their mental health, compared with almost 42 per cent of female participants and 20 per cent of male participants. Almost 43 per cent of gender diverse young people were very or extremely concerned about suicide, compared with 16 per cent of female participants and 8.7 per cent of male participants.¹⁷⁵

“ I had to leave home because it was not safe for me there. I am getting good support from services, but I need to get emancipated from my parents so that I can progress my medical transition. It won't be good for my mental health if I have to wait until I turn 18.

Young person, 16 years,
Youth Law Australia client

Young people told the QFCC that the legislative changes proposed in the Births, Deaths and Marriages Bill will deliver significant benefit to the mental wellbeing of transgender and gender diverse people. Having a birth certificate that does not align with a person's gender means young people are at risk of violence and discrimination and may be forced to 'out themselves' when performing normal every-day tasks.

The QFCC welcomes the enacted changes as they will ensure transgender and gender diverse people and families have privacy, freedom of expression and equality.

Digital rights

The digital environment has become an integral part of children and young people's lives, playing a significant role in their entertainment, socialisation and learning experiences. The UN General Comment No. 25 (2021) highlights the importance of protecting children's rights in the digital environment. This includes their right to privacy, freedom of expression, access to information and protection from harm. It also recognises the potential benefits of digital technologies for the development and participation of children and young people.¹⁷⁶

Children and young people are vulnerable to various online harms, including:¹⁷⁷

- grooming and sexual exploitation (Article 34 of the UNCRC covers children and young people's protection from sexual exploitation)
- non-consensual sharing of intimate imagery or videos (Article 19 of the UNCRC covers children and young people's protection from violence and harm)
- gender violence (Article 19, UNCRC)
- online bullying and harassment (Article 19, UNCRC)
- mental health impacts and unrealistic body image standards (Article 19, UNCRC)
- surveillance and privacy (Article 16 of the UNCRC covers children and young people's right to privacy)
- collection and retention of personal data, including complex and lengthy terms and conditions (Article 16, UNCRC).

Despite the potential risks, the digital environment can be incredibly positive and valuable for children and young people. Online platforms enable children and young people to access a diverse range of national and international information sources, promoting their wellbeing, health and identity as global citizens (Article 17, UNCRC). Digital technologies facilitate learning and provide educational resources that can enhance children's knowledge and skills (Article 28, UNCRC). Social media and online forums offer avenues for children and young people to connect, communicate, and engage with their peers, promoting social interaction and support networks (Article 31, UNCRC). Digital tools and platforms empower children and young people to express their creativity, share their ideas and engage in various forms of digital content creation (Article 13, UNCRC).

“ To stay safe around the Internet, as well as to be careful with whom they talk to in terms of fake friends or strangers. It’s really crucial for our generation to utilise social media as a way to ensure a healthy and happy future and wellbeing.

Male, 16 years,
Growing Up in Queensland

“ Dealing with the fact that society is changing a lot as we grow up, and in the past 10 years technology has changed quite a bit.

Female, 15 years,
Growing Up in Queensland

One of the key laws in Australia that protects children’s rights online is the *eSafety Act 2015*. It established the Office of the eSafety Commissioner, responsible for promoting online safety, particularly of children, with the power to investigate and take action against harmful online content, cyberbullying and other online safety issues.¹⁷⁸ Kids Helpline and schools also play an important role in promoting online safety and providing support to young people who experience online harm.¹⁷⁹

In Queensland, efforts have been made to address online safety through awareness campaigns and education materials:

- The Queensland Government provides information and tools to children, parents and educators through various initiatives and resources to navigate the digital environment safely and manage online bullying.
- The Department of Education provides guidance through Online Safety in Queensland State Schools to schools, students, parents and the community for keeping young people safe online.
- The Queensland Police Service is a partner agency of the Australian Federal Police’s ThinkUKnow Program, which delivers interactive training to parents, carers, teachers and children through schools and organisations.
- The QFCC has also played a role in raising awareness about online dangers and protecting children online, including through the #doiknowu campaign.

In 2022, QFCC Youth Advocates co-hosted the *Amplify Forum: Solutions for Online Safety* to help young people learn about their rights in the digital environment and co-develop practical solutions to help them stay safe online. Children and young people are increasingly aware of their digital rights and opportunities as well as the potential risks and harms associated with the digital environment. They are vocal about their concerns and are calling for more action to protect their digital rights and ensure their safety online. This includes through better education and data security, more transparency from regulators and big technology companies, and less fear mongering.¹⁸⁰

While Queensland and Australia have taken steps to protect children’s digital rights, there are areas for improvement, including:

- recognising children and young people as active participants and involving them in decision-making processes that impact their digital rights (Article 12, UNCRC)
 - Children and young people should have a voice in shaping, designing and delivering online safety education programs and policies, which take their perspectives and experiences into account.¹⁸¹
- ensuring resources for children, young people, parents, caregivers and educators are kept up-to-date as the digital environment is dynamic (Article 18, UNCRC)
- strengthening laws and regulations to address online harm, including ensuring that online providers take responsibility for mitigating harm on their platforms (Article 19, UNCRC)
- recognising and addressing online protection threats and harm within the context of regular child protection systems (Article 19, UNCRC).
 - It is vital to educate courts, police and frontline workers about the risks and consequences of online child exploitation and abuse.
 - Training should be provided to enhance their understanding of digital threats and enable them to identify, investigate and prosecute cases.
 - Clear pathways should be established to refer child victims to appropriate support and assistance.

Access to information for children and young people in care

Children and young people in the child protection system have the right to access their own records as stated in the *Child Protection Act 1999*. In Queensland, Child Safety is responsible for ensuring that children in care have access to information about their situation and they are supported to understand this information. This includes information about their rights, entitlements and available services in written material and face-to-face meetings with support workers. The Office of the Public Guardian and Legal Aid Queensland offer external advocacy and support to children and young people.¹⁸²

Having a sense of identity allows children and young people to feel respected as individuals.¹⁸³ Young people with previous experience in Queensland’s child protection system told us that knowing who they are and where they are from is important for creating a positive self-identity. It is important they have early access to their birth certificate and other identifying information and full access to child protection files. This information can help children and young people understand why they were involved with the child protection system and support them to understand their culture.

In 2021–22, 108 time in care applications were processed under the Time in Care Information Access Service through Child Safety. Children and young people are also able to access their information through the Right to Information scheme.¹⁸⁴ Government needs to ensure children and young people are aware of their right to access their information, in an appropriate and supportive manner.

**“ In school, you’re the foster kid.
At home, you’re the foster kid.
Although I’m in the system,
I am an individual and I have
the right to my individuality.**

Youth Researcher, Rights, Voices, Stories

Freedom of expression in religious schools

In Queensland, the right to freedom of thought, belief and religion is protected under the Human Rights Act. The Queensland *Anti-Discrimination Act 1991* makes it illegal to discriminate based on specific attributes or characteristics. There are exemptions that allow religious schools to discriminate to a limited extent. For example, schools are permitted to limit enrolment to students of a particular religion or sex. The Anti-Discrimination Act does not include an exemption that allows religious schools or other educational institutions to discriminate on the basis of other characteristics like sexuality, race or gender identity.¹⁸⁵

In March 2023, the government announced a review of the framework for non-state schools in Queensland. It was prompted by concerns about controversial sexuality contracts that some schools were requiring students and staff to sign, which were seen as discriminatory against LGBTQIA+ individuals.

The review will look at various aspects of non-state schools, including their governance and regulation, and is aimed at ensuring that they meet their obligations to provide a safe and inclusive learning environment for all students.¹⁸⁶

All children and young people should have access to a high-quality education (Article 28, UNCRC) which supports them to develop respect for human rights and fundamental freedoms and prepares them for life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples (Article 29, UNCRC). This should be true, regardless of whether they are enrolled in the state or non-state school systems. A rights-based approach should shape the development of a contemporary framework for non-state schools, that offers Queensland children and families with choice.