

# QFCC monthly insights paper

September 2024



## In this Insights paper:

<i>Help way earlier!</i> – Australian Human Rights Commission report on transforming child justice	2
<i>Closing the Gap</i> targets ‘off-track’ in reducing Indigenous young people’s overrepresentation in incarceration	3
Queensland Ombudsman report on Cairns and Murgon watch houses – focus on children in detention	4
Supporting young people in out-of-home care who are absent from care or ‘self-placing’ in unapproved locations	5
Nature play and child wellbeing – Australian Institute of Family Welfare study	6
Government and regulator’s responses to children’s risk of harm posed by social media	7
Unintended consequences of school accountability – school manipulation of NAPLAN results to inflate performance	10
Youth justice-involved LGBTIQ+ young people: exploring practitioner and policy perspectives	11
Button batteries fatally flawed and causing unnecessary injury; UNSW study calls for redesigns	11
Updates from other jurisdictions:	12
‘Just work as a team’ – Family inclusion in child protection: Law, courts and balancing risks	
New South Wales – Substance misuse by birth parents and the impacts on trajectories for young people in out-of-home-care	



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## New research and analysis

# Help way earlier! – Australian Human Rights Commission report on transforming child justice

Youth Justice

Children's Rights

The Australian Human Rights Commission has released the report ['Help way earlier!': How Australia can transform child justice to improve safety and wellbeing](#) investigating opportunities for policy and legislative reform based on children's rights and reinforced with evidence and case studies.

"Tragically, by not addressing their human rights early on, and instead taking a punitive approach to their offending, we are essentially criminalising some of the most vulnerable children in Australia."

*National Children's Commissioner, Anne Hollonds*

Commissioner Hollonds states that the report was written to ensure that the child's voice was at the centre of the inquiry. The Commissioner met with 150 children and young people who had touch-points with the youth and criminal justice systems, particularly those whose lives had been "marred by systematic failure". Commissioner Hollonds described the cases examined in the inquiry as "**the most egregious breaches of human rights in this country**".



Queensland was identified as failing in accountability to children particularly with regard to the use of watch houses and detention as a last resort.

### National approach seen to be the most effective method to address issues

- There were significant barriers identified in the path to achieving significant reform, including systematic racism, workforce capacity issues, the fragmented system of our governments, lack of investment and commitment in evidence-based reform resulting in 'tough-on-crime' rhetoric and a persistent failure to prioritise children's rights and wellbeing.
- These issues were identified as only being addressed by **cooperation and political will at all levels of government**, across jurisdictions.
- Commissioner Hollonds states that despite evidence of social disadvantage being the root cause of offending behaviour, policies were primarily reactive and centred on policing, bail and incarceration.

"In many cases, these responses worsen the trauma and inequality driving children's contact with the justice system in the first place."

\* "Child justice system" is used throughout the report for "accuracy, and to better reflect a child rights approach".

# Help way earlier! – Australian Human Rights Commission report on transforming child justice - *continued*

## Public health approach essential to address children’s involvement in criminal justice

- The report illustrates how **punitive approaches were seen as ineffective** and illustrated a need to adopt a public health approach, focusing on:
  - Prevention and early intervention
  - Meeting the basic needs of children and communities
  - Addressing the ‘[social determinants of crime](#)’.
- Commissioner Hollonds states that children in detention are missing out on basic healthcare before and during their contact with police and child justice systems, specifically identifying young people incarcerated in watch houses and youth detention facilities.

Australian Human Rights Commission, 2024. ‘*Help way earlier!*’: How Australia can transform child justice to improve safety and wellbeing. Sydney: Australian Human Rights Commission.

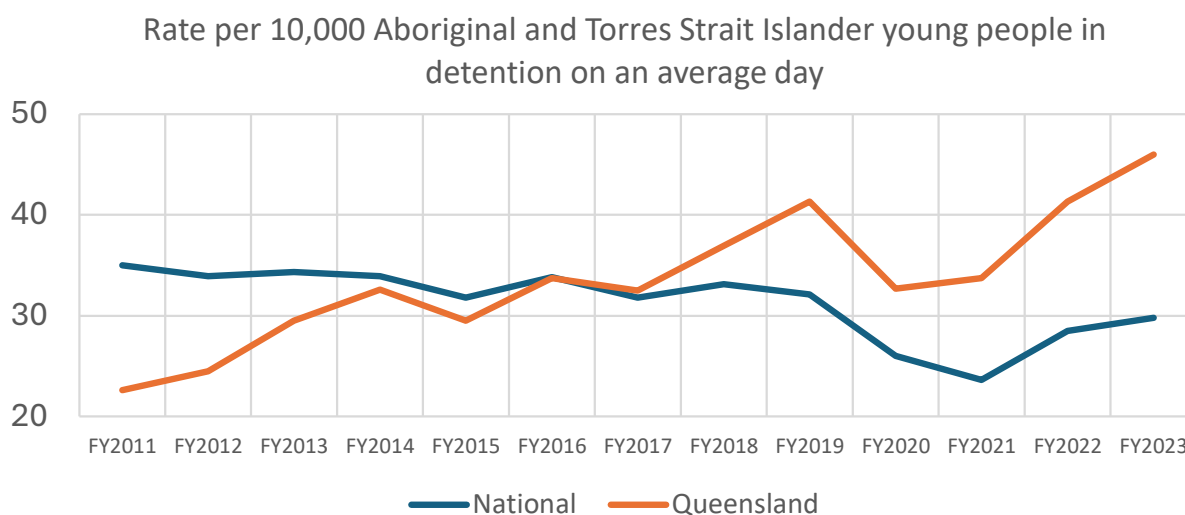
## Closing the Gap targets ‘off-track’ in reducing over-representation of First Nations young people in incarceration

Youth Justice

First Nations’ Rights

- The Productivity Commission’s latest Annual Data Compilation Report on the *Closing the Gap* targets has found that the target to reduce the rate of Aboriginal and Torres Strait Islander young people in detention by at least 30%, **has shown no statistical improvement from the baseline**.
- The 2022-23 rate is above the previous three years (lowest result of 23.6 per 10,000 young people in 2020-21) but is a decrease from 32.1 per 10,000 young people in 2018-19 (the baseline result).
- Queensland was found to be worsening against the national targets.\*

\*These results are identified by the Productivity Commission as reported with a ‘Low’ level of confidence



Source: Productivity Commission, Closing the Gap dashboard, table CtG11A.1

Productivity Commission, 2024. *Closing the Gap Information Repository: Socio-Economic Outcome Area 11*. Commonwealth of Australia.

# Queensland Ombudsman report on Cairns and Murgon watch houses – focus on children in detention

Children's Rights

Mental Health

Youth Justice

The Queensland Ombudsman's report on Cairns and Murgon watch houses was tabled in State Parliament on 11 September 2024. The report was conducted by the Queensland Ombudsman and the Inspector of Detention Services, Mr Anthony Reilly.

The Cairns and Murgon watch houses were selected by the Ombudsman for inspection due to their use on multiple occasions to detain children for long periods, including over a month in some instances.

## Primary concerns noted by inspector:

- Admission processes.
- Lack of privacy.
- Assessment of risk and harm.
- Issues relating to children being detained in watch houses for extended periods of time.
- Limited privacy, limited access to fresh air and overcrowding.
- Isolation practices of children.
- Lack of guidance and specialist training for staff.
- No organised activities for detained children.

***"We are concerned that the infrastructure of both watch houses is not suitable for detaining children, especially for longer periods of time."***



*Photo of an accommodation cell in the Cairns watch house boys unit.*

## Recommendations made by the Ombudsman

The Ombudsman's report makes **19 recommendations** to the Queensland Police Service to address the concerns identified in the inspection. These recommendations include:

- **Recommendation #3:** The Queensland Police Service develops and delivers mandatory training for staff who undertake admissions and assessments of children, covering such topics as trauma informed approaches to communicating with children with complex needs and engaging with Aboriginal and Torres Strait Islander children.
- **Recommendation #16:** The Queensland Police Service and the Department of Youth Justice conduct a joint review of services to children in watch houses across the state. This should identify gaps and develop strategies to address them, including facilitating access by appropriate Aboriginal and Torres Strait Islander organisations, and Aboriginal and Torres Strait Islander Police Liaison Officers, to children in watch houses.
- **Recommendation #19:** Children should only be detained in a watch house as a last resort and for the minimum time possible. Children should be admitted to a more suitable facility as soon as possible.

Based on the information in this report, it is clear that the detention of children in watch houses creates the risk of harm and that it should be avoided. If detained in a watch house, children should be held for the minimum time possible, and transferred to a more suitable facility as soon as possible.

Inspector of Detention Services, Office of the Queensland Ombudsman, 2024. *Cairns and Murgon watch-houses inspection report: Focus on detention of children.*

# Supporting young people in out-of-home care who are absent from care or 'self-placing' in unapproved locations

Placement Stability

Child safety

A study published in the British Journal of Social Work explores the approaches used by statutory child protection providers in supporting children and young people who are in out-of-home care and absent from their approved placement (also known as 'self-placing'). The study was conducted in Queensland, and the sample of participants in the study were a collection of 26 participants in various roles in the Department of Child Safety, including child safety officers, senior practitioners and managers and directors.

## Lack of formalised guidelines leads to practice 'grey-area'

Participants from all roles and regions drew attention to a lack of formal practice guidance regarding young people who are absent from care. An executive participant noted that **self-placing was "not seen as a valid part of the system... there's no [agreed] term for it, let alone any guidelines..."**.

The lack of guidelines has resulted in typically one of three approaches used by staff:

1. A risk-averse approach that views self-placing as an 'invalid' living arrangement, addressed through monitoring and compliance;
2. An approach that fosters the independence of the young person who have autonomously chosen to leave the approved placement; and
3. A relational approach that supports young people who 'don't fit the system' and prioritises building trusting relationships and collaborating with the young person.

"This [self-placing] is because the system doesn't provide a service that fits their needs, so they're sort of creatively making a system that is meeting their needs and occasionally that works for the best... So, the ones who don't fit in the system, and by forcing the system on them, **we're sort of forcing them to be at more risk and avoiding us and being homeless.**"

*Child Safety Regional Team Leader*

## Findings indicate a need for a framework that supports rights, autonomy and safety

- The study showed a systematic focus on compliance and risk aversion, indicating a need to develop a harm-minimisation framework to support young people's rights, safety and autonomy when absent from care.
- The study highlights the diverse range of practices required from child protection staff to meet the diverse needs of children who self-place, and a need to acknowledge the young person's agency, rather than a need to 'force them back into an approved placement' that may not keep them safe.

## All practitioners share similar concerns

- All practitioners acknowledged the risks posed by young people who leave their approved placement, notably the risk of exploitation, housing instability and disengagement from formal services.
- Respondents also reflected on an anxiety that staff would be held personally accountable should anything problematic occur as a result of, or during the unapproved living arrangement. An executive respondent commented on this concern, reflecting that some staff are **"constantly trying to pull kids back to places where they don't and won't be anyway... which probably repels the young people more."**

Jemma Venables, Chloe Warrell, Joel Cullin, Kathy Ellem, Karen Healy, 2024. Approaches to Supporting Young People in Out-of-Home Care Who 'Self-Place' in Unapproved Locations: Perspectives of Statutory Child Protection Practitioners, *The British Journal of Social Work*., bcae131, <https://doi.org/10.1093/bjsw/bcae131>

# Nature play and child wellbeing – Australian Institute of Family Welfare study

Children's Rights

Mental Health

The Australian Institute of Family Studies (AIFS) has released a policy and practice paper relating to the intersection of nature play and child wellbeing. The paper uses the term 'nature play' to refer to contact with nature broadly, and more specific child-led, unstructured play activities in nature. The paper summarises evidence for the benefits of nature play on children and proposes considerations for practitioners working with young children.

There is an exponentially growing interest in nature play for children, seen to be a response to children increasingly spending more time indoors and in urban environments, and a noted decrease in the level of independent mobility of children in the community.



There are [significant bodies of research](#) relating to the importance of Aboriginal and Torres Strait Islander people's connection to country, and the direct correlation to wellbeing. The AIFS study specifies that the research and knowledge presented in relation to nature play is distinct from research relating to connection between First Nations relations to country and wellbeing.



A study entitled [Digital play in the early years: A systematic review](#) evaluates the knowledge base of *digital play* literature concerning young children since the 2010 release of the Apple iPad. The review found concerns remain regarding the impact on children's engagement in physical activity and addiction to 'screens and devices'.

## Notable benefits and risks of nature play

- Nature play can **improve children's physical and mental health, sleep, resilience and learning**. Some of these outcomes may be attributed to children's play activities and behaviours when in nature. Nature play is often more complex and requires more creativity than indoor play, stimulating various types of play (physical, imaginative, sensory-rich and collaborative) that contribute to multiple aspects of a child's physical, emotional and mental development.
- **Child-driven play grants autonomy to the child**, encouraging them to learn about decision making, cooperation with others, negotiating their individual needs, and resolving conflict. Independent exploration and overcoming minor challenges and risks aids children in developing their own sense of agency and provides an understanding of their body's capabilities. This **improves children's confidence, self-esteem and decision-making skills**.
- [Multiple studies have shown](#) that children can **better self-regulate and show an improvement in mood when engaging in nature**. Young children report many positive emotions from playing outdoors, such as feelings of happiness, excitement and relaxation.
- Risks of nature play are predominantly physical risks, where children can be hurt, injured or lost. However, the paper presents research that indicates that **play involving risk can teach children how to address and cope with risk** and learn methods of assessing risk. This is beneficial in children developing confidence and resilience in facing future challenges. [Studies have shown](#) that **learning how to assess and take controlled risks can teach children appropriate emotional responses**, such as overcoming fears and facing challenges.

Australian Institute of Family Studies. (2024). *Nature play and child wellbeing*. Retrieved from: <https://aifs.gov.au/sites/default/files/2024-08/2408%20Nature%20play%20and%20child%20wellbeing.pdf>

# Government and regulator's responses to children's risk of harm posed by social media

Children's Rights

Social Media

Child safety

## eSafety issuing legal notices requesting information from tech giants

- Australia's eSafety Commissioner, Julie Inman Grant, [issued legal notices in July 2024](#) to multiple tech companies operating in Australia, including Apple, Google, Meta and Microsoft. The notices require companies to **report to the regulator every six months about measures being established to address online child sexual abuse**.
- The Commissioner stated the notices were mandatory, and there may be financial penalties of up to \$782,500 a day for services that do not respond.
- [An additional notice](#) was issued in September 2024, requesting information on **how many Australian children were on their platform, and what age assurance measures were in place** to enforce their own age limits.
- The information will aid in reinforcing the eSafety's *Safety by Design* initiative, ensuring service provider responsibility, increasing user empowerment, and increasing transparency and accountability from the tech companies implementing the online platforms.
- Stakeholders from tech companies met with the eSafety Commissioner in late August 2024 to discuss strategies to ensure children's online safety, amidst the nationwide discussion regarding young people's access to social media platforms.

## South Australian Government investigation into social media ban

- Conducted by former Chief Justice of the High Court, Robert French AC, the [report of the Independent Legal Examination into Banning Children's Access to Social Media](#) outlines the legal, regulatory and technological pathways for the South Australian Government to implement a ban.
- The report identifies concerns regarding compliance, and the ability to enforce compliance on companies operating outside Australia.
- The report concludes that a state-level ban would be constitutional, but considerations regarding the difficulty of compliance and enforcement increases the desirability of a nationally led ban.

## Federal Government promises social media ban for children

- On 10 September 2024, the Federal Government announced plans to develop and introduce legislation banning children from social media, with the minimum age of access yet to be determined. [The Commonwealth Government has advised](#) it is investigating an age between 14 and 16 but will preference a 'higher limit'.
- The Federal Government's announcement follows the South Australian Government's legal examination of banning children under the age of 14 from having social media accounts.
- The Federal Government is currently undertaking trials of various methods of age verification. Some online platforms already employ age verification however there is no standard method across the industry.

eSafety Commissioner (2024) [Tech giants to face uncomfortable truths as eSafety compels them to lift their game tackling child abuse](#). Canberra: Australian Government.

eSafety Commissioner (2024). [eSafety calls on social media giants to reveal just how many Aussie kids are signing up](#). Canberra: Australian Government.

# Government and regulator's responses to children's risk of harm posed by social media - *continued*



[Snapchat](#) rebuked the proposal to increase the minimum age to allow young people to access social media to 16 years, citing the differences in every child's maturity level, and describing the age of 16 as arbitrary.

The company's global head of platform security, Jacqueline Beauchere stated that Snapchat is a relatively safe platform, noting that it is designed for messaging between people who know each other.

Ms Beauchere stated it should be the responsibility of Google or Apple to enforce any age restriction should the law change, noting this 'works best on the device level'.



[Meta](#) (owners of Facebook and Instagram) has provided its plan to ensure children's safety which proposes to compel Apple and Google to force parents to approve when their children attempt to install phone applications. The plan takes advantage of the existing functionality of parental controls on devices, instead making this step mandatory. [Instagram](#) recently announced "teen accounts", which limits the user's feed, restricting access to content, and limiting who can contact them. The change will be automatic for any account under the age of 18. Teen accounts implement safety and anti-bullying measures, as well as changes to limit time spent on the platform.

## Views of experts

- Dr Catherine Page Jeffery, lecturer and researcher in the Discipline of Media and Communication at the University of Sydney, [said the debate](#) around young people using social media was "polarising" and lacked nuance, noting that there is **not a strong evidence base for the harms of social media**. Dr Page Jeffery said that banning children's access to social media fails to acknowledge its substantial benefits.
- The Australian Association of Psychologists director Carly Dober, stated that a ban on young people accessing social media is a 'band-aid solution' and is distracting from more complicated and deeply entrenched issues. Ms Dober stated that the proposal **does not address the fundamental issues about how the internet can be unsafe** for young people.
- Dr Kate Sim, Director of Child Safety and Tech at the University of Western Australia, spoke at the National Child Protection Week Seminar, The Digital Playground, addressing children's digital safety and efforts to address concerns. Dr Sim outlined the **need to approach the discussion from a rights-based approach**, noting children's rights to privacy, but also right to play and participation. Dr Sim also discussed the need to clearly articulate the issues that require addressing, noting that **'one fix' won't address all problems observed in the digital space**.

Online safety provider, Qustudio, [published a report](#) using data collected anonymously from 19,000 families with children aged between 7-18 years old.

Findings revealed that **nearly half of children aged between 10-15 years of age spend an average of approximately two hours per day on TikTok**.

The study also found nearly 40% of children aged 7-9 have an X (formerly Twitter) account. [Reports](#) state that 13% of X is adult content.

[QuStudio, 2024. Apps through the ages. Accessed 17/09/2024.](#)

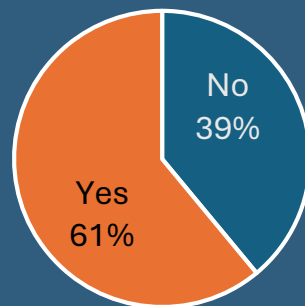


# Government and regulator's responses to children's risk of harm posed by social media - *continued*

## Q+A/YouGov poll: Youth social media access

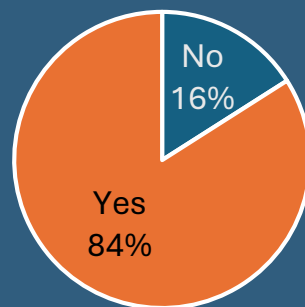
- Research commissioned by the ABC's Q+A show has illustrated majority community support in restricting social media access to people under the age of 17.
- The findings were generated from a weighted survey of 1,533 respondents. The key findings were as follows:

Should government ban the use of social media platforms for Australians younger than 17?



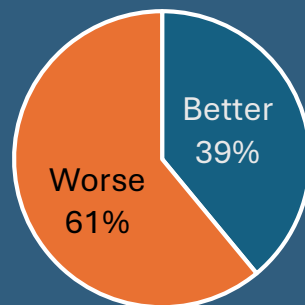
*A small majority (54%) of younger Australians (18-24) were opposed.*

Should social media platforms be licensed and subject to a code of conduct like broadcasters?



*Only 21% of respondents supported "complete free speech" on social media platforms. 79% supported the concept of a regulator with power to order content removal.*

Social media platforms have made my personal life...



*Asked if they had "appreciation of the greater choices and opportunities" of social media, or "concern we don't have a say in deciding what they do or provide", 6 in 10 chose the latter.*

ABC News, 2024. *License them, censor them and make them pay: What Australians really think about social media.*  
YouGov. ABC Polling Methodology Statement 19 August 2024.

# Unintended consequences of school accountability – publishing NAPLAN results and student withdrawal

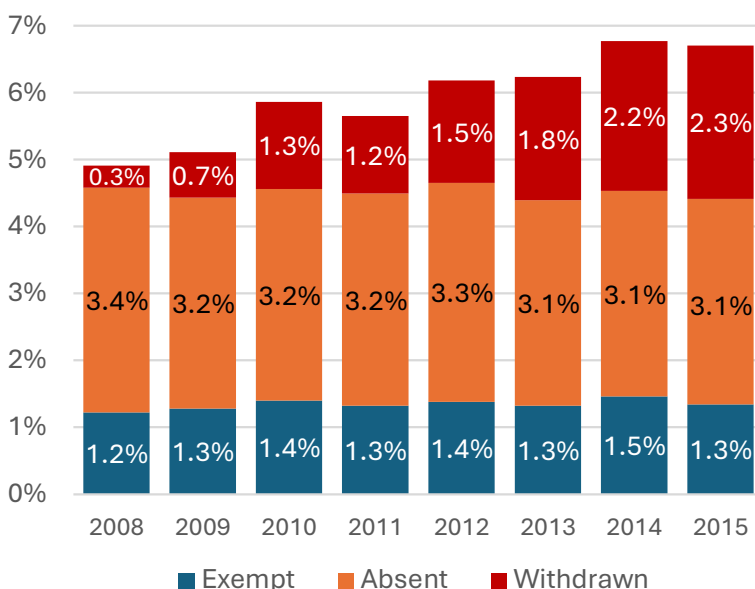
## Education

Research conducted and published by the University of Melbourne and University of NSW has shown a correlation between the introduction of publication of NAPLAN results, and increasing withdrawal of poorly performing students from testing. **This phenomenon was seen by researchers to be ‘gaming’ the system to enable schools to publish inflated test scores that are not truly indicative of performance.**

### Method and key findings

Data was collected from the MySchool website between 2008 and 2015. Data included standardised test scores and participation rates from a panel of 6,981 schools in an eight-year period. The non-participation rates of these schools were analysed and showed that the **overall rate of student withdrawal due to formal parental request rose from 0.33 per cent in 2008 to 2.29 per cent in 2015.**

Percentages of students withdrawn from NAPLAN by category



### Private schools excluding more children

- The study found that students that were withdrawn since the introduction of MySchool in 2010 were **far more likely to be low-performing students**, observed to affect school’s overall averages and artificially inflate results.
- The results revealed that poorly performing independent **private schools were withdrawing low-achieving students at twice the rate of public schools**, primarily using the process of parental consent (such as asking the child to stay home on the day of the test).

### Implications for artificially improving NAPLAN results

- MySchool was developed with the intention of making school performance data public, to allow parents to make informed decisions regarding the enrolment of their children.
- **This may have the unintended opposite effect of the original program, where the publication of results may now be concealing low skills in English and numeracy in some of Australia’s weakest school students.**
- The study’s authors posited that in response to lower averages, schools may have devoted more resources to improving the educational outcomes for poorly performing students. A study that surveyed school principals before and after the launch of MySchool showed little consistent evidence of schools engaging with this methodology.

Michael Coelli, Gigi Foster, 2024. Unintended consequences of school accountability reforms: Public versus private schools. *Economics of Education Review*, Volume 99.

# Youth justice-involved LGBTIQ+ young people: Exploring practitioner and policy perspectives

Youth Justice

LGBTIQ+

- An exploratory study conducted by academics in the Department of Social Work at Monash University has identified a vacuum of research and data regarding the topic of justice-involved LGBTIQ+ young people and the nature of the services provided to these individuals.
- The study found that the **binary gendered nature of youth justice systems presented a significant limitation in services provided to LGBTIQ+ young people**. One participant in the focus group stated that the “service system is geared around having two genders, and we struggle to accommodate anything different... We make that journey for them even more challenging than it may already be.”
- There were significant barriers identified in providing therapeutic services to address trauma experienced in custody spaces particularly to LGBTIQ+ young people. These barriers were determined to be systematic and unable to be addressed by individual practitioners. A participant stated that a “safe therapeutic overlay on top of a structural system that is unsafe still doesn’t work.”
- In a policy review of Queensland’s youth justice policy direction documentation, the word ‘gender’ appeared once, with the keywords of ‘sexuality’, ‘LGBT’, ‘gender diversity’, ‘transgender’, or ‘sexual orientation’ or ‘identity’ appearing zero times in the policy.

Huggins, L., & Baidawi, S., 2024. Youth justice-involved LGBTIQ+ young people: exploring practitioner and policy perspectives. *Current Issues in Criminal Justice*, 1–20.



## Button batteries fatally flawed and causing unnecessary injury; UNSW study calls for redesigns

Child safety

- Australia introduced the world’s first mandatory safety standards in 2022 for child resistant packaging of button batteries. **A University of New South Wales study has found this to be inadequate** due to current standards focussing on child-resistant packaging and product compartments, with the batteries themselves still posing a significant risk to children.
- Button batteries are known to cause severe injuries in as little as two hours once swallowed, and that children who did not have the battery removed within six hours were almost eight times more likely to die.
- Diagnosis of button battery injuries were identified as problematic due to the symptoms often presenting as other more common ailments, such as gastroenteritis or a respiratory infection. It was noted by the time clinicians or parents have determined battery ingestion occurred, severe injuries may have already have been sustained.
- Two weeks following the publication of this report, 64 children in a Sunshine Coast daycare centre underwent emergency x-rays following the remnants of a toy with button batteries found on the floor. No children were found to have ingested any batteries.

Tran, C., Nunez, C., Eslick, G.D. et al., 2024. Complications of button battery ingestion or insertion in children: a systematic review and pooled analysis of individual patient-level data. *World J Pediatr*.

# Updates from other jurisdictions

## New South Wales – ‘Just work as a team’ – Family inclusion in child protection: Law, courts and balancing risks

Child safety

Children’s Rights

Out-of-home Care

- A report published in the *Alternative Law Journal* has evaluated processes and recent research on the NSW Family Court to determine that the lived experience of parents and families are rich sources of expertise that are being under-utilised in informing child protection and out-of-home care decision making.
- The report references research conducted in the Hunter Valley entitled ‘*Just work as a team*’, which describes how parents and carers feel unheard and powerless in the family court system, despite their intimate knowledge being critical to the child’s wellbeing. The research found **broad support for the concepts involving family inclusion to ensure that families, carers and children are heard in decision making in child protection and out-of-home care, to enable optimal outcomes for children.**
- The reforms outlined to achieve further family inclusion in the family courts were identified as being multi-disciplinary reforms, requiring changes in law, policy and practice.

Ross, N., Foote, W., & Davies, K., 2024. Family inclusion in child protection: Law, courts and balancing risks. *Alternative Law Journal*, 49(3), 198-204.



## New South Wales – Substance misuse by birth parents and the impacts on trajectories for young people in out-of-home-care

Child safety

Out-of-home Care

- A study conducted using data from the New South Wales Department of Communities and Justice has found **children in out-of-home care (OOHC) with a history of parental substance misuse were more likely to be in the typical range for verbal cognitive development** than children in out-of-home care without this history.
- The study was conducted using a sample of 1,506 children who agreed to participate in the Pathways of Care Longitudinal Study between 2011 and 2018. The longitudinal study models were used to analyse the relationship of developmental outcomes with parental substance misuse in their child protection history.
- Concerns that children in OOHC with a history of parental substance misuse may be more affected developmentally than those without this history, may therefore not be justified.
- **The authors of the study recommend caution in drawing narratives from this data**, as while the study suggests children with a history of parental substance misuse may have been more resilient to the challenges experienced in OOHC, further research is required to analyse these narratives and elucidate the data found in this study.

Leggat, Kuntsche, Kuntsche, Atkins, Laslett, 2024. Substance misuse by birth parents: Outcomes for children and young people placed into out-of-home-care. *International Journal of Drug Policy*, Volume 132.



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