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National School Reform Agreement  
Productivity Commission  
Melbourne Vic Australia

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## **Review of National School Reform Agreement & National Policy Initiatives**

Thank you for the opportunity for the **Australian Child Rights Taskforce** (the Taskforce) to make a submission to this review.

We note that the Productivity Commission has been asked by the Australian Government to review the National Policy Initiatives (NPIs) under the National School Reform Agreement (Agreement or NSRA) including:

- the effectiveness and appropriateness of the NPIs; and of
- the Measurement Framework in measuring progress in achieving the outcomes of the NSRA.

We note that the Commission is concurrently undertaking an inquiry into Australia's productivity performance, which will include the role of schools in enhancing productivity and standards of living.

## **The Australian Child Rights Taskforce and its work**

The Australian Child Rights Taskforce<sup>1</sup> is a coalition of over 100 organisations, networks and individuals who are committed to the protection and development of the rights of children and young people in Australia. UNICEF Australia convenes the Taskforce, and its work is guided by a Steering Committee.

One of the key roles of the Taskforce is to hold Australian Governments to account on the implementation of the *United Nations Convention on the Rights of the Child* (the Convention). When Australia ratified the Convention in 1990, this represented a commitment that every child in Australia should enjoy the rights set out in the Convention.

The Australian Child Rights Taskforce has published a series of reports (most recently 'The Children's Report')<sup>2</sup>, that have examined the implementation of the Convention to assist the United Nations Committee on the Rights of the Child<sup>3</sup> in its review of Australia's performance. These reports acknowledge that while Australia is a wonderful place for most of its children, there remains significant structural and material disadvantage for many children. These reports have informed the recommendations of the Committee<sup>4</sup> which have covered a broad range of policy areas where improvements were considered necessary, including in education policy and practice.

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<sup>1</sup> [About the Australian Child Rights Taskforce](#)

<sup>2</sup> <https://apo.org.au/node/200771>

<sup>3</sup> <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>

<sup>4</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/AUS/CO/5-6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/AUS/CO/5-6&Lang=En)

## The Child Rights Approach

The Convention reflects a fundamental shift that occurred during the 20<sup>th</sup> Century in the way that children were viewed. Previously, children were largely viewed as the property of adults and as objects of protective intervention. This shift to an understanding of children as autonomous rights holders with agency has begun to be reflected in domestic legal systems as well as international law. The Convention sets out this understanding in a range of ways, including through its requirement that processes in law, government policy and judicial review will act to guarantee the effective implementation of the rights set out in the Convention for each Australian child (Article 2.1) and to require that all appropriate legislative, administrative and other measures are taken to implement the rights set out in the Convention (Article 4).

The child rights approach reflects international best practice in supporting children and their rights, including in respecting, and implementing the right to education. The right to education is articulated in several international human rights instruments. Article 13 of the International Covenant on Economic, Social and Cultural Rights and Article 28 of the Convention on the Rights of the Child each set out the right to education, noting that primary education should be available free to all and secondary education should be available and accessible to all by every appropriate means. Article 29 of the Convention reflects the international consensus that the education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential, the preparation of the child for responsible life in a free society and respect for the natural environment. Article 12 of the Convention sets out the child's right to express their views and for their views to be taken into account in decisions that affect them.

The United Nations Committee on Economic Social and Cultural Rights<sup>5</sup> and the United Nations Committee on the Rights of the Child<sup>6</sup> have each issued further guidance to the international community on the implementation of the right to education.

## The Australian Child Rights Taskforce on Education

The Taskforce's most recent report to the United Nations Committee on the Rights of the Child<sup>7</sup> provided this summary of its position on education in Australia.

*"For most children in Australia, there is no legal entitlement to education. The right to education is not explicitly protected in state and territory legislation, [except for the ACT]. The Australian Government has made significant investments in two reviews of the education system by Mr David Gonski AC. The recent Gonski review (also known as Gonski 2.0)<sup>8</sup> confirmed that since 2000, Australia's academic performance has declined and continues on a consistent downward trend. This has occurred in every socio-economic quartile and in all school sectors, including government, Catholic and independent schools. The extent of the decline is 'widespread and equivalent to a generation of Australian school children falling short of their full learning potential'<sup>9</sup>.*

<sup>5</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11)

<sup>6</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11)

<sup>7</sup> Australian Child Rights Taskforce, 'The Children's Report' (2018) pp51-52

<sup>8</sup> Gonski et al 2018, "Through Growth to Achievement: Report of the Review to Achieve Educational Excellence in Australian Schools" (2018)

<sup>9</sup> Ibid at pp ix

Based on our research and consultations, our conclusion was (and remains):

*“A child’s background is having a greater impact on their ability to succeed at school<sup>10</sup>, with direct and indirect barriers that impede access to education including absence of birth registration, poverty, experiences of violence and bullying, remoteness, lack of cultural safety for Aboriginal and Torres Strait Islander children and children from refugee and migrant backgrounds, and limited individualised support for children with disabilities.”*

During the consultations for our report, children described the difficulties that they faced in fitting into the mainstream model of schooling.<sup>11</sup>

*“Nobody doesn’t want to learn – some people just can’t or it’s a lot harder for them. Sometimes the system just shuts them out and says, ‘You can’t’ “*  
*[Student in Alternative Education, ACT]*

Another student noted:

*“Something could go wrong in your life and that’s all it takes. If you miss a turn of school, you’re so behind you can’t catch up. There’s no support and you’re going through so much stuff at the same time, you don’t quite know how to catch back up. It’s like building a wall with bricks—you’ve got your layers of bricks. If you miss, say a couple of months, you got missing bricks in your brick wall and it’s going to come tumbling down.”*

Our report argued that student engagement and retention are significant challenges facing the school education system in Australia today. We call for *“a broader approach to curriculum and teaching practice to better support diverse cohorts of students, particularly those experiencing vulnerability.”*

Broadly, we supported (and continue to support) the intent of the Gonski reforms – to introduce greater equity in the funding and approach to providing school education; and to shift the model for school education to more effectively accommodate and support individual student learning.

In our view, this reflects a more authentic child rights approach to education: one that reflects a genuine commitment to ensure “the education of the child shall be directed to the development of the child’s personality, talents and mental and physical abilities to their fullest potential”.<sup>12</sup>

The Taskforce highlights that the Convention expects this right to be shared by **all children**. Australia’s commitment to the right to education must include policy, resources, and measures to ensure that every child has the right to accessible, tailored and quality education.

Another aspect of a child rights approach is that it requires the implementation of all rights across portfolios. The right to education requires coordination and commitment to all aspects of a child’s experience. Health and wellbeing<sup>13</sup>, protection from violence, fairness and participation are among the rights that must be addressed for the effective realisation of the right to education.

<sup>10</sup> “Uneven Playing Field: The State of Australia’s Schools” Centre for Policy Development (2015)

<sup>11</sup> Australian Child Rights Taskforce, “The Children’s Report” (2018) pp51-52, 107

<sup>12</sup> Article 29, United Nations Convention on the Rights of the Child

<sup>13</sup> “A community engaged primary healthcare strategy to address rural school student inequities” (2018) Primary Health Care Research & Development

## The Australian Child Rights Taskforce and this Review

This submission has been prepared by the Taskforce's Policy Working Group and does not necessarily reflect the views of all organisations, networks and individuals who constitute the broad membership of the Taskforce. However, the submission is heavily based on previously endorsed collaborative and collective work of the Taskforce over many years (and several child rights reporting cycles). Our processes are consultative and draw on the experiences of children and young people and those who work with them across a range of sectors and communities.

As is clear, this work is built on an understanding of the Convention and the child rights approach and on our ongoing knowledge and experience in translating this understanding and approach into policy recommendations for Australian governments.

In the context of this review, our key argument is that measurement of school education performance must be comprehensive, coherent and child centred. We must be able to measure the ongoing engagement of all children with the school education system (including access to and the efficiency of alternatives to mainstream schooling). We must be able to hear how to improve the school education system through the experiences and voices of children and include their views and perspectives in the measurement of school reform and educational progress and achievements.

In this way, we will be able to refine and adapt the school and broader education systems to address barriers in access and opportunity. Only then will we be able to demonstrate our commitment to the provision of quality education to all children in Australia.

## Reflections on the National School Reform Agreement

The Taskforce recognises and supports the value and objective of the National School Reform Agreement.

We note that the provision of universal school education is the shared responsibility of governments at the Federal, State, Territory and Local levels.

It requires ongoing collaboration to drive reform and produce quality and equitable education for all school-age children and young people.

The building blocks for collaboration should include genuine consultation with all relevant stakeholders, including children and young people, their families and communities, schools and teaching and support staff.

As discussed in the context of the child rights approach, the right to education is to be shared by **all children**. There must be policy, resources and measures that ensure that every child has the right to accessible, tailored and quality education. The objective of the Agreement allows for this.

## The Reforms

The work of the Gonski reforms in terms of equity and access offer a pathway to the realisation of the objective of the National School Reform Agreement. It is less clear that the detail of the Agreement (and the Measurement Framework) supports this objective and the pathway ahead.

It is our view that the Agreement does not sufficiently take account of the diverse experience of children and young people - in both targets and measurement.

The current Agreement targets fail the opportunity to better understand and support student wellbeing and experience. This is notwithstanding that this opportunity will have impact on the current Agreement outcomes of academic achievement, engagement, and skills development.<sup>14</sup>

The wellbeing of school-age children and young people should be a target under the Agreement.

More careful (and consistent) measurement of engagement should include listening and considering the experience of children and young people (including those who are not consistently engaged with the school experience).<sup>15</sup>

## Reflections on the National School Reform Agreement and Measurement Framework

There should be scope to include data that recognises the broad experience and factors that affect a child's education. This could include data and knowledge that:

- builds understanding of the role of families and communities in supporting the education and learning experience of children in school, and
- examines schools' performance in supporting the wellbeing of children, including in terms of access and engagement for groups that experience disadvantage in the school system.<sup>16</sup>

These groups would include children with disability and living with chronic illness, First Nations children, children from culturally and linguistically diverse communities, children who identify as LGBTIQ+, children living in rural, regional, and remote locations<sup>17</sup> and children with experiences in the out-of-home care and youth justice systems (some of which are already identified as 'priority equity cohorts' for the NSRA).

In our view the National Measurement Framework for Schooling in Australia (Measurement Framework) would be more effective in supporting the objective of the National School Reform Agreement if developed and adapted to address these issues.

<sup>14</sup> 'Enhancing students' social and emotional development promotes success in school: Results of a meta-analysis', (2011) *Child Development* 82: 474-501

<sup>15</sup> "Educational opportunity in Australia 2015: Who succeeds and who misses out, Mitchell Institute; Centre for Adolescent Health; "Children and young people disengaged from education" (2019) Social Ventures Australia

<sup>16</sup> "Student health and wellbeing: A systematic review of intervention research examining effective student wellbeing in schools and their academic outcomes" (2020), Australian Council for Educational Research.

<sup>17</sup> "A community engaged primary healthcare strategy to address rural school student inequities" (2018) Primary Health Care Research & Development

## Coordination of National Policy and Reform

Another aspect of a child rights approach that is not reflected in the detail of the Agreement is that it requires the implementation of all rights across portfolios. The right to education requires coordination and commitment to all aspects of a child's experience. As discussed earlier, health and wellbeing, protection from violence, fairness and participation are among the rights that must be addressed for the effective realisation of the right to education.

The Taskforce supports more effective coordination of the different national reform initiatives that are likely to contribute to better engagement with a rewarding school education experience. These include:

- the **National Aboriginal and Torres Strait Islander Education Strategy 2015**,
- the **Nationally Consistent Collection of Data on School Students with Disability**,
- the **National Children's Mental Health and Wellbeing Strategy**,
- **Safe and Supported: National Framework for Protecting Australia's Children**,
- the **National Strategy to Prevent and Respond to Child Sexual Abuse**, and
- the implementation of the recommendations of the **Royal Commission into Institutional Response to Child Sexual Abuse** and the **National Principles for Child Safe Organisations**.

In the absence of a comprehensive and coordinated National Plan for Children, services and policy in portfolio areas are managed in isolation from each other. A failure to acknowledge the indivisible and interdependent nature of child rights and experiences results in the siloed, disconnected responses across systems that children and their families interact with.

## Discrimination and Disadvantage

Child rights call for the promotion of the principle of non-discrimination beyond statements of policy. Hidden behind the data of enrolment, the decentralisation of school decision making authority and the loaded language of disengagement is the inappropriate and discriminatory use of school disciplinary and exclusionary practices.

There is a direct and disproportionate impact on the enjoyment of the right to education for children who experience suspension, expulsion, and exclusion.<sup>18</sup> This is particularly evident in the experience of First Nations children and children with a disability.

This is a key area that should be addressed by the Agreement, Measurement Framework and National Policy Initiatives to address equity and access in education for all school age children and young people.

<sup>18</sup> <https://www.yacvic.org.au/assets/Documents/SUB-Exclusion-and-inclusion-of-students-in-Victorian-schools-2016.pdf> ; <https://www.smh.com.au/politics/federal/national-shame-children-with-disability-bullied-excluded-at-school-20191023-p533hl.html> ; <https://www.unisa.edu.au/Media-Centre/Releases/2020/schools-unfairly-targeting-vulnerable-children--with-exclusion-policies2/>

## **The National School Reform Agreement National Policy Initiatives**

The Taskforce notes the absence of direct engagement by the National Policy Initiatives with student experience and the voice of school-age children and young people. We support the Initiatives that will build a better equipped teacher workforce and develop more effective tools in curriculum, assessment, and policy, to enhance learning and education outcomes for students.

However, the National Policy Initiatives do not appear to provide tools to support student engagement and wellbeing. There is no apparent reflection on how to make school and learning environments more appropriate for disadvantaged groups. It is unclear how equity and access will be addressed either in school settings or across alternative learning environments.

It is unclear how the National Policy Initiatives will provide the means to reflect and learn from the experience of children and young people and their communities, to refine and adapt the school and broader education systems to ensure the provision of quality education to *all* school age children and young people in Australia.

### **Productivity Commission's *Mental Health inquiry***

The Taskforce endorses the recommendation of the Productivity Commission's 2020 Mental Health inquiry that the National School Reform Agreement should be updated to include 'improvements in student wellbeing' as an outcome along with the development of associated targets and measures.

### **Public Performance Reporting**

In reflecting on the Taskforce's experience of the challenge of reporting on the impact and implementation of government policy on child rights measures and commitments, we note with appreciation the ongoing value of the work of the Productivity Commission's Annual Reports on Government Services.

In that context, we would support the development of an ongoing commitment by all Governments to improving public accountability and performance and against the commitments enshrined in the United Nations Convention on the Rights of the Child. This commitment should also include serious consideration of the recommendations of the United Nations Committee on the Rights of the Child in its Concluding Observations on Australia's implementation of the Convention.<sup>19</sup>

As discussed in this submission, this should include more comprehensive and nationally consistent reporting of measures of attendance and engagement in schools (and where necessary alternative learning environments), measures that reflect the experience of wellbeing by school age children and young people and measures that address experiences of violation of the rights of children in the school system and other environments.

We note that the monitoring of violation of rights would be assisted by the application of the National Preventive Mechanism for the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to settings where children are detained.

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<sup>19</sup> <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/united-nations-human-rights-reporting/treaty-body-reporting>



### **Save the Children Australia's Submission**

Finally, the Taskforce notes its support for the submission of Save the Children Australia to this review and recommends attention to its research and analysis. We share the concern for need for far greater attention to measures of student wellbeing, voice, and engagement.

### **Further Engagement**

Thank you for the opportunity to make a submission to this review.

The Taskforce will continue to follow and support the work of the Productivity Commission in reviewing the National School Reform Agreement, producing the Annual Reports on Government Services and its broader work into Australia's productivity performance, using the child rights approach to guide our contributions.

Yours sincerely

On behalf of the Australian Child Rights Taskforce

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