



Supporting young children's rights

STATEMENT OF INTENT
(2015–2018)



Australian
Human Rights
Commission



Early Childhood
Australia
A voice for young children

The Australian Human Rights Commission

was established in 1986 by an act of the federal Parliament. We are an independent statutory organisation and report to the federal Parliament through the Attorney-General.

Our Vision: Human rights—everyone, everywhere, everyday.

Early Childhood Australia (ECA) has been a voice for young children since 1938. We are the peak early childhood advocacy organisation, acting in the interests of young children, their families and those in the early childhood field. ECA advocates to ensure quality, social justice and equity in all issues relating to the education and care of children aged birth to eight years.

Our vision: Every young child is thriving and learning.



Purpose

Supporting young children's rights: Statement of intent (2015–2018) provides high-level principles and areas for collective work, advocacy and action by Early Childhood Australia (ECA), its members and the National Children's Commissioner in relation to the rights of young children—including children from birth to primary school age—over the next three years.

Supporting young children's rights: Statement of intent (2015–2018) assists ECA and its members to be clear and credible advocates in campaigning for the rights and wellbeing of young children (ECA, 2014). ECA and the National Children's Commissioner have worked collaboratively to identify key areas for action to advocate for young children's rights in Australia. This document also aims to guide professionals working with young children to support and advocate for young children's rights in their day-to-day practice.

Overview

Australia ratified the *United Nations Convention on the Rights of the Child* in 1990 (the 'Convention' or 'UNCRC'). This Convention is an international human rights treaty which formally and explicitly outlines the rights of children in international law including basic human rights such as the right to be free from abuse, neglect and exploitation, the right to an education and healthcare and the right to be free from discrimination of any kind. The Convention emphasises respect for the inherent human dignity of all children, the importance of recognising diversity—including learning styles, abilities, gender, family circumstances and geographic location—and the principles of non-discrimination, best interests of the child, participation and survival and development. Whilst the Convention is not incorporated as a whole into Australian national and state laws, its principles inform and guide components of various legislation, policy, service provision and practice.

Of particular note to the development of this document, the national legislative framework for early childhood service delivery, the *Education and Care Services National Law* (2010) explicitly supports the incorporation of the Convention into legislation in Australia. Similarly the *Early Years Learning Framework* (2009) explicitly incorporates the Convention into the national guide for curriculum decision-making in early education and care. These documents highlight the central role of young children's rights in the provision of quality teaching and learning and service delivery.

Early childhood educators guided by the [Early Years Learning Framework] will reinforce in their daily practice the principles laid out in the United Nations Convention on the Rights of the Child. The Convention states that all children have the right to an education that lays a foundation for the rest of their lives, maximises their ability, and respects their family, cultural and other identities and languages. The Convention also recognises children's right to play and be active participants in all matters affecting their lives. The Early Years Learning Framework, 2009, p. 5.

The articles within the UNCRC are embedded within the objectives and guiding principles of the *Education and Care Services National Law* (2010) and Regulations (2011). The objectives and guiding principles of the *Education and Care Services National Law* (2010) provide the purpose of the Act. Of note are the following relevant key guiding principles (Section 3):

- that the rights and best interests of the child are paramount
- that children are successful, competent and capable learners
- that the principles of equity, inclusion and diversity underlie this Law
- that Australia's Aboriginal and Torres Strait Islander cultures are valued
- that the role of parents and families are respected and supported
- that best practice is expected in the provision of education and care services.



Why do we need a joint statement of intent?

As a national legislative framework and policy document the *Education and Care National Law* (2010) and the *Early Years Learning Framework* (2009) explicitly incorporate the UNCRC and highlight the central role of children's rights in the provision of quality teaching, learning and mainstream service delivery.

Areas for action

Australia's first National Children's Commissioner, Ms Megan Mitchell, tabled her inaugural report—the *Children's Rights Report 2013*—to Parliament in November 2013. This report examined the implementation of the UNCRC in Australia. In this report the National Children's Commissioner identified five emerging themes to progress the better protection of children's rights in Australia. The above key documents and these five themes have informed the focus of ECA's *Supporting young children's rights: Statement of intent (2015–2018)*.

The five key themes include:

- the right to be heard
- freedom from violence, abuse and neglect
- the opportunity to thrive
- engaged civics and citizenship
- action and accountability.

Key documents

Our statement of intent is based on an analysis and review of the following key Australian child rights documents:

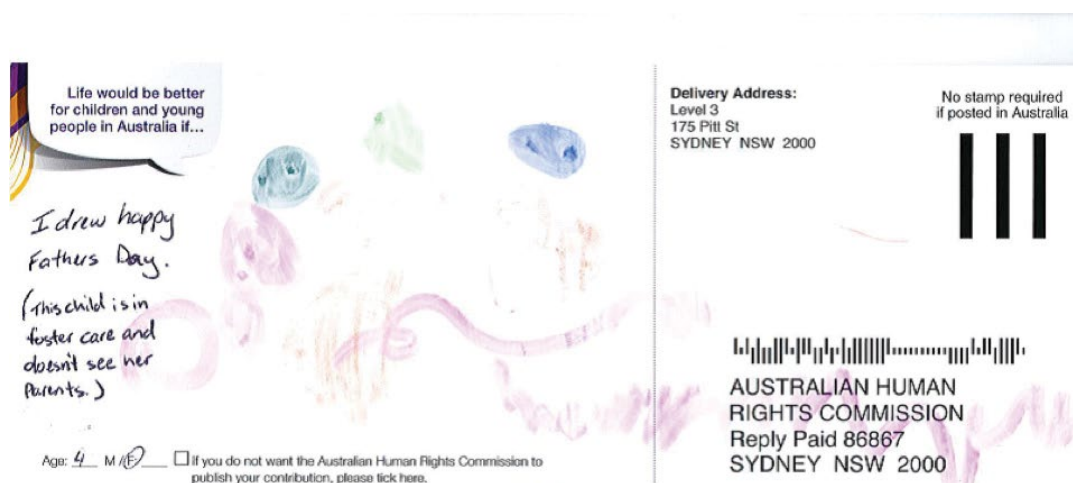
- *Education and Care Services National Law (2010)* and the *Education and Care Services National Regulations* (2011)
- *Belonging, Being and Becoming—The Early Years Learning Framework for Australia* (2009) and *My Time, Our Place—Framework for School Age Care In Australia* (2011)
- *United Nations Convention on the Rights of the Child* (1989)
- *Children's Rights Report* (2013)
- *UN Committee on the Rights of the Child: Concluding Observations, Australia* (2012)
- *Listen to Children Report* (2011)
- *National Framework for Protecting Australia's Children 2009–2020* (2009)
- *Investing in the Early Years—A National Early Childhood Development Strategy 2009–2020* (2009)
- *ECA Code of Ethics* (2006)
- *ECA Reconciliation Action Plan* (2012)
- *A Guide to General Comment 7: Implementing Child Rights in Early Childhood* (2006)

1. The right to be heard:

Promoting children's voice and participation in decision-making processes, and enabling greater opportunities to hear from children about their concerns

I would feel better if in life we kids had more of a say as we do have a voice and we would like to be heard and this is perfect for me as I am being heard. I would feel much better if everyone in life was equal.

- child from Victoria



- four-year-old girl from Queensland

The key priority areas for action identified by ECA and the National Children's Commissioner specific to young children for 2015–2018 include:

Action 1.1: building early childhood professionals' capacity, skills and knowledge to work, think and behave in a way that supports the implementation of children's rights, including the right to express their views, in everyday practice.

Action 1.2: supporting professionals working with young children to recognise that all children, including very young children, have the right to be heard and to participate in decision-making processes.

Action 1.3: supporting professionals working with young children to understand that they have the responsibility to listen to children, consider their opinions and act on their wishes, taking into account the child's best interests.

Action 1.4: supporting professionals to be able to identify and use appropriate resources and tools to ethically facilitate children's participation and decision-making.

The right to be heard

What this means for a child	What this means for a professional working with young children	What this means for ECA and the National Children's Commissioner
I will: • be recognised as a successful, competent and capable learner • be encouraged to express my views and opinions and know that these views and opinions will be listened to and valued • be consulted in decisions about what is best for me • be supported to access the information I need to be safely connected to and contribute to my world and the decisions affecting me • know that my family is recognised and respected as having the key responsibility for my upbringing • have privacy.	I will: • recognise children's agency and their individual and evolving capacity to participate in day-to-day considerations relating to their lives • build my capacity, skills and knowledge of children's rights to enable me to implement these in my day-to-day practice • facilitate learning environments that foster opportunities for all children to express themselves • listen to and value children's views and opinions and show that their views have been acted on • provide children with opportunities for their views to be heard and acted upon • listen to and value families' views and opinions and show that their views have been acted on • advocate for children's views and opinions to be heard and valued within the early learning environment, the family and the community.	ECA and the National Children's Commissioner will: • identify and promote the use of appropriate resources and tools to promote children's voices and to support children's participation in decision making • ethically contribute young children's voices to the public debate on issues of relevance to young children.

Relevant Articles and Acts

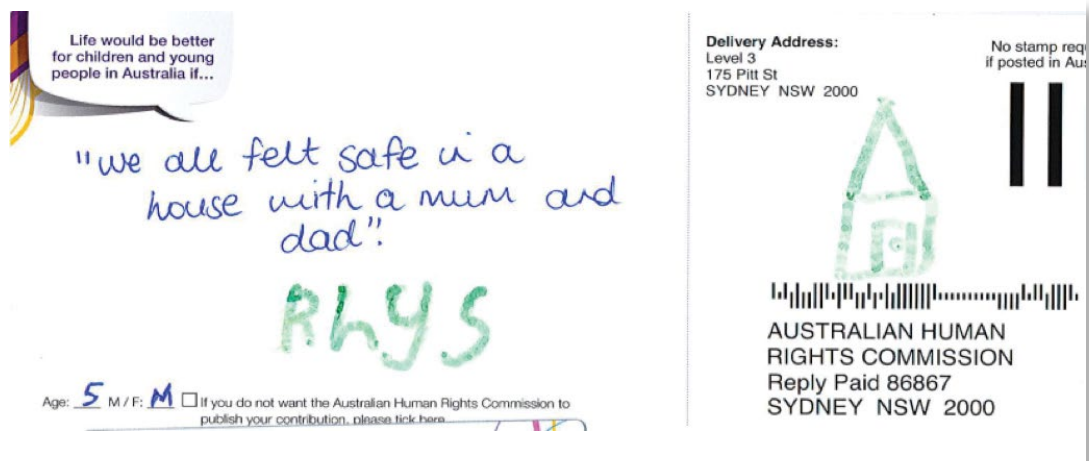
- UNCRC Article 12—Right to respect for the views of the child.
- UNCRC Article 13—Right to freedom of expression.
- UNCRC Article 5, 18—Right to family.
- *Education and Care Services National Law* (2011) Section 3—children are successful, competent and capable learners.
- *Education and Care Services National Regulations* (2011) Section 155—educators must provide education and care services to children in a way that:
 - encourages children to express themselves and their opinions
 - allows children to undertake experiences that develop self-reliance and self-esteem
 - maintains at all times the dignity and rights of each child
 - gives each child positive guidance and encouragement toward acceptable behaviour
 - has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.
- The *Early Years Learning Framework* (2009)—learning outcomes:
 - Children have a strong sense of identity
 - Children are connected with and contribute to their world
 - Children have a strong sense of wellbeing
 - Children are confident and involved learners
- **[particularly] Children are effective communicators.**

2. Freedom from violence, abuse and neglect:

Delivering safe environments and respect for the dignity of the child

I think that everyone should be safe.

- 10 year old child from South Australia



- five-year-old boy from New South Wales

The key priority areas for action identified by ECA and the National Children's Commissioner specific to young children for 2015–2018 include:

Action 2.1: supporting children's services to consider and build their organisational capacity to become child safe and child friendly organisations.

Action 2.2: advocating that children's services settings be free from harm.

Action 2.3: promoting a better understanding within children's services of child protection issues, including the identification and support of vulnerable children, children at risk and linking at-risk children and families to appropriate supports, early intervention and other services and responses.

Action 2.4: improving interdisciplinary responses across education, health and social services to support vulnerable children and children at risk of violence, abuse and neglect.

Action 2.5: supporting professionals working with young children to build strong partnerships with families to provide a safe environment for their children.

Freedom from violence, abuse and neglect

What this means for a child	What this means for a professional working with young children	What this means for ECA and the National Children's Commissioner
I will: • be and feel safe no matter where I am • be supported and protected by the people in my life from violence, abuse and neglect • be consulted in decisions about what is best for me • live and grow up safely • be cared for and have a home • be listened to and have my concerns heard, respected and acted upon.	I will: • develop my understanding of risk and protective factors that contribute to children's safety as well as relevant legislation and mechanisms for protecting children from violence, abuse and neglect • listen to children and recognise and respond to signs of violence, abuse and neglect • provide children with opportunities to raise their concerns about safety • improve my understanding of each child's family and support their connections with relevant local services that support safe environments for children • facilitate learning environments that foster opportunities for all children to express themselves • model respectful relationships.	ECA and the National Children's Commissioner will: • support organisations providing services for young children, to be child safe and child friendly • promote appropriate strategies to support professionals to identify and respond to risk, abuse and neglect • advocate for the protection of all children from violence, abuse and neglect.

Freedom from violence, abuse and neglect

Relevant Articles and Acts

- UNCRC Articles 18, 33, 34, 37, 39—Right to protection.
- *Education and Care Services National Law* (2010) Section 166—an approved provider, a nominated supervisor, a staff member or volunteer must ensure that no child being educated and cared for by the service is subjected to:
 - any form of corporal punishment
 - any discipline that is unreasonable in the circumstances.
- *Education and Care Services National Law* (2010) Section 167—an approved provider and a nominated supervisor of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause harm.
- *Education and Care Services Regulations* (2011) Section 84—educators must be aware of the existence, application and obligations under state based child protection laws.
- *The Early Years Learning Framework* (2009)—learning outcomes:
 - Children have a strong sense of identity
 - Children are connected with and contribute to their world
- **[particularly] Children have a strong sense of wellbeing**
 - Children are confident and involved learners
 - Children are effective communicators.

3. The opportunity to thrive:

Safeguarding the health and wellbeing of all children in Australia, including building an effective early intervention and prevention system; with a focus on the most vulnerable children—along the lines of proportionate universalism

Helping poor children have a good house and have food that is good to eat.

- four-year-old girl from Victoria



- three-year-old girl from South Australia

The key priority areas for action identified by ECA and the National Children's Commissioner specific to young children for 2015–2018 include:

Action 3.1: recognising Aboriginal and Torres Strait Islander children as children indigenous to Australia.

Action 3.2: promoting and supporting cultural awareness training and the importance of connections with country with educators, children, families and community.

Action 3.3: advocating for a child's right to access, participate and benefit from quality education as identified under the UNCRC.

Action 3.4: advocating for and supporting vulnerable children and children at risk to have priority of access to early childhood education and care services.

Action 3.5: supporting families to connect to professional services to maximise children's opportunities.

Action 3.6: promoting and advocating for children to have play-based learning opportunities, leisure and rest.

The opportunity to thrive

What this means for a child	What this means for a professional working with young children	What this means for ECA and the National Children's Commissioner
I will: - be recognised as a successful, competent and capable learner - know that my family and my values, beliefs, culture, religion and values are recognised and respected - be supported to know, enjoy, understand and express my culture, religion, language and beliefs - support my engagement in lifelong learning - be consulted in decisions about what is best for me - have access to education, play and cultural activities - be given the opportunity, time and space to play and rest.	I will: - know, learn and understand the history of Australia's first people - learn more about my culture and the cultures of the children and families within my community - commit to ongoing professional development on cultural awareness and approved learning frameworks for educating children about culture and diversity - value quality resources that inform my work with children and their families so that I am culturally sensitive and responsive - facilitate a learning environment that will promote opportunities for children to thrive and excel - provide children with information relevant to their day-to-day lives in consultation with families and based on the child's evolving capacity and understanding - recognise children's current capacity and abilities and support children to learn - support, promote and advocate for the provision of play-based learning opportunities for children in early childhood education and care settings.	ECA and the National Children's Commissioner will: - engage with recognised national and international experts in the field of children's rights so as to keep informed and up-to-date of changes relevant to the early childhood education and care sector - inform organisations working with young children of relevant evidence-based practice and research in relation to children's rights. ECA will: - continue their commitment to the <i>Reconciliation Action Plan</i> and promote reconciliation across the early childhood sector to close the gap in outcomes for Aboriginal and Torres Strait Islander children - advocate for children to be given the opportunity, time and space to play and rest.

Relevant Articles and Acts

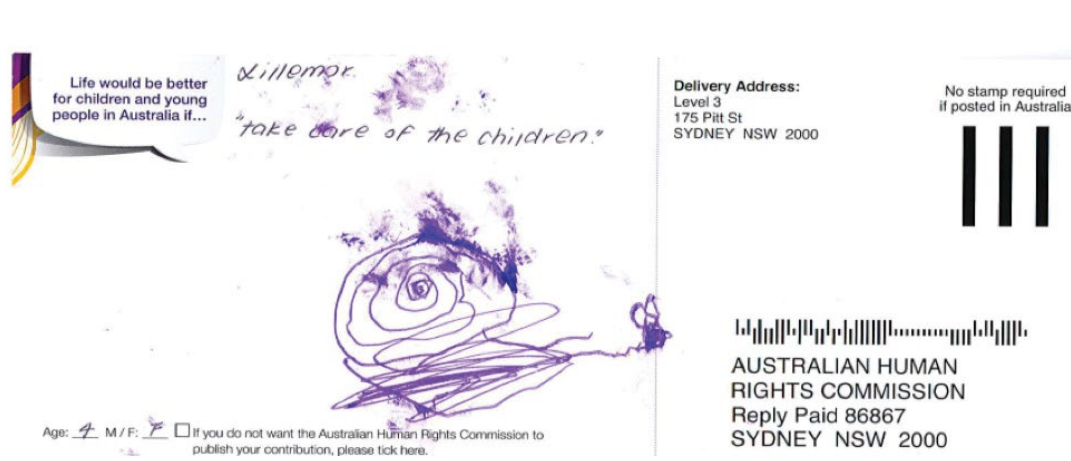
- UNCRC Articles 4, 42—A right to education.
- UNCRC Articles 17—A right to information.
- UNCRC Article 5, 18—Right to family.
- UNCRC Article 31—Right to play, rest and leisure.
- *Education and Care Services Regulations* (2011) Section 73, 74, 75 and 76—programming, assessment and documentation be implemented and delivered by suitably qualified educators to contribute to the learning outcomes of each child attending an education and care service.
- *Education and Care Services Regulations* (2011) Section 84—educators must be aware of the existence, application and obligations under state based child protection laws.
- *The Early Years Learning Framework* (2009)—learning outcomes:
 - Children have a strong sense of identity
 - Children are connected with and contribute to their world
 - Children have a strong sense of wellbeing
- **[particularly] Children are confident and involved learners**
 - Children are effective communicators.

4. Engaged civics and citizenship:

Through education and awareness of children and the community about their rights and responsibilities in practical and meaningful ways

Life would be better for children and young people in Australia if we were all treated with equality and we were all treated fairly. Life would be better if everyone learned the meaning of freedom

- 10 year old child from Victoria



- four-year-old girl from South Australia

The key priority areas for action identified by ECA and the National Children's Commissioner that are specific to young children for 2015–2018 include:

Action 4.1: supporting educators to provide rights education in early childhood education and day-to-day practice.

Action 4.2: supporting professionals to provide children growing up in a digital world to engage in that world positively and to know about and develop basic skills in privacy preservation and internet safety.

Action 4.3: supporting professionals working with young children to recognise children as active citizens who have a role in contributing to their broader community whilst respecting and acknowledging each child's evolving capacity.

Action 4.4: supporting professionals working with children to create environments that are free of bullying, both offline and online.

Engaged civics and citizenship

What this means for a child	What this means for a professional working with young children	What this means for ECA and the National Children's Commissioner
I will: - be informed about my rights and responsibilities as a citizen within my community - be provided with information and support to engage in and exercise my civic rights and responsibilities - be recognised as a participant in the digital world - be supported to access the information I need to be safely connected and to contribute to my world - be asked for my consent, and the consent of my family, when sharing my personal information, including my images - have my privacy protected - know that my family is recognised and respected as having the key responsibility for my upbringing.	I will: - build my capacity, skills and knowledge of children's rights to enable me to implement these in my day-to-day practice - support children to know and understand their rights and responsibilities - keep informed and maintain resources that will best support children's learning on civic responsibility and children's rights - provide daily opportunities for children to exercise their rights and responsibilities in their early learning education and care environment, their family and their community - provide support to children, and their families, to promote children's privacy and personal safety particularly in relation to digital technology used in the early learning environment, services for young children and at home - value and respect diversity - respect relationships.	ECA and the National Children's Commissioner will: - promote resources to support children's rights education in early childhood and within the community - promote and develop resources for educators, professionals working with young children, children and the community to promote children's personal safety, particularly in relation to digital technology - support and promote the ongoing development of national standards and ethics in relation to children's rights.

Engaged civics and citizenship

Relevant Articles and Acts

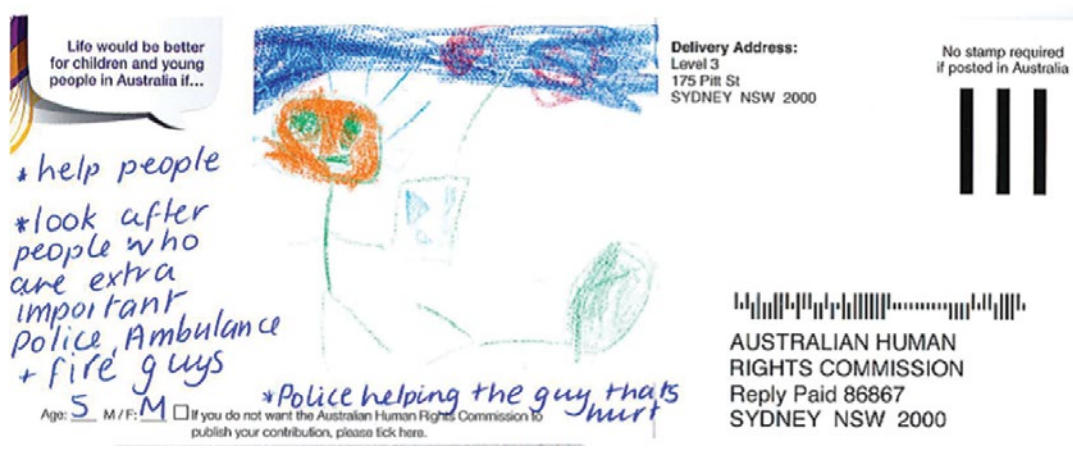
- UNCRC Articles 4, 42—Right to know your rights.
- UNCRC Article 17—A right to information.
- UNCRC Articles 5, 18—Right to family.
- UNCRC Article 18—A right to privacy.
- *Education and Care Services Regulations (2011)* Section 84—educators must be aware of the existence, application and obligations under state based child protection laws.
- *The Early Years Learning Framework (2009)*—learning outcomes:
 - Children have a strong sense of identity
 - Children are connected with and contribute to their world
 - Children have a strong sense of wellbeing
- **[particularly] Children are confident and involved learners**
 - Children are effective communicators.
- *National Quality Framework (2012)* Standard 3.3.2—Children are supported to become environmentally responsible and show respect for the environment.

5. Action and accountability:

Taking action to collect comprehensive national data about child wellbeing, progress a national vision for children, and develop mechanisms by which children's interests are systematically considered in law policy and practice development and review

Life would be better for children if the government made sure every child had all the rights. I think every child should have food and water

- an Australian child



- five-year-old boy from Victoria

The key priority areas for action identified by ECA and the National Children's Commissioner specific to young children for 2015–2018 include:

Action 5.1: developing and supporting mechanisms to ethically contribute young children's voices to national data sets, laws, policy and day-to-day practices with children.

Action 5.2: taking action to support the progress of a national vision for young children in Australia.

Action and accountability

What this means for a child	What this means for a professional working with young children	What this means for ECA and the National Children's Commissioner
I will: • be informed about opportunities to contribute to decisions, debates and research activities • be informed about how my contributions will impact on myself, my family and my community • know that my contributions are valued • be encouraged to express my views and opinions and know that these views and opinions will be listened to and valued • have a say about decisions affecting me • be supported to access the information I need to be safely connected and to contribute to my world • be asked for my consent, and the consent of my family, when sharing my personal information, including my images • have privacy.	I will: • build my knowledge on how to ethically engage with young children and share their contributions • support children to have their views, experiences and achievements reflected in national data sets • advocate for engaging children ethically in data collection processes with their ongoing informed consent • take a critically reflective stance on my own professional practices with children and be amenable to feedback.	ECA and the National Children's Commissioner commit to: • promote and develop resources to support educators to ethically engage with young children • ethically contribute young children's voices to the public debate on issues of relevance to young children • promote to children the available avenues for children to make a complaint about their treatment • promote children's right to be involved in decision making and public debate about issues of relevance to them • advocate for ethical national and state based data collection relating to children's views, experiences and opinions.

Relevant Articles and Acts

- UNCRC Article 12—Respect for the views of the child.
- UNCRC Article 13—Right to freedom of expression.
- UNCRC Articles 5, 18—Right to family.
- UNCRC Article 4, 42—Right to know your rights.
- UNCRC Article 17—A right to information.
- UNCRC Article 18—A right to privacy.
- *Education and Care Services National Law* (2011) Section 3—children are successful, competent and capable learners.
- *Education and Care Services National Regulations* (2011) Section 155—educators must provide education and care services to children in a way that:
 - encourages children to express themselves and their opinions
 - allows children to undertake experiences that develop self-reliance and self-esteem
 - maintains at all times the dignity and rights of each child
 - gives each child positive guidance and encouragement toward acceptable behaviour
 - has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.
- The *Early Years Learning Framework* (2009)—learning outcomes:
 - Children have a strong sense of identity
 - **[particularly] Children are connected with and contribute to their world**
 - Children have a strong sense of wellbeing
 - Children are confident and involved learners
 - Children are effective communicators.



Glossary

Educators: The *Early Years Learning Framework* (2009) describes educators as ‘early childhood practitioners who work directly with children in early childhood settings’ (DEEWR, p. 45).

Convention: A convention is an agreement between States (countries) covering particular matters, especially one less formal than a treaty.

Inclusion: The *Early Years Learning Framework* (2009) identifies that inclusion involves taking into account all children’s social, cultural and linguistic diversity (including learning styles, abilities, disabilities, gender, family circumstances and geographic location) in curriculum decision-making processes. The intent is to ensure that all children’s experiences are recognised and valued. The intent is also to ensure that all children have equitable access to resources and participation, and opportunities to demonstrate their learning and to value difference.

Family: Within this document the term ‘family’ is all encompassing and recognises that children may have different people who are their main care providers and are recognised by the child as their family. This may include parents, carers, grandparents, extended family.

Participation: Article 12 of the *Convention on the Rights of the Child* states that children have the right to participate in decision-making processes that may be relevant in their lives and to influence decisions taken in their regard—within the family, the school or the community. The principle affirms that children are full-fledged persons who have the right to express their views in all matters affecting them and requires that those views be heard and given due weight in accordance with the child’s age and maturity. It recognises the potential of children to enrich decision-making processes, to share perspectives and to participate as citizens and actors of change. The practical meaning of children’s right to participation must be considered in each and every matter concerning children.

Privacy: In this document privacy is intended to include consideration of children’s records and children’s personal information (verbal and written), children’s identity, photos and images being protected and kept safe. Privacy also includes adult and children’s consent being sought for the sharing of information. The *Privacy Act 1988* defines privacy as ‘... information or an opinion, whether true or not, and whether recorded in a material form or not, about an identified individual, or an individual who is reasonably identifiable’. Common examples cited are an individual’s name, photo, commentary or opinion about a person.

Variations to the Education and Care Services National Law (2010)

Variations to the applied law include the *Child Care Act 2001* (Tasmania) and the *Education and Care Services National Law (Queensland) Act 2013* which do not specifically prohibit corporal punishment in schools or in Tasmanian childcare services (Holzer & Lamont, 2014).



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