



## COVID-19 Response Inquiry

### Submission (15 December 2023)

I welcome the opportunity to make this submission to the COVID-19 Response Inquiry, which is being made in my capacity as Australia's Human Rights Commissioner. This submission builds on the work that has been done by the Australian Human Rights Commission (Commission) throughout the COVID-19 pandemic in our capacity as Australia's national human rights institution.

#### Terms of Reference

An independent inquiry into Australia's response to the COVID-19 pandemic provides a positive opportunity to review response measures and improve preparedness for future pandemics. However, unless a comprehensive approach is adopted, there is a risk that this opportunity will be missed. In particular, it is critical that a human rights lens be placed across this inquiry to ensure that the full human cost of the pandemic is understood. While human rights are not expressly mentioned in the Terms of Reference, I would strongly encourage the Independent Panel to make human rights a central focus of both this Inquiry and future pandemic planning.

Similarly, the express exclusion of actions taken unilaterally by state and territory governments from the Inquiry means that key aspects of Australia's pandemic response which were primarily the responsibility of state governments – such as lockdowns and state border closures – risk not being examined. The Australian pandemic response was driven by complex interactions between Commonwealth, State and Territory governments that all had overlapping responsibilities. Examining the actions of any one level of government in isolation can only ever reveal part of this picture.

#### Impacts on Human Rights

Australia did, in a number of respects, deal with the COVID-19 pandemic comparatively well. For example, [Australia's overall COVID-19 mortality rate](#) was relatively low from a global perspective, and our [comparative economic performance during the pandemic](#) was relatively strong. However, there have also been significant social and community impacts resulting from Australians being required to endure some of the most significant restrictions of our human rights ever imposed during peacetime.

It is recognised that governments are able to legitimately restrict many human rights in response to a public health emergency. However, [‘these restrictions must meet the requirements of legality, necessity and proportionality, and be non-discriminatory’](#).<sup>1</sup>



While pandemic response measures were enacted with the important aim of protecting public health and saving lives, that does not change the fact that they had substantial impacts on individuals, families and communities. Pandemic response measures – including international and interstate border closures, hotel quarantine, extended periods of lockdowns, school closures, curfews and other restrictions on movement and association, vaccine mandates, mask mandates, and playground closures – had a significant (and often hidden) human cost. These included wide-ranging and long-lasting social and community impacts, such as family separation, social isolation, an increase in mental health issues, disruption in children’s schooling, and an increase in domestic and family violence.

The impact of these restrictions was not felt uniformly. There were disparities in the severity of restrictions and responses in different localities, and it was often already marginalised and disadvantaged communities who were required to bear a disproportionate burden. It has been widely recognised that the COVID-19 pandemic created specific risks and concerns with respect to different sections of the Australian community, including (but not limited to) children, culturally and linguistically diverse (CALD) communities, older Australians, Indigenous Australians, people with disabilities, and people in detention.

The Commission coordinated a number of projects that highlighted the risks and impacts with respect to specific sections of the Australian community, including:

- [Guidelines on the rights of people with disability in health and disability care during COVID-19](#) (2020)
- [Impacts of COVID-19 on children and young people who contact Kids Helpline](#) (September 2020)
- [Management of COVID-19 risks in immigration detention](#) (2021)
- [‘Mental health shapes my life’: COVID-19 & kids’ wellbeing](#) (2022)

### International Border Closures

One example of a response measure that had a significant impact and raised serious human rights questions was the closing of international borders, including for Australian citizens. This left many Australians stranded overseas and prevented Australians from leaving the country without an exemption. While I acknowledge the effectiveness of the international border closures from an Australian public health perspective, I am also acutely aware of the personal impact of these restrictions on individuals and families.

Perhaps the most serious examples was the [announcement by the Australian Government on 1 May 2021](#) of a ban on all flights from India, with the emergency determination meaning that any person caught entering Australia from India faced five years imprisonment and/or a \$66,000 fine. This effectively left 9,000 Australian citizens stranded in India, and is the first time that Australia has taken the extraordinary step of criminalising its own citizens for returning home.

### Human Rights Complaints

Another illustration of the impact that pandemic response measures had on human rights can be seen in the significant increase in complaints received by the Commission during the pandemic. The COVID-19 pandemic is the most notable single issue to have an impact on complaint numbers in the history of the Commission. The Commission has, to date, received a total of 2,662 complaints related to COVID-19, in addition to 14,022 enquiries.

### Conclusion

It is essential that Australia's pandemic response is fully and formally reviewed in terms of its impact on human rights, and that future emergency planning incorporates human rights considerations as a priority.

I would welcome further opportunities to engage with the COVID-19 Response Inquiry Panel, or to provide any additional information.

Yours sincerely



Lorraine Finlay  
Human Rights Commissioner

T: 

E: 

---

<sup>1</sup> Office of the United Nations High Commissioner for Human Rights, *Emergency Measures and COVID-19: Guidance* (27 April 2020).