



The Hon. Mark Dreyfus QC, MP, Attorney-General

The Hon. Chanston Paech, Attorney-General

The Hon. Shannon Fentiman, Attorney-General

The Hon. Michael Daley, Attorney General

Mr Shane Rattenbury, Attorney-General

The Hon. Jaclyn Symes, Attorney-General

The Hon. Elise Archer, Attorney-General

The Hon. Kyam Maher, Attorney-General

The Hon. John Quigley, Attorney General

21st April 2023

Dear Attorneys-General,

We write to you today as 126 Aboriginal and Torres Strait Islander, health and medical, legal, social and community services providers, and their respective peak bodies, from every state and territory in Australia, who are supporting the national Raise the Age campaign to raise the minimum age of criminal responsibility from 10 to at least 14 years of age.

Calling all state, territory and the federal government to urgently raise the age

We understand that you are due to have a meeting of the Standing Council of Attorneys-General (**SCAG**) on 28 April 2023 and that a possible agenda item for this meeting is the ongoing consideration of raising the minimum age of criminal responsibility. Our organisations strongly urge you to use this opportunity to ensure all states and territories and the federal government urgently raise the age of criminal responsibility to at least 14 without any exceptions.

We note that the SCAG previously agreed to develop a proposal to raise the minimum age of criminal responsibility from 10 to 12, and that the Northern Territory has passed legislation to raise the age to 12. This is in contrast to the recommendations of the [Draft Final Report 2020 – Council of Attorneys-General Age of Criminal Responsibility Working Group](#) which recommends that the age is raised to 14 with no exceptions. We reiterate that the medical evidence and internationally accepted standards make it clear that 14 years should be the minimum age of criminal responsibility. This was also pointed out by the United Nations Committee Against Torture’s recently published concluding observations on Australia, which called the current age of criminal responsibility “very low” and recommended that the age be raised in accordance with international standards.

Our coalition states in no uncertain terms that raising the age to only 12 and/or raising the age for some conduct, but carving out other conduct as exemptions is inconsistent with

health and medical evidence and will not be endorsed by our organisations. The call of the Raise the Age campaign has always been to raise the age of criminal responsibility to at least 14 with no carve outs and we will continue to run a strong, loud and unified campaign until this is achieved.

All jurisdictions must fully commit to following the recommendations from multiple reports, submissions and reviews including the above mentioned [Draft Final Report 2020 – Council of Attorneys-General Age of Criminal Responsibility Working Group](#) and the many [submissions](#) which informed this report, [advice from the UN Committee on the Rights of the Child](#), and a recent [joint statement](#) from the Aboriginal and Torres Strait Islander Social Justice Commissioner, Australia’s National Children’s Commissioner, the National Human Rights Commissioner, and the National Race Discrimination Commissioner, all of which recommend raising the age to at least 14 years.

Medical and health evidence for raising the age to at least 14 with no exceptions

These reports also make clear that the medical and health evidence confirms that detention is harmful for all children, and that internationally accepted human rights standards call for an increase to 14 years as the bare minimum age of criminal responsibility to protect the rights and health of young children.

As outlined in a [letter](#) sent to all Premiers, Attorneys-General, and Health Ministers in December 2021 from a coalition of 32 health and medical organisations, medical consensus regarding child brain development shows that children under the age of 14 are undergoing significant growth and development, which means that they may not have the required capacity to be criminally responsible. Research shows that immaturity can affect a number of areas of cognitive functioning “including impulsivity, reasoning and consequential thinking”. Scientific advances related to the understanding of child cognitive development favour a minimum age of criminal responsibility of at least 14 years, taking into account the time it takes for the adolescent brain to mature.¹

There is also clear evidence that children in our criminal legal system have high rates of additional neurocognitive impairment, trauma and mental health issues.² Given the high rate of neurodevelopmental delay experienced by children in youth centres of detention, behaviours often reflect the developmental age of the child, which may be several years below their chronological age. Judging criminal responsibility on the basis of a chronological age is inappropriate for children who may have a much lower developmental age due to medical and developmental conditions as well as socio-political factors including trauma and poverty. The evidence overwhelmingly shows that when children in the very young age bracket of 10 to 13 years of age are forced through a criminal legal process during their formative developmental phases, they suffer immense and enduring harm. Worse still, this compounds the disadvantage they were experiencing prior to their first contact with the legal

¹ Chris Cunneen, ‘Arguments for Raising the Minimum Age of Criminal Responsibility’ (Research Report, Comparative Youth Penalty Project, University of New South Wales, 2017) citing Sentencing Advisory Council, *Sentencing Children and Young People in Victoria* (2012) 11; Thomas Crofts, ‘A Brighter Tomorrow: Raise the Age of Criminal Responsibility’ (2015) 27(1) *Current Issues in Criminal Justice* 123; Enys Delmage, ‘The Minimum Age of Criminal Responsibility: A Medico-Legal Perspective’ (2013) 13(2) *Youth Justice* 102

² Commission for Children and Young People, *Our youth, our way: inquiry into the over- representation of Aboriginal children and young people in the Victorian youth justice system, Summary and recommendations* (2021) 151-154.

system, particularly for those who are chronically over-represented in the criminal legal system³.

Raising the age to 14 years is a straightforward reform to implement and has the backing of the service provision and legal sector

Polling shows that raising the age has broad public support, and it would have an immediate impact on Australia's ability to meet its Closing the Gap targets.⁴ In particular Target 11, which aims to ensure that Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system as currently Aboriginal and Torres Strait Islander children represent over 60 percent of all children in detention in Australia on an average day.⁵

In addition to raising the age, state and territory governments must urgently commit to funding comprehensive, community-led programs to divert all children younger than 14 away from jails, watch houses and courts.

Raising the age to an age younger than 14, with or without exception, puts Australian governments completely at odds with the medical consensus, internationally accepted standards, and the recommendations of the CAG report.

We urgently call on all state and territory governments in Australia to commit to raising the age to at least 14 years with no exceptions. Our organisations stand ready to support this crucial reform.

Yours sincerely,

Aboriginal Health Council
Aboriginal Legal Rights Movement (ALRM)
Aboriginal Legal Service NSW/ACT Limited
Act for Kids
ACT Council of Social Service (ACTCOSS)
Amnesty International Australia
Anglicare Southern Queensland
Anglicare Victoria
ANTAR
ARC Justice
Asylum Seeker Resource Centre
Australia Association of Flexible and Inclusive Education
Australian Association of Social Workers
Australian Health Promotion Association
Australian Healthcare & Hospitals Association
Australian Medical Association
Australian Research Alliance for Children and Youth
Australian Youth Affairs Coalition
Barwon Community Legal Service

³ Ibid; Meurk C, Steele M, Yap L, Jones J, Heffernan E, Davison S, et al. Changing direction: mental health needs of justice-involved young people in Australia. Sydney: Kirby Institute (2019); Sentencing Advisory Council, 'Crossover kids': vulnerable children in the youth justice system. Reports 2 and 3, Sentencing Advisory Council, Melbourne, (2020).

⁴ Sophie Trevitt, Bill Browne, 'Raising the age of criminal responsibility' research report (July, 2020).

⁵ Figure 3.3 - <https://www.aihw.gov.au/getmedia/3fe01ba6-3917-41fc-a908-39290f9f4b55/aihw-juv-140.pdf.aspx?inline=true>

Bower Place
Brisbane Youth Service
Brotherhood of St Laurence
Catholic Social Services Victoria
Caxton Legal Centre
Change the Record
Children's Ground
Common Grace
COTA Victoria
Deadly Connections Community & Justice Services Limited
Deadly Inspiring Youth Doing Good
Disability Discrimination Legal Service
Eastern Community Legal Centre (ECLC)
Environmental Justice Australia
Federation of Community Legal Centres Victoria
First Peoples Disability Network Australia
First Step Legal
Fitzroy Legal Service
For-Purpose Evaluations
Foundation for Young Australians
Gippsland Community Legal Service
Gold Coast Youth Service
Hello Initiative Incorporated
Human Rights Law Centre
Hume Riverina Community Legal Service
Illawarra Women's Health Centre
Inspire Youth and Family Services
Jesuit Social Services
JobWatch
Justice Connect
Justice Reform Initiative
Justice Reinvestment SA
Keeping Women out of Prison Coalition
Knowmore
Koorie Youth Council
Kurlbingui Youth and Family Development
Liberty Victoria
Life Without Barriers
Lived Experience Leadership and Advocacy Network (LELAN)
Mission Australia
Moonee Valley Legal Service
Multicultural Australia
Multicultural Youth Advocacy Network Australia (MYAN)
National Justice Project
National Legal Aid
Ngaanyatjarra Pitjantatjara Yankunytjatjara Women's Council
Northern Community Legal Centre
NT Council of Social Service (NTCOSS)

NT Legal Aid
Orygen
Oxfam Australia
Partnership for Justice in Health (P4JH)
PeakCare Queensland
Public Health Association of Australia
Public Interest Advocacy Centre
Queensland Aboriginal and Torres Strait Islander Child Protection Peak
Queensland Advocacy for Inclusion
Queensland Council of Social Service (QCOSS)
Queensland Youth Services
Rights Resource Network SA
RMIT Centre for Innovative Justice
SA Aboriginal Action Group - SOS Blak Australia chapter
SA Commissioner for Aboriginal Children and Young People
Save the Children and 54 reasons
Seeds of Affinity: Pathways for Women
Seniors Rights Victoria
SHINE for Kids
Smart Justice for Young People
Social Reinvestment WA
South Australian Council of Social Service
South Australian Network of Drug and Alcohol Services SA (SANDAS Inc)
South-East Monash Legal Service
Southside Justice
Southport Community Legal Service Inc.
Sydney Community Foundation
Tasmanian Council of Social Service (TasCOSS)
Tenants Victoria
The Centre of Innovative Justice
The Kimberley Foundation
The Royal Australian College of General Practitioners (RACGP)
The Royal Australian and New Zealand College of Psychiatrists (RANZCP)
The Salvation Army
The University of Melbourne Student Union
The Victorian Mental Illness Awareness Council (VMIAC)
Twenty10 inc GLCS NSW
NT Council of Social Service (NTCOSS)
UnitingCare Australia
UnitingCare Queensland
Uniting Church in Australia Queensland Synod
Uniting Vic. Tas
Vacro
Victorian Council of Social Service
Villamanta
WA Council of Social Service (WACOSS)
Wesley Mission Queensland
Westjustice

Whittlesea Community Legal Service
Women's Justice Network
Women's Legal Service Victoria
Yfoundations
YFS
Youth Advocacy Centre
Youth Affairs Council of WA
Youth Affairs Council Victoria
Youth Affairs Network Queensland
Youth Empowered Towards Independence
Youth Support + Advocacy Service