

National Legal Aid calls for commitment to raise the age to 14

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National Legal Aid (NLA) said the recent commitment by Attorneys-General to raise the minimum age of criminal responsibility to 12 was a positive step, but that it should be raised to 14 years.

“All of Australia wants to see communities where children are supported to grow and prosper,” said NLA Chair, Louise Glanville.

“The evidence from a health and community safety perspective is clear that the minimum age of criminal responsibility should be raised to 14 years.”

The experience of Legal Aid commissions representing children around Australia, is that they are harmed by the criminal justice system. We shared the stories of young children around Australia in a 2020 [submission](#) to the Council of Attorney’s General.

The criminal justice response is often not a deterrent. Rather, it leads to longer term entrenchment with the justice system and reoffending.

Raising the age to 12 will not reduce the number of children in custody: Australian Institute of Health and Welfare [data](#) shows that 456 out of the 499 children under 14 in prison in 2019-20 were aged 12-13 years old.

“The majority of children legal aid lawyers see in prisons have experienced trauma and or mental health issues. We should be orienting away from costly criminal justice responses for children under 14, towards services that address children’s circumstances and help them grow and learn,” said Ms Glanville.

A recent [review from the ACT](#) shows what this might look like, including working with children who are at risk of anti-social behaviour and improving access to holistic support for families. NLA welcomed the ACT’s commitment to raise the age to 14 and urged policy makers to engage with the ACT’s process and findings.

There is vast evidence to support the raising of the age of criminal responsibility, including:

Putting children on a healthier path

The later children enter the justice system the less likely they are to reoffend. Conversely, evidence shows that the earlier children enter the criminal justice system the more likely they are to become stuck in the system and repeat harmful behaviours.

International benchmarks

The UN Committee in the Rights of the Child states that the age of criminal responsibility should be at least 14. The international community has already moved to raise the age and it is at least 14 in 86 countries.

Neuroscience and medical evidence

In recent decades we have learnt more about brain development. A child’s cognitive functioning, particularly concerning impulsivity, reasoning and consequential thinking, is still developing during adolescence. This means that children under 14 are more likely to act on impulses and emotions rather than to engage in reasoned decision making.

The medical evidence and internationally accepted standards make it clear that the minimum that the age of criminal responsibility must be at least 14 to reduce recidivism and protect the health and mental health of our children. Australia’s peak medical bodies including the Royal Australasian College of Physicians, the Australian Medical Association, and the Australian

Indigenous Doctors' Association have also supported raising the age to 14 years.

Long term savings

Early intervention to address the reasons why a young child offends and diverting the child away from the Criminal Justice system leads to significant cost savings to the community.

A recent study in Queensland found that the cost just to courts and corrections for a 32-year-old who entered when under 14 was around \$400,000. This did not look at the broader costs to the community. The lifetime justice system cost is estimated to be around \$1 million.

Disproportionate effect on First Nation's children

The Productivity Commission has found that the current minimum age of criminal responsibility is a systemic and structural factor contributing to Aboriginal children being involved in the youth justice system and that increasing the age would reduce the number involved.

Aboriginal and Torres Strait Islander young people aged between 10 – 17 are 38 times as likely to be in detention as non-Indigenous young people in some Australian states, while in the Northern Territory, at least 94 per cent juvenile detainees are Aboriginal or Torres Strait Islanders.

Australia also needs an integrated service sector approach where outcomes are shared – across education, early childhood, health and child protection. This will allow for a rehabilitative, child welfare approach that addresses the child's needs.

“By raising the age to 14 across the country and diverting children from the justice system we have an opportunity to help children develop positive behaviours and emotional responses to assist them to develop the life skills they need,” said Ms Glanville.

Ends

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