

24 July 2020

The Honourable Peter Gutwein, Premier  
The Honourable Elise Archer, Attorney-General and Minister for Justice, Minister for Corrections  
The Honourable Roger Jaensch, Minister for Aboriginal Affairs  
The Honourable Mark Shelton, Minister for Police, Fire and Emergency Management

Sent via email

Dear Premier and Ministers

We write to seek your support for action at the next Council of Attorneys-General meeting in July, where we understand there will be discussion about the *Age of Criminal Responsibility Working Group Review* on raising the age of minimum criminal responsibility from 10 years old to 14 years old.

We strongly support raising the age to 14 years old and keeping children out of prisons. Setting the minimum age of criminal responsibility in Australia at 10 years of age harms children, and in particular Aboriginal and Torres Strait Islander children. It is discriminatory, out of step with human rights standards and neuroscientific understanding of children's brain development.

Youth offending is closely linked to disadvantage. Children who offend are also more likely to have experienced child abuse and neglect, disability, mental illness, drug and alcohol abuse, exposure to crime and violence and homelessness.<sup>1</sup> Current responses fail to respond to these disadvantages in a therapeutic and effective way that addresses the reason children are committing crimes.

Early contact with the criminal justice system can also increase the likelihood of poor outcomes for already vulnerable young people. The effects are particularly acute for Aboriginal and Torres Strait Islander children with regard to the potentially lifelong ramifications of early contact with the criminal legal system. Involvement in the criminal justice system at a young age can cause further harm and young people aged 10–14 in the youth justice system are at risk of becoming chronic, long-term offenders,<sup>2</sup> through exposure to harmful environments and the isolation from family and support networks.

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<sup>1</sup> Jesuit Social Services and Effective Change Pty Ltd, *Thinking Outside: Alternatives to remand for children*, 2013, Richmond.

<sup>2</sup> Australian Institute of Health and Welfare 2013, *Young people aged 10 – 14 in the youth justice system 2011 – 2012*, AIHW, Canberra, p. vi. Available at: <http://www.aihw.gov.au/publication-detail/?id=60129543944>

The medical evidence on raising the age is clear: doctors agree that children do not have the cognitive capacity to be held criminally responsible at 10 years old.<sup>3</sup> Moreover, they have found that sending children to prison can cause them lifelong harm, increase rates of mental illness, trauma, and even lead to early death.<sup>4</sup>

The United Nations Committee on the Rights of the Child has called for countries to have a minimum age of criminal responsibility set at 14 or higher and recommends that children under 16 should not be deprived of liberty.

We are a state that prides itself on being a compassionate, evidence-led jurisdiction. We urge the Tasmanian Government to continue this approach and at the Council of Attorneys-General meeting commit to raising the age of criminal responsibility to 14 years old.

I would welcome the opportunity to discuss this in more detail and look forward to hearing from you.

Yours sincerely



Adrienne Picone  
CEO

c.c. The Honourable Rebecca White, Leader of the Opposition  
Ms Ella Haddad, Shadow Attorney-General

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<sup>3</sup> Law Council of Australia and Australian Medical Association, “Joint Policy Statement: Minimum Age of Criminal Responsibility”, 17 December 2019, at <https://www.lawcouncil.asn.au/media/media-releases/lca-and-ama-call-on-australian-governments-to-raise-the-age-of-criminal-responsibility-to-14>.

<sup>4</sup> Australian Medical Association, “AMA Calls for Age of Criminal Responsibility to be Raised to 14 Years of Age”, 25 March 2019, at <https://ama.com.au/media/ama-calls-age-criminal-responsibility-be-raised-14-years-age>.