



Telephone: 07 3900 6000
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22 October 2021

Queensland
Family & Child
Commission

Ms Lynda Pretty
Acting Committee Secretary
Community Support and Services Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Committee Secretary

The Queensland Family and Child Commission (QFCC) welcomes the opportunity to provide a submission on the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021.

While the QFCC understands the Bill does not reflect current Queensland Government policy, this submission will provide some general comment in relation to the minimum age of criminal responsibility (MACR) for consideration by the Community Support and Services Committee.

The QFCC supports raising the MACR in Queensland to 14 years, in line with recommendations by the United Nations.

In 2017, the QFCC released *The Age of Criminal Responsibility in Queensland* information paper, which outlines evidence showing children in contact with the youth justice system are some of the most vulnerable and disadvantaged members of our communities.

On 29 November 2019, the QFCC co-signed a statement by the Australian and New Zealand Children's Commissioners and Guardians (ANZCCG) supporting an increase in the MACR to 14 years.

On 23 June 2021, the QFCC released *Changing the sentence: overseeing Queensland's youth justice reforms*, which urges the Queensland Government to continue to provide long-term funding in accordance with the *Working together, changing the story: Youth Justice Strategy 2019-23*, addressing the underlying behaviours, experiences and trauma of young offenders.

Research shows children who come into contact with the justice system before the age of 14 are less likely to complete schooling and find employment. Children who are arrested before 14 years are three times more likely than children arrested after 14 years to become chronic adult offenders.¹²

Characteristically, very young offenders are more likely to experience issues such as poverty and homelessness, abuse and neglect, impaired cognitive development as well as mental illness.³ There is also significant evidence of broad intellectual impairment among children held in detention, including foetal alcohol spectrum disorders (FASD).⁴

Level 8, 63 George Street,
Brisbane Qld 4000
PO Box 15217,
Brisbane City East Qld 4002
Telephone 07 3900 6000
Facsimile 07 3900 6050
Website www.qfcc.qld.gov.au
www.talkingfamilies.qld.gov.au
www.oneplace.org.au

Children who have suffered abuse and neglect are also at a much higher risk of engaging in criminal behaviour. One NSW study showed children who had lived in out-of-home care were four times more likely to have contact with youth justice system than those who had not lived in out-of-home care.⁵ They were 15 times more likely to have been in youth detention than children who have not been in out-of-home care.⁶

Aboriginal and Torres Strait Islander children are more likely than other children to come into contact with the justice system. In 2019, Aboriginal and Torres Strait Islander children made up 45 per cent of young offenders in Queensland, while accounting for 7 per cent of the total population aged 10-17 years. They also formed 71 per cent of detainees in the two local detention centres.⁷

The QFCC's *Changing the Sentence* report identifies a lack of specialist support services in remote communities, intergenerational trauma and conscious or unconscious implicit bias of government and non-government employees against the Aboriginal and Torres Strait Islander peoples as contributing factors to their documented over-representation.

It finds that if the long-term goal of reducing youth crime is to be achieved, investment should focus on:

- reducing the factors that may contribute to a young person committing crime (prevention and early intervention)
- specialised services for the young people already in the formal system who are committing most of the crime.

An increase to the MACR in Queensland to 14 years should be considered as part of ongoing youth justice reforms ensuring children's rights, wellbeing and safety are being upheld and protected.

If you or your officers have any queries in relation to this matter they may contact Tony King, Senior Executive Director, Corporate and Communications, on [REDACTED] or [REDACTED].

Yours sincerely



Cheryl Vardon
Principal Commissioner
Queensland Family and Child Commission

¹ Bernberg J. and Krohn, M. in Goldson, B., 2013. 'Unsafe, Unjust and Harmful to Wider Society: Grounds for Raising the Minimum Age of Criminal Responsibility in England and Wales,' *Youth Justice*, Vol. 13, No. 2, p.121.

² Queensland Family and Child Commission 2017, *The age of criminal responsibility in Queensland*, <https://www.qfcc.qld.gov.au/keeping-kids-more-safe/kids-justice-system>, accessed 13 October 2021, p.30.

³ Queensland Family and Child Commission 2017, *The age of criminal responsibility in Queensland*, <https://www.qfcc.qld.gov.au/keeping-kids-more-safe/kids-justice-system>, accessed 13 October 2021.

⁴ Bower C, Watkins RE, Mutch RC, et al., 2018. 'Fetal alcohol spectrum disorder and youth justice: a prevalence study among young people sentenced to detention in Western Australia.' *BMJ Open* doi:10.1136/bmjopen-2017-019605

⁵ Alltucker, K., Bullis, M., Close, D., and Yovanoff, P., 2006. 'Different Pathways to Juvenile Delinquency: Characteristics of Early and Late Starters in a Sample of Previously Incarcerated Youth,' *Journal of Child and Family Studies*, Vol. 15, No. 4, pp.479–492, p. 479.

⁶ The NSW Community Services Commission in Indig et al in Cashmore, J., 2011. 'The Link between Child Maltreatment and Adolescent Offending: Systems Neglect of Adolescents' *Australian Institute of Family Studies – Family Matters*, No. 89, p.32.

⁷ Queensland Family and Child Commission 2021, *Changing the Sentence: Overseeing Queensland's youth justice reforms*, <https://www.qfcc.qld.gov.au/keeping-kids-more-safe/monitoring-reviewing-systems-protect-children/changing-sentence>, accessed 13 October 2021, p. 31.