



30 November 2021

Community Support and Services Committee
Parliament House
Cnr George and Alice Streets
BRISBANE QLD 4000

By email to: CSSC@parliament.qld.gov.au

To the Community Support and Services Committee

Re: Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021

The Royal Australian and New Zealand College of Psychiatrists Queensland Branch (RANZCP Queensland Branch) would like to thank you for the opportunity to provide feedback to the *Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021 (the Bill)*.

Minimum age of criminal responsibility should be raised to 14 years of age

The minimum age of criminal responsibility in Queensland is currently 10 years old. The Bill proposes to amend section 29 of the [Criminal Code Act 1899](#) (Queensland) to raise the minimum age at which a person is criminally responsible for any act or omission from 10 to 14 years old.

In July 2020, the RANZCP joined the Australian Raise the Age (RTA) Campaign, a campaign which advocates for the minimum age of criminal responsibility to be raised to 14 years.

The RANZCP Queensland Branch supports the objective of the Bill to ensure that children under 14 years of age are not incarcerated or otherwise punished under the criminal legal system, consistent with the current medical understanding of child development and contemporary human rights standards.

Current scientific understanding of child development and human rights standards

The minimum age of criminal responsibility is the age below which children are considered by law not to have the capacity to infringe the criminal law.

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) wishes to express its disappointment at the most recent decision to develop and progress a proposal by State Attorney-Generals to raise the minimum age of criminal responsibility to only 12 years of age.

The United Nations Convention on the Rights of the Child, [General Comment No. 24](#) (replacing General Comment No. 10 [2007]), on “*Children’s rights in juvenile justice*”, recommends at page 9, paragraph 33:

In the original general comment No. 10 (2007), the Committee had considered 12 years as the absolute minimum age. However, the Committee finds that this age indication is still low. States parties are encouraged to increase their minimum age to at least 14 years of age.



The most recent proposal by State Attorney-Generals to raise the minimum age of criminal responsibility to only 12 years of age, is at odds with the current scientific understanding of the developing brain.

The RANZCP Queensland Branch advocates that children under 14 years of age lack the neurodevelopmental capacity to understand the consequences of their actions.

The medical evidence is that early adolescence represents a phase of increased impulsivity and sensation-seeking behaviour, and a heightened vulnerability to peer influence. As the prefrontal cortex of the brain is still developing, children under 14 years of age have a compromised capacity to plan, foresee consequences or control impulses.

While the prefrontal cortex develops gradually during the period of adolescence, it is in fact not fully developed until 25. The RANZCP Queensland Branch supports that reward- or thrill-seeking behaviours by children under the age of 14 years, such as theft or trespass, should not be characterised as “criminal” in the same way those actions by an adult would be. In contrast to the frontal lobe’s slow-paced development, the amygdala (which is the part of the brain responsible for reward and emotional processing) develops more quickly, and this imbalance is thought to be a major factor accounting for increased risk-taking behaviour in adolescence.

The RANZCP Queensland Branch strongly supports that the minimum age of criminal responsibility should be raised to 14 years of age, commensurate with current neuroscientific understanding of the developing children’s brain, and international recommendations from the United Nations.

Improvements to youth justice systems, early intervention and therapeutic interventions

Alongside the straightforward legislative change to raise the age of criminal responsibility to 14 years of age, the explanatory notes also identify the importance of implementing and fully funding an alternative model of early intervention and prevention and therapeutic responses for children under 14 years of age. The objective of the amendment Bill is that an alternative model should include multiple levels of response, such as:

- prevention and early intervention, including investing in universal public healthcare, housing, education and transport services, Indigenous-led and community education and cultural strengthening programs, and trauma-informed training for school and out-of-home care staff to support children
- responding to low-level problematic behaviour by working with children and their families to address their needs, and working with children and victims on restorative approaches
- responding to serious problematic and harmful behaviour with intensive, evidence-based, therapeutic interventions.

The RANZCP wrote a [submission](#) in February 2020 to the Council of Attorneys-General Age of Criminal Responsibility Working Group Review. In this submission, the RANZCP endorsed the minimum age of criminal responsibility be raised to 14 years of age for all federal, state and territory criminal offences in Australia.

This submission also identified improvements which should be made to youth justice systems to better address the mental health needs of the young persons who are involved in youth justice systems. The RANZCP Queensland Branch endorses ‘The Four Pillars’ for youth justice approaches, set out in the Atkinson Report: intervene early, keep children out of



court, keep children out of custody and reduce re-offending, and lends support for programs which have these objectives (please refer answer to question 6 in this submission, across pages 4-7).

The RANZCP Queensland Branch emphasises the need for child and youth justice strategies, programs and infrastructure that encourages young people to rehabilitate, and wherever possible divert them away from detention and the youth justice system. Specifically, the RANZCP Queensland Branch strongly advocates for an expansion of early intervention programs. These have been shown to be beneficial for the mental health of young people, thereby preventing or minimising the harms from detention over the long-term, including the possible exacerbation of existing mental health issues.

The RANZCP Queensland Branch will soon write to the Hon. Shannon Fentiman, as part of a nationwide campaign to request all State Attorney-Generals to reconsider their position. We strongly implore all State Attorney-Generals to re-engage in dialogue with health and medical stakeholders on this important issue, and to seek a more progressive solution which prioritises the best interests of children.

To discuss the contents of this letter please contact me via Ms Nada Martinovic, Policy and Advocacy Advisor (Queensland Branch), at [REDACTED] or on [REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brett', followed by a long horizontal flourish.

Professor Brett Emmerson AM
Chair, RANZCP Queensland Branch Committee