

Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

Submission No: 70
Submitted by: Headspace National Youth Mental Health Foundation
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:

8 January 2024

Youth Justice Reform Select Committee
Queensland Parliament
George Street
Brisbane VIC 4000

Submitted via Committee website

Dear Committee members

Re: headspace National submission – Youth Justice Reform Inquiry

headspace National welcomes the opportunity to provide a submission to this inquiry. headspace is the National Youth Mental Health Foundation providing early intervention mental health services to 12-25 year olds. headspace has 156 centres across Australia in metropolitan, regional and remote areas, and offers online and phone support services and resources through eheadspace.

headspace can help young people with mental health, physical health (including sexual health), alcohol and other drug services, and work and study support. Our work builds the wellness literacy of young people and reduces stigma associated with mental health problems and the associated barriers to seeking help. Our work also involves supporting schools and their communities with expert advice and guidance on mental health and wellbeing, responding to loss through suicide, and providing support after major disaster events. At the heart of all our services are young people, their needs, and the needs of those who support them.

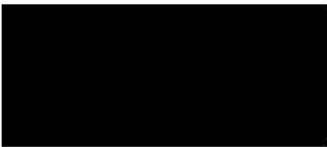
headspace National's submission to the Committee's inquiry can be found in **Attachment 1**.

Our submission highlights:

- the need to raise the minimum age of criminal responsibility from 10 to 14 years
- that investment in early intervention (aimed at preventing young people's contact with the youth justice system) is critical, along with adequate investment in youth mental health services
- addressing the overrepresentation of First Nations young people in the youth justice system should be a priority, with interventions based on self-determination, focused on addressing the underlying trauma and other contributing factors, and adopting a social and emotional wellbeing approach.

headspace National would welcome the opportunity to discuss any aspects of our submission further.

Yours sincerely



Julia Smith
A/Chief Executive Officer

Submission to the Select Committee inquiry into Youth Justice Reform in Queensland

1. Introduction

headspace National welcomes the opportunity to provide a submission to the inquiry into youth justice reform in Queensland.

headspace National's submission focuses on section 2(a) of the Committee's terms of reference, relating to 'the prevention of entry and diversion of youth offenders from the justice system with specific consideration of risk and protective factors that reduce crime'.

About headspace

headspace is the National Youth Mental Health Foundation, providing prevention and early intervention mental health services to 12–25-year-olds across the country. The headspace platform provides multidisciplinary care for mental health, physical health (including sexual health), alcohol and other drugs, and work and study across a range of services. headspace offers in person, online and phone services, and supports young people in school settings.

headspace was established in 2006 to address challenges faced by young people aged 12-25, including:

- a lack of age appropriate and developmentally appropriate services for young people
- a lack of early intervention primary health services
- young people's need for holistic care rather than a medical model of care
- barriers that young people in particular experience in accessing support, including stigma, cost, a lack of services in regional areas, and limited availability of online supports.

headspace now has more than 156 services embedded in local communities across metropolitan, regional and remote areas. Each centre is run by a local agency, and a consortium of local service providers, influencers and community members come together to guide and nurture their local headspace centres. This ensure the headspace service is deeply embedded within the local system and community.

headspace also works with schools and communities across Australia, to build the mental health literacy and capacity of young people, their families, the school community and education workforce. headspace delivers a range of school programs that aim to encourage help-seeking, address stigma about mental ill health, and increase awareness and access to mental health support services.

For more details about the full range of headspace programs and services, refer to Appendix 1.

Young people's mental health needs

Many young people across Queensland experience poor mental health and wellbeing. In headspace's 2022 National Youth Mental Health Survey, nearly half of young people indicated they are experiencing high or very high psychological distress (47%). The aftermath of the COVID-19 pandemic, financial concerns, climate change, the trauma of natural disasters, and worries about the future are all contributing.

Further, the latest release of the National Study of Mental Health and Wellbeing data shows that two-fifths of Australians aged 16 to 24 years had experienced a mental health disorder in the last 12 months.¹ Half of all mental health issues emerge before the age of 18.² Suicide is the leading cause of death among young people, responsible for more than 40 per cent of deaths among 15–24-year-olds.³

¹ Australian Bureau of Statistics, (2023). Latest release: National Study of Mental Health and Wellbeing 2023. Retrieved from: [National Study of Mental Health and Wellbeing, 2020-2022 | Australian Bureau of Statistics \(abs.gov.au\)](https://www.abs.gov.au/national-study-of-mental-health-and-wellbeing-2020-2022).

² Solmi M, Radua, J., Olivola, M., Croce E., Soardo, L., et al. (2022). Age of onset of mental disorders worldwide: large-scale meta analysis of 192 epidemiological studies, *Molecular Psychiatry*, 27(1):281–95.

³ Department of Health. (2020). *A report detailing key themes and early findings to support initial advice of the National Suicide Prevention Adviser.*

2. Young people in the youth justice system

Key takeaways

→ Young people connected to the justice system have a higher prevalence of mental ill health than other young people, but also have less access to mental health services. Specialist mental health treatment is critical for this cohort of young people.

A complex range of factors contribute to young people finding themselves in contact with the youth justice system, including experiences of trauma and social disadvantage. Across these factors, surveys show children and young people in contact with the youth justice system are disadvantaged and highly vulnerable due to:

- **mental ill health** – data from the Queensland youth justice system indicates that at least half of all young people under supervision in the community or custody had a mental health or behavioural disorder.⁴ This aligns with research in other jurisdictions.⁵
- **adverse childhood experiences and trauma** – mental illness among young people in the justice system is highly correlated with experiences of trauma, abuse and neglect. Many have family members who have experienced mental ill-health, incarceration or social disadvantage.⁶
- **cognitive and intellectual disabilities** – young people in contact with the justice system experience higher rates of speech and language disorders, as well as cognitive deficits. A 2015 survey of young people in custody found poor literacy skills, and low levels of intellectual ability.⁷
- **neurodiversity** – up to one in five young people in the Queensland youth justice system have been diagnosed with ADHD.⁸

Rates of self harm and suicide attempts are also higher among young people in contact with the justice system compared to their peers. In particular, young people in detention who had experienced childhood trauma are more likely to attempt suicide.⁹

While the relationships between these factors are complex, recent research has highlighted the impact of traumatic childhood experiences and later challenges such as mental ill health, poor impulse control and aggression among young people in custody.¹⁰ Young people who had endured physical and emotional abuse, sexual abuse and physical and emotional neglect were more likely to experience serious mental illness, higher rates of self harm and suicide attempts, and higher rates of substance use than other young people in youth justice settings.

Many young people in contact with the youth justice system also have difficulty accessing mainstream youth mental health services, in part due to limited availability of community based services.¹¹ And while these young people have a high prevalence of mental ill-health, they are also less likely to have access to mental health services.¹² This is despite evidence that mental health treatment in custody reduces reincarceration of young people.¹³ It also highlights the importance of adopting therapeutic approaches to reduce the number of young people in detention.

⁴ Department of Children, Youth Justice and Multicultural Affairs, (2022). *Youth justice census summary*, Queensland Government.

⁵ Kinner, S.A., Degenhardt, L., Coffey, C., Sawyer, S., Hears, S., Patton, G. (2014). Complex health needs in the youth justice system: a survey of community-based and custodial offenders. *Journal of Adolescent Health*, 54(5): 521-6.

⁶ Atkinson, B. (2018). *Report on Youth Justice, version 2*. Retrieved from: Atkinson Report on Youth Justice (dcssds.qld.gov.au).

⁷ Justice Health and Forensic Health Network, (2015). *2015 young people in custody health survey: full report*.

⁸ Department of Children, Youth Justice and Multicultural Affairs, (2022). *Youth justice census summary*, Queensland Government.

⁹ Shepherd, S., Spivak, B., Borschmann, R., Kinner, S.A., Hachtel, H. (2018). Correlates of self-harm and suicide attempts in justice-involved young people. *PLoS One*, 13(2).

¹⁰ Papalia, N., Baidawi, S., Luebbers, S., Shepherd, S., & Ogloff, J.R.P. (2022). Patterns of maltreatment co-occurrence in incarcerated youth in Australia. *Journal of Interpersonal Violence*, 37(7-8).

¹¹ Royal Commission into Victoria's Mental Health System (2020). *Final report*, volume 3.

¹² Liebenberg L, Ungar M. (2014). A comparison of service use among youth involved with juvenile justice and mental health. *Children and Youth Services Review*, 39: 117-22.

¹³ Kasinathan, J. (2015). Predictors of rapid reincarceration in mentally ill young offenders, *Australasian Psychiatry*, 23(5).

First Nations young people in the youth justice system

National data indicates that Indigenous children aged 10 to 17 years are over 20 times more likely to be in youth detention compared to non-Indigenous young people.¹⁴ More than half of young people in detention in June 2022 identified as Aboriginal or Torres Strait Islander, despite only 6% young people aged 10 to 17 in Australia identifying as Aboriginal or Torres Strait Islander.¹⁵ This statistic is alarming and calls for urgent culturally safe remedial responses for First Nations children and young people.

Of all children and young people in youth justice supervision, more than half have also had an interaction with the child protection system – a cohort referred to as ‘crossover kids’. This was particularly high for First Nations young people – two in three had also had child protection contact, compared to just under half for non-Indigenous children.¹⁶ For young people in residential care, there can be an overreliance on using police to address young people’s behaviours, rather than providing additional social supports. Further, these young people are less likely to be granted bail as they don’t have suitable alternative accommodation.¹⁷

Most of these children and young people have experienced abuse, trauma, neglect, and family violence. That they have come into contact with the criminal justice system often represents a failure to support their needs and recognise the link between their experiences of trauma and their behaviours.¹⁸ It is also a reflection of the ongoing impact of colonisation and the related intergenerational and personal trauma suffered by Australia’s First Nations people.

There is also a poor relationship between police and First Nations young people in Queensland and in other states.¹⁹ First Nations young people have more adversarial interactions with police and more arrests, but have lower rates of diversion.^{20 21}

This overrepresentation demands specific responses targeting First Nations children and young people. To effectively address this, service delivery needs to inherently recognise and actively work to dismantle the structural, systemic, systematic and sociopolitical racism that exists, while supporting individual agency.

¹⁴ Australian Institute of Health and Welfare. (2023). *Youth detention population in Australia 2022*. Retrieved from: [Youth detention population in Australia 2022. Numbers - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/youth-detention-population-in-australia-2022-numbers).

¹⁵ Ibid.

¹⁶ Australian Institute of Health and Welfare (2022). *Young people under youth justice supervision and their interaction with the child protection system 2020–21*.

¹⁷ Queensland Family and Children Commission (2023). *Queensland child rights report*.

¹⁸ Yoorrook Justice Commission (2023). *Yoorrook for justice: Report into Victoria’s child protection and criminal justice system*.

¹⁹ Walsh, T., Beilby, J., Lim, P., & Cornwell, L. (2023). *Safety through support: Building safer communities by supporting vulnerable children in Queensland’s Youth Justice System*. University of Queensland.

²⁰ Ibid.

²¹ Yoorrook Justice Commission (2023). *Yoorrook for justice: Report into Victoria’s child protection and criminal justice system*.

3. Addressing the needs of young people in contact with the youth justice system

Key takeaways

- Raising the minimum age of criminal responsibility to 14 years is consistent with contemporary understanding of childhood development and human rights standards.
- Alongside this, government must address the root causes of offending, by preventing and intervening early when children and young people experience abuse, violence and neglect, to reduce the number of young people who encounter the youth justice system.
- Government must also invest in appropriate alternatives to detention, providing therapeutic interventions for young people. This must include appropriate and adequate mental health services, from primary (prevention and early intervention) through to tertiary services, with capacity to provide care to young people with complex needs.
- The high rates of detention of First Nations young people highlight the need for dedicated responses to address this. Raising the minimum age of criminal responsibility is an essential first step. Addressing structural and systemic racism, and investing in programs delivered via community controlled organisations are also critical.

Raising the minimum age of criminal responsibility

headspace recommends the Queensland Government raise the minimum age of criminality to 14 years, consistent with current understanding of childhood development and contemporary human rights standards. This will provide consistency with the changes being enacted in Victoria and the Australian Capital Territory and help progress towards a national minimum age of criminal responsibility.

There are many reasons to raise the age of criminality.²² In particular:

- **neurobiological and medical science shows** children lack the maturity to fully understand their actions – evidence shows children below 14 years of age lack the capacity to form the necessary intent for criminal responsibility. While the principle of *dolci incapax* (that children aged 10 to 14 are 'criminally incapable' unless proven otherwise) can be applied to avoid unnecessary incarceration, evidence indicates this is not used routinely, and most children in detention are on remand.²³
- **children in the justice system often have complex needs** – these are better addressed outside the justice system. Better investment in other systems (such as housing, health and mental health services and so) is required to better meet the needs of these children and young people.
- **incarceration fails to achieve desistance or rehabilitation** – prison is not a deterrent. Rather, it can undermine the wellbeing of children and young people, and compound and exacerbate the trauma they have experienced. It also removes First Nations young people from their families, communities, country and culture - protective factors that contribute to their social and emotional wellbeing.²⁴
- **detention perpetuates the cycle of poverty and other legacies of colonisation** – disadvantage and unequal position in wider society are the most significant factors driving for First Nations people in contact with the justice system. These are often intergenerational and can be traced to the dispossession of land, genocide, disruption to kinship and other impacts of colonisation. Rather than break this cycle, incarceration further contributes to disengagement from education, unemployment, poor mental health and social exclusion, entrenching cycles of poverty and institutionalisation.²⁵

²² Australian Human rights Commission (2021). *The minimum age of criminal responsibility*. Retrieved from: [PowerPoint Presentation \(humanrights.gov.au\)](https://www.humanrights.gov.au/powerpoint-presentation).

²³ Victorian Aboriginal Legal Service, (2020). *Submission to the Council of Attorney Generals (COAG) age of criminal responsibility working group*.

²⁴ Ibid.

²⁵ Temple, C., Mercer, P., & Callope, N. (2021). *Australia's First Nations incarceration epidemic: Origins of overrepresentation and a pathway forward*. Retrieved from: [Australia's First Nations incarceration epidemic: origins of overrepresentation and a path forward - UNAA](https://www.unaa.org.au/first-nations-incarceration-epidemic-origins-of-overrepresentation-and-a-path-forward).

Greater investment in prevention, early intervention and therapeutic alternatives to detention

While raising the minimum age of criminal responsibility is a critical step, this needs to be supported by greater investment in prevention and early intervention programs to address the needs of children and young people before they come in contact with police, and therapeutic models that meet the needs of young people who do come into contact with the justice system

As noted above, a complex array of factors contribute to potential pathways to offending behaviour, and many young people who find themselves in the youth justice system have a history of domestic and family violence, physical and emotional abuse, and neglect. Their parents also often have a forensic history.²⁶ Given this, high quality mental health care for all young people in the youth justice system is essential. This care must be tailored to the needs and experiences of each young person, including catering for their social, cognitive and communication needs and preferences.

Providing mental health and wellbeing early interventions for young people experiencing mild to moderate symptoms at risk of initial or further involvement in the justice system is also important.²⁷ Intervening and addressing psychological distress and poor mental health can reduce rates of recidivism and help young people to engage in prosocial activities.

Offering holistic care at the right time is crucial to supporting young people not only to refrain from engaging in the criminal justice system but also to lead happy, healthy lives. headspace currently offers a range of services to meet the inter-related needs of young people in a variety of modes such as in person, online and via telephone. headspace also provides work and study support which young people can also access to further support their wellness.

Addressing the needs of First Nations young people

The following elements are key for prevention and early intervention efforts targeting First Nations children and young people:

- **self-determination** – programs and interventions must be owned and controlled by First Nations communities, with a genuine commitment from government to self-determination.²⁸
- **underlying risk and causal factors** – interventions must account for trauma exposure of children and young people, including the impact of maltreatment, grief, loss, parental incarceration and other events common in the histories of young people in contact with the justice system.²⁹
- **positive relationships and connections to culture, family and kinship** – First Nations children and young people have said that relationships were key to keeping them out of the justice system.³⁰ Developing positive relationships, particularly with family, can be more important than a narrower focus on crime prevention. Having a trusted, reliable adult relationship is also important for First Nations young people in the justice system.³¹
- **social and emotional wellbeing focus** – interventions must be based on the social and emotional wellbeing of First Nations young people, recognising the impact of cultural, social, historical and political factors on First Nations peoples.³²

There are opportunities for greater collaboration between Queensland's youth justice system and headspace centres across the state, to support First Nations young people in detention or at risk of

²⁶ Atkinson, B. (2018). *Report on Youth Justice, version 2*. Retrieved from: [Atkinson Report on Youth Justice \(dcssds.qld.gov.au\)](https://dcssds.qld.gov.au).

²⁷ Orygen Institute (2017). *Double jeopardy: developing specialized mental health care for young people engaging in offending behaviours*. Retrieved from: [Orygen Double-Jeopardy policy brief](https://www.orygen.org.au/publications/double-jeopardy-policy-brief).

²⁸ Stringfellow, R., Tauri, J. & Richards, K. (2022). *Prevention and early intervention programs for Indigenous young people in Australia and Aotearoa New Zealand*, Research brief 32.

²⁹ Milroy, H., Watson, M., Kashyap, S., & Dudgeon, P. (2021). First Nations peoples and the law. *Australian Bar Review*, 510.

³⁰ Queensland Family and Children Commission (2022). *Yarning for change*, Retrieved from: [Queensland Family and Child Commission // Yarning for Change: Listen to my voice \(qfcc.qld.gov.au\)](https://www.qfcc.qld.gov.au); Stringfellow, R., Tauri, J. & Richards, K. (2022). *Prevention and early intervention programs for Indigenous young people in Australia and Aotearoa New Zealand*, Research brief 32.

³¹ Commission for Children and Young People (2021). *Our youth, our way: inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system, Summary and recommendations*. Melbourne.

³² Milroy, H., Watson, M., Kashyap, S., & Dudgeon, P. (2021). First Nations peoples and the law. *Australian Bar Review*, 510.

incarceration. This cohort will benefit from short, targeted interventions that focus on wellbeing, mindfulness and other strategies young people find relevant and can implement in their daily lives.

Raising the age of criminality will help address the overrepresentation of First Nations children and young people in detention.

Support for services to better meet the mental health and wellbeing needs of at risk young people

To better support the needs of young people at risk of contact with the justice system, community-based mental health services need the capacity and capability to respond to their needs.

The complexity of the system and cultural barriers can make it difficult for young people to access the support they need. And given the high prevalence of neurodiversity and challenges such as speech and language delays, it can be difficult for mainstream services to respond effectively. Young people in contact with the youth justice system need services that:

- provide multidisciplinary, holistic care across their mental health, physical health, alcohol and other drugs and work and study needs
- are tailored to their cognitive, social, language and sensory needs and preferences
- are culturally safe, particularly for First Nations young people
- have the flexibility to respond appropriately to the complexity and breadth of their needs, including addressing trauma, neurodevelopment challenges and mental health concerns.

Appendix 1: headspace programs and services

headspace provides early intervention mental health services to 12 to 25 year olds. headspace offers young people integrated and individualised support across mental health, physical and sexual health, alcohol and other drugs, and work and study. Such holistic, multi-faceted support are a vital component of a responsive service system model.

Our integrated service model includes:

- **headspace centres:** the headspace network of services are youth-friendly, integrated service hubs, where multidisciplinary teams provide holistic support across the four core streams.
- **community awareness:** guided by local youth reference groups and centre staff, Community Awareness Officers at each headspace centre work locally to build mental health literacy, reduce stigma, encourage help-seeking, identify local needs and ensure young people know they can access help at headspace.
- **digital mental health programs and resources:** headspace uses its digital platform to make a range of information and supports accessible to young people, parents and carers, professionals and educators.
- **ehespace:** our virtual service provides safe, secure support to young people and their family and friends from experienced youth mental health professionals via email, webchat or phone. There are also online group sessions led by clinicians or peers, focused on the big issues facing young people and their family and friends.
- **headspace campaigns:** campaigns focus on stigma reduction, building mental health literacy and encouraging help seeking, while ensuring young people know headspace is a safe and trusted place they can turn to in order to support their mental health.
- **headspace in schools and universities:** Through evidence-based mental health promotion, prevention, early intervention and postvention services, headspace delivers key initiatives designed to support the mental health and wellbeing of school communities. This includes:
 - **Be You** – a mental health and wellbeing initiative for learning communities, supporting secondary schools to prepare for, respond to and recover together where there has been a death by suicide.
 - **Mental Health Education Program** – free mental health education workshops for schools
 - **University support program** – training and education opportunities to Australian universities to build their capacity and confidence to engage in conversations about mental health and wellbeing.
- **programs and resources to support hard-to-reach cohorts of young people:** these include
 - **Visible project** – a community based initiative using artwork as a form of community engagement and awareness.
 - **Yarn Safe** – mental health and wellbeing resources and support for First Nations young people.
- **vocational supports:** headspace centres provide integrated mental health and vocational support to young people to help them remain engaged in work and study, including implementing Individual Placement and Support (IPS) in headspace centres. In addition, headspace provides vocational support via:
 - **headspace Work and Study Online (hWS)** is a national digital program that provides integrated mental health and vocational support via the phone, video conferencing, online messaging and email. hWS works closely with young people across their work/study journey from identifying work/study goals to maintaining a work/study placement, typically for a period of around three months.
 - **headspace Career Mentoring** connects young people aged 18 to 25 years living with mental health challenges with industry professionals to meet fortnightly over a period of six months via video conferencing and/or the phone to enhance a young person's employment and career opportunities.
 - **headspace Individual Placement and Support** is available in-person at 50 services.

Supporting First Nations young people

headspace has strong reach with First Nations people: during 2022-23, headspace provided support for more than 9,500 First Nations young people. This represents relatively high engagement with First Nations young people; while 4.5% of Australians aged 12 to 25 years identify as Aboriginal and Torres Strait Islander, 10% of headspace clients identified as Aboriginal and Torres Strait Islander. headspace also has a First Nations staff network, with 80 members as at June 2023.

To support innovation in our service offerings and adopt different outreach approaches, headspace National has recently trialled programs that value First Nations insight, integrity and leadership. This includes:

- **Our Way Our Say** culturally safe social and emotional wellbeing training resources for young people in Darwin schools, developed by an Aboriginal Cultural Advisory Council of key Aboriginal leaders from the Darwin community, in partnership with headspace National.
- **Yulara and Mutitjulu** service expansion from headspace Alice Springs, established by the Central Australian Aboriginal Council in partnership with headspace National, and funded by the Northern Territory PHN. The expansion required innovation of the headspace Model to meet the needs of the young people and families in the remote communities of Yulara and Mutitjulu.

The First Nations Wellbeing and Engagement Division within headspace National provides a coordinated and resourced approach to ensuring headspace services are culturally safe and responsive to the needs of First Nations young people, their families, communities and First Nations staff. The division is focused on six goals:

- build the cultural capability of headspace National staff and embed cultural safety in the way we do things
- embed robust and appropriate cultural governance
- value and grow cultural clinical leadership and practice
- meet First Nations young people where they are through care underpinned by First Nations approaches to social and emotional wellbeing
- foster and maintain key stakeholder relationships
- incorporate principles of First Nations data governance, collection and sharing.