

# COMMUNITY SUPPORT AND SERVICES COMMITTEE

## Report No. 16

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

#### QUEENSLAND GOVERNMENT RESPONSE

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#### INTRODUCTION

On 15 September 2021, the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021 (the Bill) was introduced to Parliament by Mr Michael Berkman MP, Member for Maiwar.

The Bill was referred to the Community Support and Services Committee (the Committee) which was required to report back to the Legislative Assembly by 15 March 2022.

On 15 March 2022, the Committee tabled its report (No.16) in relation to the Bill (the Report).

On 15 June 2022, an interim Government response was tabled in the Legislative Assembly.

The Queensland Government's response to the Committee's recommendations in the Report directed to the Government is provided below.

#### RESPONSE TO RECOMMENDATIONS

##### Recommendation 2

*The Committee recommends that the Queensland Government evaluate the training currently provided to residential care workers to determine whether its residential care workers are given sufficient training in diversionary tactics and de-escalation techniques.*

##### Queensland Government response

The Department of Children, Youth Justice and Multicultural Affairs (DCYJMA) has established a Minimum Qualification Standard (MQS) for direct care staff in non-family based care (i.e. residential care) which is aimed at increasing care workers' ability to provide trauma-informed therapeutic responses to children and young people in care. The MQS includes the following two mandatory training requirements for residential care workers:

- (a) Certificate IV in Child, Youth and Family Intervention (Residential Care)
- (b) Hope and Healing – Queensland Framework for working with children and young people living in residential care.

The Certificate IV is a vocational education and training course which is nationally recognised and regulated by the Federal Government's Australian Skills Quality Authority. The Certificate IV includes modules targeted at identifying and responding to children and young people at risk, as well as working collaboratively to maintain an environment safe for children and young people. Other modules include facilitating responsible behaviour, responding to client needs, working with people with mental health issues and recognising and responding appropriately to domestic and family violence.

The Hope and Healing training is a foundational and fundamental framework for trauma-informed therapeutic practice in non-family based care settings, commissioned by DCYJMA. Residential care staff undertaking this course learn practical approaches to supporting trauma-informed care, including foundational content on diversionary tactics and de-escalation techniques. DCYJMA works closely with PeakCare, Queensland's peak body for non-government organisations involved in the delivery of child protection and out-of-home care, to manage the content and delivery of the Hope and Healing training. DCYJMA has allocated \$150,000 to support the review and updating of Hope and Healing content to ensure the program remains contemporary to support Residential care staff provide positive behaviour support and respond to young people with high risk behaviours.

The Government **supports** recommendation 2 and will continue to review the content of the mandatory Hope and Healing training in trauma-informed therapeutic practice and other available supports to maintain currency and reflect contemporary approaches and interventions, including sufficient training and professional development in diversionary tactics and de-escalation techniques as recommended.

### **Recommendation 3**

*The Committee recommends the Queensland Government continue to work with all State and Territory Attorneys-General to consider the increase of the minimum age of criminal responsibility from 10 to 12, including any caveats, timing and discussion of implementation requirements.*

*This recommendation reflects the work of Bob Atkinson AO, APM's Youth Justice Report, in which one of his recommendations was that the Queensland Government should advocate for consideration of raising the minimum age of criminal responsibility to 12 years as part of a national agenda for all states and territories, as a uniform approach.*

### **Queensland Government response**

The Queensland Government **supports** recommendation 3 and will continue to participate in national discussions and work with state, territory and Commonwealth Attorneys-General in relation to the minimum age of criminal responsibility.

### **Recommendation 4**

*The Committee recommends the Queensland Government consider targeted training and accreditation processes and clear practice direction for stakeholders regarding procedural requirements for court proceedings.*

### **Queensland Government response**

The Queensland Government **supports** this recommendation and is considering targeted training and accreditation processes and clear direction for stakeholders regarding the application of *doli incapax* in criminal matters, including the timely acquisition of relevant evidence, and the adequacy of training in relation to its operation.

Following receipt of the Committee's report, the Queensland Government undertook consultation with the judiciary, police and other legal stakeholders and is considering this feedback, noting the following information regarding existing practice directions, training and accreditation:

- In relation to the timely disclosure of relevant evidence, Childrens Court Practice Direction 2 of 2017 requires that if a matter is to proceed to a committal hearing where an accused child is not be committed for trial by consent or is to be contested summarily, the full brief of evidence must be available for collection within 35 days. The full brief of evidence includes evidence which the prosecution proposes to rely on in the proceeding to prove the elements of the alleged offence/s.
- In relation to the training of police officers, the Queensland Police Service (QPS) provides training to police officers at various stages of their careers on *doli incapax*. This includes recruit training, detective training, the child protection and youth justice specialist investigators course and several online learning products. QPS is also developing an online learning product focussing upon diversion which will touch on *doli incapax* and is expected to be available mid-2022.

- In relation to the training of lawyers, Legal Aid Queensland requires legal practitioners who seek to be included on their Childrens Court (Criminal) panel to attend a Childrens Court Certification training day, which focusses on developmental, communication and cultural issues with which lawyers need to be familiar with to represent children appropriately. There is an individual session during the day which is focussed on *doli incapax*. Practitioners wanting to attain accreditation as a Childrens Court Duty Lawyer are also required to familiarise themselves with the Criminal Law Duty Lawyer Handbook, which includes a section on *doli incapax*, and attend two sessions in a Childrens Court with an accredited Childrens Court Duty Lawyer as an observer and conduct one session under the supervision of an accredited Childrens Court Duty Lawyer.

Similarly, the Office of the Director of Public Prosecutions several training modules and resources available to staff which address criminal capacity of children.

- In addition to this training, multiple resources for investigating officers and legal practitioners are available, including the QPS Operational Procedures Manual, Guidelines issued by the Director of Public Prosecutions under the *Director of Public Prosecutions Act 1984*, and the Youth Justice Benchbook.

The Government will continue to work with stakeholders and will further consider the practical operation of *doli incapax*.

#### **Recommendation 5**

*The Committee recommends any alternative proposal to the youth justice system considered by the Queensland Government should include adequate and effective diversion programs and services, including place-based and culturally appropriate practices, to support young people and address factors which lead to offending behaviour.*

#### **Queensland Government response**

The Queensland Government **supports** this recommendation and acknowledges that significant work is required before the minimum age of criminal responsibility could be raised.

Community safety will remain a paramount consideration when developing any potential alternative responses to the cohort of children who would no longer be supervised by the youth justice system if the minimum age of criminal responsibility was raised. Diversion from the youth justice system is insufficient on its own; supports, strengthened referral pathways and services would need to be in place to support these children and their families effectively and address underlying causes of behaviour that would otherwise constitute offending.

Consistent with our Youth Justice Strategy, the Queensland Government acknowledges the importance of local communities and local services in diverting young people from the justice system and supporting them to thrive, realise their goals and transition into adulthood.

The Queensland Government acknowledges the overrepresentation of Aboriginal and Torres Strait Islander children in the youth justice system and will work with Aboriginal and Torres Strait Islander Community Controlled Organisations, local First Nations leaders (including local decision-making bodies in First Nations communities), and other stakeholders to ensure children and their families are supported in culturally appropriate ways under any alternative responses.

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**Queensland Legislative Assembly**

Number: 5722T1149



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Tabled

By Leave

MP: Hon Fenham

Clerk's Signature: [Signature]