

MEDIA RELEASE

THE AGE OF CRIMINAL RESPONSIBILITY SHOULD BE RAISED TO 14 YEARS



NEW SOUTH WALES
BAR ASSOCIATION

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“The New South Wales Bar Association welcomes the confirmation that State and Territory Attorneys-General have supported the development of a proposal to increase the minimum age of criminal responsibility to 12. The Association calls upon the NSW Government to take the proposed reforms further and increase the minimum age of criminal responsibility to 14” said Mr Michael McHugh SC, President of the New South Wales Bar Association, today.

The New South Wales Bar Association has consistently called for an increase to the age of criminal responsibility to 14 years.

‘The imprisonment of children under 14 does not lead to positive outcomes and should not occur. Early contact with the criminal justice system has been shown to increase the chance of re-incarceration,’ Mr McHugh said.

‘The proposal to increase the age to 12, rather than 14 years, is contrary to international human rights standards and the recommendations of peak legal and medical bodies, including the Australian Medical Association’ said Mr McHugh.

The consensus among the medical community is that a child’s brain is not sufficiently developed until the age of 14 and that they do not have the required intellectual capacity to be considered criminally responsible.

“At 10, the current minimum age of criminal responsibility has created a cycle of disadvantage which has had a grossly disproportionate impact on Aboriginal and Torres Strait Islander children. First Nations children are significantly over-represented in the New South Wales juvenile justice system, as are children with intellectual and psychosocial disabilities. This operates across all age groups and does not stop once a child turns 12.

Moreover, in New South Wales there is a presumption at law that children under the age of 14 do not know the difference between right and wrong. Many of those children arrested and charged who are under the age of 14 ultimately have their charges dismissed as a result of this presumption. Those who do not could be accessing key assistance to support them to live a law abiding life at an earlier stage if they did not have to go through the justice system. This does not mean no repercussions, or no responsibility, it means accessing essential support services sooner” said Mr McHugh.

‘Children under 14 should not be arrested or detained. They should be provided with support, education, rehabilitation and culturally competent treatment to address their behaviour in an appropriate way’, said Mr McHugh.

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