

# Aboriginal Peak Organisations Northern Territory

An alliance of the CLC, NLC, CAALAS, NAAJA and AMSANT

## NT Royal Commission Response Background Paper

### 3.3 The principles of youth justice

#### Objectives

Our objective is to ensure that where children or young people commit offences, they:

- are held accountable and encouraged to accept responsibility for their behaviour;
- are dealt with in a way that acknowledges their needs and that will give them the opportunity to develop in responsible, beneficial and socially acceptable ways; and
- are able to access customised and flexible packages of services that support their lifelong health, education, cultural, economic and social outcomes, wherever they may live in the Northern Territory.

#### Key principles of youth justice

- Consideration should be given to the interests and views of any victims of the offending (for example, by encouraging the victims to participate in processes like Family Group Conferencing)
- Any measure for dealing with offending by children or young persons should be designed:
  - to strengthen the family, kinship structure or community of the child or young person
  - to foster the ability of families, kinship structures or communities to develop their own means of dealing with offending by their children and young people
  - to address the causes underlying the child's or young person's offending
- Unless the public interest requires otherwise, criminal proceedings should not be pursued if there is an alternative means of dealing with the matter
- A child or young person who commits an offence should be kept in the community so far as that is practicable and consonant with the need to ensure the safety of the public
- Any sanctions imposed on a child or young person who commits an offence should:
  - take the form most likely to maintain and promote the development of the child or young person within their family, kinship structure and community and,
  - take the least restrictive form that is appropriate in the circumstances.
- the vulnerability of children and young persons entitles a child or young person to special protection during any investigation relating to the commission or possible commission of an offence by that child or young person.

## Increasing the age of criminal responsibility

Considering the clear neurological evidence about children's brain development, and the profound impact on children in contact with the justice system, the minimum age of criminal responsibility should be raised to 14 years. The UN Committee on the Rights of the Child has stated that the minimum age of criminal responsibility should not be lower than 12 years on the basis that children under 12 years have not reached the necessary developmental stages to be held responsible for criminal behaviour.<sup>1</sup> The Committee on the Rights of the Child has repeatedly recommended that Australia raise the age of criminal responsibility.<sup>2</sup> Raising the age to 14 years is in line with many European countries where the average age of criminal responsibility is 14 years.<sup>3</sup>

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<sup>1</sup> Jesuit Social Services, 'Too much too young: Raise the age of criminal responsibility to 12', October 2015, 5.

<sup>2</sup> Queensland Family & Child Commission, 'The age of criminal responsibility in Queensland', 2017, 6.

<sup>3</sup> Ibid, 8.