

## AMSANT Submission to the Council of Attorneys-General – Age of Criminal Responsibility Working Group review

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### Introduction

Thank you for the opportunity to provide a submission in response to the Council of Attorneys-General – Age of Criminal Responsibility Working Group review.

The Aboriginal Medical Services Alliance NT (AMSANT) is the peak body for Aboriginal Community Controlled Health Services (ACCHSs) in the Northern Territory (NT). AMSANT has been established for over 25 years and has a major policy and advocacy role at the NT and national levels. Our 26 members are located right across the NT from Darwin to the most remote areas.

AMSANT strongly urges that the minimum age of criminal responsibility is increased to 14 years of age, in accordance with the absolute minimum age recommended by the UN Committee on the Rights of the Child (Australian Human Rights Commission 2019). AMSANT notes and supports the recommendations in the submission made by the Aboriginal Peak Organisations Northern Territory (APO NT).

There is compelling evidence about the brain development of children and young people that demonstrates that children under 12 years old are not sufficiently developed to equip them with the necessary skills and regulation for full criminal responsibility (Jesuit Social Services 2015).

Changes in the brain take place throughout the teenage years that see a proliferation of the grey matter involved in processing, which is then lost and replaced with the white matter involved in transmitting information (Delmage 2013). Executive function, the ability to engage in consequential thinking and the capacity to form judgement are elements of incremental physical brain development that continue into a person's early twenties (Delmage 2013).

This pattern of 'normal' brain development then needs to be considered in the context of children and young people who experience disruptions in development through trauma, abuse, neglect, foetal exposure to alcohol or other such contributing factors.

In the Northern Territory, the impact of disrupted brain development is reflected in high rates (almost one quarter; 23.4 per cent) of Aboriginal and Torres Strait Islander children shown to be vulnerable on two or more developmental domains (AEDC 2018). In some parts of the Northern

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Territory, for example Tennant Creek, this increases significantly with almost half (46.4 per cent) of Aboriginal children showing developmental vulnerability in two or more domains (AEDC 2018).

Much has been written on the myriad challenges faced by vulnerable Aboriginal children and young people in the Northern Territory; particularly in the context of the overlapping child protection and youth justice systems, and the systemic failures of these systems which were described in detail by the Royal Commission into the Protection and Detention of Children in the Northern Territory.

Priority must be placed on culturally safe, trauma-responsive delivery of therapeutic and diversionary responses to children and young people who come into contact with the justice system. Such services should be planned, designed and implemented by Aboriginal and Torres Strait Islander communities and by (or in partnership with) Aboriginal community controlled organisations.

AMSANT supports the recommendations put forward by APO NT and welcomes the Working Group's consideration thereof.

Should you wish to discuss this submission further, please contact Manager Research Advocacy Policy, David Cooper on 08 8944 6649 or by email: [david.cooper@amsant.org.au](mailto:david.cooper@amsant.org.au)

## References

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Australian Human Rights Commission, 2019. *Raising the age of criminal responsibility*. <https://www.humanrights.gov.au/about/news/raising-age-criminal-responsibility>

Delmage, E, 2013. 'The Minimum Age of Criminal Responsibility: A Medico-Legal Perspective'. *Youth Justice* 13(2) 102-110.

Jesuit Social Services, 2015. *Too much too young: Raise the age of criminal responsibility to 12*. <https://jss.org.au/too-much-too-young-raise-the-age-of-criminal-responsibility-to-12/>