

Friday, 17 November 2017

## NT Royal Commission: ‘Game-changing’ recommendation raising age of criminal responsibility needs urgent adoption

Key recommendations in the shocking [NT Royal Commission report](#) – including the Australian-first recommendation that the age of criminal responsibility be raised from 10 to 12; and that no child under 14 should be sentenced to detention, except in the most serious cases – need urgent adoption.

Law Council of Australia President, Fiona McLeod SC, said today’s Royal Commission report uncovered shocking treatment of children and young people within the juvenile justice system and that an immediate NT and national response was required.

“Children belong in their communities, with their families and support networks. The detention of children should be a last resort and never a first-step,” Ms McLeod said.

“Raising the age of criminal responsibility is a game-changing recommendation that, if adopted, will drastically alter how the criminal justice system views the criminality of some of our youngest children.

“A 10-year-old’s brain is drastically different to that of a teenager’s. The Royal Commission’s recommendation reflects this in the most decisive way.

“The Law Council has previously recommended raising the age of criminal responsibility to at least 12, which is consistent with the Convention on the Rights of the Child (CROC).

“Raising the age of criminal responsibility to 12 years of age would further Australia’s commitments to fostering the best interests of the child as signatories of CROC.

“However, raising the minimum age of criminal responsibility should not be used to justify the removal of the doctrine of *doli incapax* which presumes that a child under 14 does not know that his or her conduct is wrong unless proved otherwise,” Ms McLeod said.

Ms McLeod said today’s report further demonstrated ‘tough on crime’ approaches do not work. The NT has the highest rate of children and young people in detention in Australia, with an overwhelmingly disproportionate impact on Aboriginal and Torres Strait Islander children.

“This is clearly a backwards approach – there must be more funding for the beginning of the cycle, with an emphasis on early intervention, prevention, rehabilitation and community-led diversion programs.

“As the Royal Commission has indicated, measures that focus on such outcomes are not only essential for the community, but also have the ability to result in considerable financial savings for Government.

“This is a historic opportunity to address youth incarceration rate and the raft of social welfare and child protection issues being experienced nationally. This is certainly not just an NT issue,” Ms McLeod said.

The Law Council will carefully consider the recommendations and work with its Constituent Bodies, including the Law Society of the NT and the NT Bar Association, on any response required.

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