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Two years is a long time in the life of a child

Tomorrow marks two years since the report prepared by the Minimum Age of Criminal Responsibility Working Group was presented to Australia's Attorneys-General and the Law Council of Australia is again calling on all Australian governments to raise the age of criminal responsibility to at least 14 years of age without delay.

"According to data from the Australian Institute of Health and Welfare, there were nearly 450 children aged between 10 and 13 in detention in 2020-21," Law Council of Australia President, Mr Tass Liveris said. "Since the Working Group Report was presented to the Attorneys-General, hundreds of children under the age of 14 have been locked up and thousands more have come into contact with the criminal justice system.

"Not only has definitive action not been taken, the Working Group Report has not even been publicly released during this time.

"Being subjected to the criminal legal process at such a formative age can cause significant harm to a child's health and wellbeing. First Nations children, children who have experienced abuse and neglect, have mental ill-health or cognitive disabilities, or have been in out-of-home care are more likely to come into contact with the criminal justice system.

"Contact with the criminal justice system in early adolescence can have long-term negative effects on a child's education and development. It makes no sense that a child of 12 cannot lawfully sign onto Facebook, but can be arrested, held in custody and imprisoned."

While the Meeting of Attorneys-General (MAG) has previously announced support for development of a proposal to increase the minimum age of criminal responsibility from 10 to 12 years, the Law Council does not believe this goes far enough.

In addition to wanting the minimum age raised higher, the Law Council is concerned by the fact MAG is considering carveouts.

"Without exception, the minimum age of criminal responsibility must be raised to 14 in all jurisdictions and for all offences," Mr Liveris said. "Australia is out of step with international human rights standards when it comes to the minimum age of criminal responsibility.

"Jurisdictions should adopt a holistic approach that understands the behaviour of children as indicative of complex health and social needs, and invest in early specialised intervention, prevention and rehabilitation services to meet the core needs of children and their families. This would help to better prevent cycles of disadvantage, criminality and reoffending by addressing the root causes of children's behaviour.

"Let's make sure another year does not go by without us moving to protect our children."

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