



## AGE OF CRIMINAL RESPONSIBILITY WORKING GROUP TERMS OF REFERENCE

### Age of Criminal Responsibility Working Group Review

In its Communiqué of 23 November 2018, the Council of Attorneys-General agreed that “it would be appropriate to examine whether to raise the age of criminal responsibility from 10 years of age”. The Council also announced that “a working group will be established to review this matter, drawing from relevant jurisdictional and international experience, and will report back within 12 months”.

In February 2019, an interjurisdictional working group of officials was established to “review the age of criminal responsibility and make recommendations to the Council in that regard”, as agreed by Attorneys-General at their meeting.

The working group is being chaired by the Department of Justice, Western Australia and includes representation from each state, territory and the Commonwealth.

This review will include a desktop assessment that draws from a range of government and non-government resources including – relevant international reports, agreements and standards; overseas experience; contemporary Australian inquiries (and government responses), reviews and experience; and relevant evidence-based research.

The review will assess whether the age of criminal responsibility should be:

- maintained;
- increased in certain circumstances only; or
- increased.

It will also assess whether the principle of *doli incapax* – which presumes that children aged 10 to under 14 years are criminally incapable unless it can be proven otherwise – should be retained and if so whether the current age threshold applying to the presumption should change.

In conducting the review, the working group expects to identify key policy and legal considerations that may arise in regard to sentencing, detention, rehabilitation, recidivism, child welfare and development, community safety, and the desirability of dealing with young children outside of judicial proceedings.

Consideration will be given to relevant circumstances across Australian jurisdictions such as numbers of children in detention, types of offences committed, respective ages of child offenders, indigenous representation and other salient cohorts, outcomes for offenders and the community, economic costs, and other relevant matters. Relevant data, statistics, evidence (including in regard to child and adolescent cognitive and behavioural development) and targeted consultation where required will help inform these considerations.

Based on the review, the working group will prepare a report and make recommendations to the Council of Attorneys-General within 12 months of the decision to undertake the review.