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Justice and Community Safety Directorate and Community Services Directorate

By email: macr@act.gov.au

Raising the minimum age of criminal responsibility – Response to discussion paper

Relationships Australia Canberra and Region and Relationships Australia (National Office) welcome the work of the ACT government in raising the minimum age of criminal responsibility (MACR) as a crucial step in ensuring the safety and wellbeing of all Canberrans. We thank you for the opportunity to contribute to the development of parameters that will support development of a restorative and therapeutic policies. We believe that this reform provides an important opportunity to invest in the community programs and family services that will keep our children safe, healthy and strong. This submission is a joint submission from Relationships Australia Canberra and Region and Relationships Australia (National Office).

The work of Relationships Australia

Relationships Australia is a federation of community-based, not-for-profit organisations with no religious affiliations. Our services are for all members of the community, regardless of religious belief, age, gender, sexual orientation, lifestyle choice, cultural background or economic circumstances.

Relationships Australia provides a range of relationships services to Australians, including counselling, dispute resolution, children's services, services for victims and perpetrators of family violence, and relationship and professional education. We aim to support all people in Australia to live with healthy and respectful relationships. Relationships Australia has provided family relationships services for more than 70 years.

Relationships Australia is committed to:

- Collaboration. We work collectively with local and peak body organisations to deliver a spectrum of prevention, early and tertiary intervention programs with elders, men, women, young people and children. We recognise that often a complex suite of supports (for example, drug and alcohol services, family support programs, mental health services, gambling services, and public housing) is needed by people affected by family violence and other complexities in relationships.
- Enriching family relationships, including providing support to parents, and encouraging good and respectful communication.
- Ensuring that social and financial disadvantage is not a barrier to accessing services.
- Contributing its practice evidence and skills to research projects, to the development of public policy and to the provision of effective supports to families.
- Working in rural and remote areas, recognising that there are fewer resources available to people in these areas, and that they live with pressures, complexities and uncertainties not experienced by those living in cities and regional centres.

Relationships Australia and its work with the justice system

This submission draws upon our experience in delivering, and continually refining, evidence-based programs in a range of family and community settings, including for:

- Children and young people
- People affected by complex grief and trauma, intersecting disadvantage and polyvictimisation
- People living with intergenerational trauma
- Survivors of all forms of abuse, including institutional abuse
- People who come from culturally and linguistically diverse backgrounds
- Aboriginal and Torres Strait Islander people
- People with disability, and
- People who identify as members of the LGBTIQ+ communities.

We recognise that these cohorts are more likely to display harmful, risky, unsafe or violent behaviour in response to abuse, trauma, marginalisation and discrimination (Farmer 2011). This leads to greater representation in the criminal justice system.

In particular, this submission draws on RACR's work embedding restorative practice into our services. Restorative justice focuses on the relationship at the centre of the harmful behaviour. It provides an alternative to punitive responses to crime and we believe it should be integral to an alternative model to the youth justice system. Restorative practice is the application of this concept in the wider community, a process that seeks to repair and restore relationships to create stronger communities.

Questions:

Section two: An alternative model to the youth justice system

What universal or secondary services should be introduced and what existing services should be expanded – or alternatively are there any services that could be re-oriented or repurposed - to better support this cohort?

Restorative practices are relational and aim to build, maintain and repair relationships. Predominantly, restorative practice involves building social capital, creating healthy and positive cultures, trust, mutual understanding, shared values and behaviours that bind communities together and make cooperative action possible, while only a small amount of the work is focused on the 'pointy end' of repairing harm. As such, RACR have been able to embed their restorative practice theory into their work with the community, especially in family and domestic violence and family therapy. Family group conferencing offers a way to expand a coordinated community response to stopping violence against women and their children, recognising that violence cannot be stopped without the concerted and cooperative effort of families, communities, and state institutions (Pennell and Burford 1995).

Restorative approaches are associated with:

- Improved social skills, reduced aggression and reduced exclusion of students in education settings (Weber & Vereenooghe 2020);
- A reduction in the number of children in out of home care, as well as the number of families with a child protection plan and children at risk in social care environments (Victoria Legal Aid 2016);
- Reductions in re-offending in youth justice across different offence types and regardless of the gender, criminal history, age or cultural background of the offenders (Daly & Hayes 2001); and
- Improved health outcomes and reduced dependence on the health system (O'Brien, Welsh & Barnable 2016).

As the discussion paper has noted, raising the age of criminal responsibility has particular importance for Aboriginal and Torres Strait Islander communities, who are disproportionately represented in the criminal justice system in the ACT. Restorative approaches draw from Indigenous practices and provides a culturally specific, safe and appropriate response for Aboriginal young people, based on the principles of reparation and self-determination.

RACR has developed an active community partnership with Restorative Justice- Galambany Circle sentencing panel which provides effective and restorative processes to Aboriginal and Torres Strait Islander defendants through community involvement in sentencing. Additionally, Canberra has been declared a 'restorative city'. This recognises that relationships are central to our wellbeing, community and society, and places Canberra in the perfect position to adopt more restorative practices and expand restorative services, to provide non-criminalised mechanisms and pathways for children, young people and their families.

Section three: Victims' rights and supports

How should community members affected by harmful behaviour be supported after crisis points? What role should accountability for behaviour play in supporting the needs of children and young people, and victims?

RACR have found that supporting families to pursue respectful relationships in a more holistic manner leads to better long-term outcomes. Holistic support should also include support for victims of crime. The Relationships Australia federation has significant experience in providing support for victims of crime. These counselling and support services address responses to trauma which can have widespread ramifications. Reactions may be experienced not only by people who experience the trauma first-hand, but by those who have witnessed or heard about the incident, or been involved with those immediately affected. As such, in order to ensure a more holistic response to harmful behaviour, services should be made available for:

- Anyone directly harmed by the harm

- Anyone harmed as a result of bearing witness
- Parents or care givers who have been harmed as a result of a harm against their child, or perpetrated by their child
- Relatives of a person who has died or suffered as a result of a harm.

These services are underpinned by restorative practice and as such, accountability for actions is embedded in the service. By engaging in a more holistic practice which addresses the whole community affected by the behaviour, individual needs are addressed, resulting in fewer children and young people continuing to engage in harmful behaviours throughout their lifetime. This promotes safer communities.

RACR and RA National welcome this reform. Our experience in providing restorative support and therapeutic services for victims/survivors, as well as the large evidence-base supporting the efficacy of this work, bolsters our confidence in restorative practices. We recognise their ability to ensure safety and wellbeing for the whole community and provide an alternative to punitive justice. We look forward to the decriminalisation of harmful behaviour for a larger cohort of children and young people, and the accompanying service model which will provide a continuum of community and Government-based services.

Concluding remarks

Should you require any clarification of any aspect of this submission, or would like more information on the services that Relationships Australia provides, please contact either of the signatories to this letter.

Yours sincerely,



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