

# Youth Justice and Child Wellbeing Reform across Australia



<b>To:</b>	Children's Rights Team, Australian Human Rights Commission
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<b>Subject</b>	The National Children's Commissioner's Project on Youth Justice and Child Wellbeing Reform across Australia
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Barnardos Australia (Barnardos) is a well-recognised and prominent not for profit children's social care organisation and registered charity, providing direct care and support to over 11,000 children, young people and their families through our integrated Children's Family Centres (CFCs) each year<sup>1</sup>. Barnardos CFC services are geographically located in, and targeted to reach, specific areas of poverty and socio-economic disadvantage. Barnardos also provides foster care for over 1,200 children, the majority of whom are referred to us by statutory child protection departments with poverty a directly contributing factor to childhood neglect. Barnardos delivers services in many areas with significant Aboriginal populations, including the Central Western and South Coast regions of NSW, and Inner and Outer Western Sydney. Barnardos has worked with children, young people and families to break the cycle of disadvantage and create safe, nurturing and stable homes, for almost hundred years.

Barnardos vision is to empower every child in Australia to reach their full potential. To ensure that all children reach their brightest future, vulnerable children and young people should be supported to recover and thrive despite the adversity they have experienced.

## Our knowledge of youth justice and child wellbeing

Barnardos thanks the National Children's Commissioner for the opportunity to contribute our views on the opportunities for reform of youth justice and related systems across Australia, based on our experience and knowledge of the protection of children's rights. We strongly support the project's focus on reforming laws, policies and practices that impact negatively on the rights and well-being of children and young people and fail to serve the wider public interest.

Barnardos has expertise in working with children and young people who are overrepresented in the child protection and youth justice systems, and knowledge of effective ways to reduce their involvement in crime through early intervention and prevention. We deliver youth and homelessness services in Sydney metropolitan, Western Sydney, Southern New South Wales and the Australian Capital Territory.

For example, our Barnardos Casework Support Program (CSP) provides services across Sydney working with based on referrals from Youth Justice NSW caseworkers. CSP supports both young people under youth justice supervision and non-supervised young people to break the cycle of intergenerational trauma and disadvantage, achieve their life goals and enhance their wellbeing. Our Barnardos Streetwork program supports young people who are at risk or show signs of drug and alcohol dependency in the Sydney metropolitan area. They work beside the young people on the streets to connect them to appropriate services and educate young people on alcohol and drugs through a "harm minimisation" approach to keep them safe.

Barnardos works with vulnerable young people with complex needs at risk of coming into contact with the criminal justice system to help them overcome the adversities and disadvantages they have experienced, protect their rights, and improve their wellbeing and life outcomes. We work with our partners to strengthen health, mental health, education and

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<sup>1</sup> Moore, K. (2023). *Barnardos Children's Family Centres: Integrated local service delivery for vulnerable children and their families*. Barnardos Australia: Sydney.

housing responses to meet their needs and increase access for hard-to-reach populations, including:

- First Nations young people
- Young people living in families in deep poverty
- Young people who are educationally disadvantaged
- Young people who have been in contact with the child protection and youth justice systems
- Young people in regional and remote areas
- Young people who have experienced family violence
- Young people at risk of or experiencing homelessness
- Young people with disabilities
- Young people experiencing mental health conditions including substance abuse disorders.
- Young persons not engaged in education, employment or training
- Girls who go missing in adolescence who later have contact with the criminal justice system

In adolescence, girls who 'go missing' are among Australia's most vulnerable young people. In order to build the evidence base for this cohort, we are undertaking an Australian Research Council-funded collaborative research project with the University of New South Wales, Monash University and TaskForce community agency exploring the experiences of girls who go missing or run away and their later contact with the criminal justice system, where they often present with high degrees of trauma and victimisation. As the first Australian study of its kind, this study will examine the nature and extent of girls declared missing along with their pathway into the criminal justice system.

## The consultation questions

### **1. What factors contribute to children's and young people's involvement in youth justice systems in Australia?**

- Because they are frequently the first point of contact for young people and due to the wide-ranging discretionary powers they hold, police effectively act as gatekeepers for young people entering the youth justice system.
- Our youth services practitioners report that police often lack the training to work effectively and respectfully with children and young people, particularly in culturally safe ways with Aboriginal children and young people.
- Police may lack knowledge of the likely responses of children and young people to family violence and how adult perpetrators may seek to manipulate systems and professionals to enable further abuse. As a result, they may misidentify the perpetrator, undermine responses to children and young people exposed to family violence, and damage their trust in the systems meant to protect them.

- Further, they lack adequate training and resources to understand the challenges and issues faced by young people with mental health conditions, substance misuse disorders and who have been adversely impacted by trauma, abuse and neglect.
- Taken together, these critical training gaps, in turn, negatively impact the quality of street-level decisions made by police and resulting in police failing to protect child rights and missing vital opportunities to divert children and young people, and subsequently exposing them to the damaging effects of being held in custody and being dragged into the youth justice system.
- A notable service gap is emergency and short-term crisis accommodation, support and rehabilitation options suitable for young people with mental health disorders who also use alcohol and other drugs.
- Typically, these people with comorbidity cannot access youth refuges as they either fall outside of the eligibility criteria or are considered too high needs, and they may need to travel away from their support networks to other parts of the state to access a service that will accept them.
- In our experience, the lack of available late-night and weekend support services for children and young people leaves them on the streets, where they are vulnerable to substance misuse behaviours and the risk of being a victim of violence or being stopped and searched by police. For example, police may target young refugee people from culturally and linguistically diverse backgrounds because of their visibility on the street at night or on weekends. As a result of these negative interactions with police, these young people find themselves charged by police with summary offences.

## **2. What needs to be changed so that youth justice and related systems protect the rights and wellbeing of children and young people? What are the barriers to change, and how can these be overcome?**

- Barnardos welcomes the national movement towards raising the minimum age of criminal responsibility and acknowledges the decisions of the Victorian and ACT Governments to enact reforms as part of the effort to keep young people out of the criminal justice system.
- Barnardos strongly supports the centrality of upholding the rights of children by implementing reforms to raise the minimum age of criminal responsibility in all Australian state and territory jurisdictions from 10 to 14 and that children and young people have a say in the design and implementation of any solutions for an alternative model of youth justice response.
- Providing training in working with youth, notably Aboriginal youth and young people with mental health conditions and understanding the subtle power dynamics of family violence situations and adult perpetrator behaviours would increase the role of policy in protecting the rights and wellbeing of children and young people, enable early diversion and reduce rates of youth detention.
- Limiting the discretionary powers of police, including vetoing the diversion of children and young people, would also significantly protect child rights.

- Children and young people who experience comorbidity of mental illness and substance misuse need multifaceted accommodation and support services with staff trained in working with both conditions and who can help address their distinct needs. Likewise, increasing the late-night and weekend services for street-frequenting children and young people would help protect their rights and wellbeing.
- It is essential to strengthen relationships with the Aboriginal community to ensure decisions for children and young people are culturally appropriate, help the child and young people stay engaged or reengage with their community and make the community safer.
- The onus should be clear on the wider service system that surrounds specific interventions to be responsive to the child's individual needs and provide them with the supports and services they need to prevent harmful behaviour. This could be articulated by developing system-wide principles and a mandate for all essential service providers.

**3. Can you identify reforms that show evidence of positive outcomes, including reductions in children's and young people's involvement in youth justice and child protection systems, either in Australia or internationally?**

- Barnardos strongly supports the views of the National Children's Commissioner that there is overwhelming research evidence that incarcerating children for harmful behaviour is ineffective and counterproductive.
- Studies of the characteristics of effective programs for youthful offenders show that family and community-based approaches most consistently reduce juvenile recidivism. Likewise, diversion interventions that include the family unit and parent training in addition to case management also result in the reduction of recidivism of adolescents.<sup>2</sup>
- Evidence shows that intervention strategies need to include multiple treatment strategies that target both risk and protective factors and should be tailored to the individual needs of the young person and their family taking careful account of the influences of school, peers and the community they live in.<sup>3</sup>

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<sup>2</sup> Kennedy, T.D., Detullio, D., Millen, D.H. (2020). Treatment and Intervention Strategies for Youthful Offenders. In: *Juvenile Delinquency. SpringerBriefs in Psychology*. Springer, Cham. [https://doi-org.ezproxy.library.sydney.edu.au/10.1007/978-3-030-38250-6\\_4](https://doi-org.ezproxy.library.sydney.edu.au/10.1007/978-3-030-38250-6_4)

<sup>3</sup> Op. cit.

**4. From your perspective, are there benefits in taking a national approach to youth justice and child wellbeing reform in Australia? If so, what are the next steps? What principles should be included in the Strategy?**

- Barnardos supports a national approach to justice and child wellbeing reform as it would ensure that the rights of children in rural and remote communities are protected and they can expect the same interactions with the child protection and youth justice systems as children in urban areas.
- In our view the most pressing item for a national reform agenda is taking a co-ordinated approach to raising the minimum age of criminal responsibility.

## Further information

Our Chief Executive Officer, Deirdre Cheers is available to provide detailed verbal feedback as part of the ongoing consultation process and to participate in stakeholder interviews and roundtables.

We would be pleased to convene local engagement and consultation with young people by facilitating input from young people in our youth services who have been or are in contact with youth justice systems and who are experiencing multiple types of vulnerability.

Thank you once again for the opportunity to provide this written submission, and please contact [REDACTED] Head of Knowledge, Outcomes & Research on [REDACTED] should you require further information on our feedback.