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The logo for The Centre for Social Justice, featuring the text "THE CENTRE FOR SOCIAL JUSTICE" in white, uppercase letters on a dark red background.

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PRESS RELEASE FROM THE CENTRE FOR SOCIAL JUSTICE
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Raise the Minimum Age of Criminal Responsibility to 12, says CSJ report on reforming youth justice system

Children should not face the threat of criminal arrest and prosecution until they have reached the age of 12, according to a leading think-tank.

A landmark new report from the Centre for Social Justice, published today, concludes it is time to break the “taboo” surrounding raising the minimum age of criminal responsibility (MACR) from ten to twelve and advances a raft of compelling reasons for making the change.

New research demonstrates that children below 13-14 years of age are neurologically immature and struggle to gauge the consequences of their actions. This is particularly true where they have been abused and maltreated in their childhood.

They are more likely than older children to indulge in impulsive and risk-taking behaviour. Although children can distinguish between right and wrong from an early age, they have a limited capacity to distinguish between criminal and non-criminal conduct, particularly if they have grown up in dysfunctional households as many young offenders have.

Ten and eleven-year-olds are also less able to defend themselves in court than older children. Decisions about how to plead, what to tell lawyers and how to respond to cross-examination present serious difficulties for them. They are more likely to make false confessions.

Inconsistencies abound. For instance, a child is not allowed to buy a pet until the age of 12 and cannot consent to any form of sexual activity until the age of 13. The school leaving age is 16 and the minimum age for jury service is 18.

England and Wales is also out of line with many other countries. South Africa (effectively 14), parts of the USA (12), Netherlands (12), the Scandinavian countries (15), Italy (14) and Germany (14) all have higher MACRs than England and Wales. Scotland and the Republic of Ireland have effectively raised their limits to 12 in recent years.

“The evidence indicates strongly that the current low MACR in England and Wales is unsafe, unjust and harmful to wider society,” the report declares.

The CSJ recommendation is part of a far wider report, Rules of Engagement, on the youth justice system, which calls for a drastic cut in the 5,000 children aged 10-17 given custodial sentences every year and recommends reforms in which child welfare services rather than youth justice teams and courts take the lead in preventing juvenile crime.

The report accepts that in the wake of the case of James Bulger, who was murdered by two 10-year-old boys in 1993, it would be “politically naïve” to attempt to ignore public opinion on the MACR.

It also points out that according to polling conducted by YouGov for the study, a significant minority of people (39 per cent) do support raising the MACR.

Accordingly, the report proposes a compromise measure to apply immediately: that the MACR be raised to 12 years for all but the most grave offences (murder, attempted murder, rape, manslaughter and aggravated sexual assault). This would mean that in the Bulger case, the perpetrators would still have been prosecuted for murder.

In the medium term, youth courts should have the power to refer cases to local authority children’s services and the family proceedings courts (which might decide the best solution was to take a child into care) and ultimately the two courts should be integrated to allow juvenile offending to be dealt with against the background of family and community interventions.

CSJ Executive Director Gavin Poole commented: “There is a compelling case for raising the MACR. Since it was raised to 10 nearly 50 years ago, a significant amount of evidence has been published suggesting that it should be raised to the age of 12.

“Raising the MACR would be a significant step along the road of reform – taking us closer to the point where responsibility for dealing with youth crime would become normally a matter for child welfare services rather than youth justice teams and the courts.

“This should not be seen as a get-out clause. We strongly believe that children and families should be held accountable for their actions. Raising the MACR must be accompanied by more robust interventions for young children, and crucially their families, to confront their actions.

“We have to face the fact that our youth justice system, costing £4 billion a year, is failing dismally in preventing juvenile crime.

“Three quarters of young people given custodial sentences reoffend within a year of release.

The CSJ report also cites official figures on forms of justice meted out to young offenders. In 2009/10, 2,490 10-11 year-olds were given out-of-court punishments such as penalty notices for disorder (PMD), 396 were convicted and sentenced in court, and only 2 were sentenced to custody.

These figures compare with 63,152 out-of-court disposals for 10-17 year-olds, 92,705 convicted and sentenced in court, and 5,130 sentenced to custody.

The report highlights safeguards that would remain in the system, whatever the level of the MACR. Serious crimes such as arson committed by children under the MACR could still be dealt with under the Children Act 1989 and offenders could be placed in secure children’s homes.

The report says: “Raising the MACR would achieve important changes. Young children would not be tarred with the stigmatising “offender” label, which, the evidence shows, can exacerbate delinquency, and would more likely have their victim status and welfare needs addressed, which the evidence shows are currently often neglected.

The report was drawn up by an 11-strong CSJ working group chaired by Mike Royal, National Director of The Lighthouse Group, a charity working with children and young people at risk of exclusion from school.

Other members are Rod Morgan, Professor Emeritus of Criminal Justice at Bristol University, Steve Crocker, Deputy Director of Children's Services in Hampshire, youth justice policy expert Pam Hibbert, Vicky O'Dea, former prison governor and Operations Director within Serco Civil Government, Rob Owen, Chief Executive of St Giles Trust, magistrate and former Nacro research director Chris Stanley, Malcolm Stevens, UK Commissioner for the International Juvenile Justice Observatory, Metropolitan Police Commander John Sutherland, Phil Thain, Chief Executive of Future Skills Training, and senior CSJ researcher Alexandra Crossley.

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NOTES TO EDITORS

The Centre for Social Justice is an independent think tank established, by Rt Hon Iain Duncan Smith MP in 2004, to seek effective solutions to the poverty that blights parts of Britain.

In July 2007 the group published Breakthrough Britain. Ending the Costs of Social Breakdown. The paper presented over 190 policy proposals aimed at ending the growing social divide in Britain.

Subsequent reports have put forward proposals for reform of the police, prisons, social housing, the asylum system and family law. Other reports have dealt with street gangs and early intervention to help families with young children.