

Citizenship

Should we review the age of criminal responsibility?

Downloadable Resource

Mrs White



The current age of criminal responsibility is 10 years old. This has been the same since 1963, but children had a degree of protection. For children aged 10-14 years, the prosecution had to prove that the child knew the behaviour was wrong rather than just naughty or mischievous. The latin term for this is *doli incapax*.



What changed? The James Bulger case

In 1998 the law changed following a serious crime committed in 1993 by two 10 year old boys, who abducted and killed a toddler called James Bulger.

The boys had been found to have tried to abduct a little girl a few weeks before and another boy on the morning of the killing. This showed that the incident wasn't accidental.

Throughout their trial, reporting restrictions meant that the boys, Thompson and Venables, were referred to in the press as Child A and Child B. But at the close of the trial, the judge allowed their names to be released, "because the public interest overrode the interest of the defendants... There was a need for an informed public debate on crimes committed by young children." This meant that now the public was focused on the ages of the boys.

Two weeks after their trial, Lord Taylor of Gosforth, the lord chief justice, increased the boys' tariff by two years, recommending that Thompson and Venables serve a minimum of 10 years.

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What changed? The James Bulger case

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James' Mum Denise campaigned to increase their sentences more. The story ran in the Sun newspaper. Close to 280,000 people signed a petition supporting her bid, including 4,400 letters of support agreeing that Venables and Thompson should remain in detention for life, and nearly 6,000 asking for a minimum period of detention of 25 years. The Home Secretary Michael Howard announced an increase to 15 years, which was later overturned.

Up until this point, children who were trialled were protected somewhat by *doli incapax* if they were aged 10-14. But the pressure on the government to change the law by so many people and the media meant that this protection was then taken away in 1998.

However, in Norway, an incident occurred where two 6 years olds killed their 5 year old friend, and although it shocked the nation, they decided that the boys needed rehabilitation, not punishment by prison.



Crime and young people

No one of any age is allowed to break the law. But in England, Wales and Northern Ireland, the age of criminal responsibility is 10 years old. (12 in Scotland)

It is thought that children younger than this probably do not understand that what they have done is wrong. If they commit a serious crime, social services will deal with the case.

Everyone over the age of 10 is held responsible for their crimes and can be arrested, tried and, if found guilty, punished.



Age of Criminal responsibility in other countries:

Belgium

12

Germany

14

Spain

14

France

13

Italy

14

Luxembourg

18 (16)

From: Children's Rights International Network (CRIN)



Here are some arguments to help you think about this: Review the age of criminal responsibility.

England has the lowest age of criminal responsibility in Europe and this is not internationally acceptable - (the United Nations)

A child doesn't understand the court processes so can't have a fair trial.

Children under 10 are too young to know what they are doing.

Treating young children who do bad things as people who need help, instead of criminals, is better for them and for society.

In 2016, 87,535 under 18's were arrested. Only 703 of those were aged 10-11.



Here are some arguments to help you think about this: Review the age of criminal responsibility (ACR).

A low ACR does not deter children from offending. All children convicted acquire a criminal record with long-term implications.

Learning right from wrong is not like learning to walk. It takes time and experience to understand it fully.

Contact with the CJS reduces the likelihood of children completing education and obtaining qualifications.

Countries with higher ACR's tend to use welfare and restorative models to help young offenders.

The European Convention on Human Rights says we all have a right to a fair trial, which means we need to understand what is happening to us.



Opinions about increasing the age of criminal responsibility

Letters to the Editor, The Times, 30 Dec 2019

Sir, The letter arguing for an increase in the age of criminal responsibility compellingly makes the case that a ten-year-old's mental capacities "are not comparable to an older adolescent or adult". I would also add that criminalising these youngsters, while they are still developing their identities and self-esteem, damages their prospects of growing up to lead a law-abiding life. If society brands them as criminals that is how they will come to identify themselves.

*Lord Brown of Eaton-under-Heywood
Retired Justice of the Supreme Court*

The age in the UK is still shamefully far too low, not only by EU standards but also by those of much of the world. Even in countries such as Russia, China, North Korea and the Democratic Republic of Congo, a child is not regarded as capable of a criminal act until he or she is 14 years old.

Dr Audrey Wells, London



Here are some arguments to help you think about this:

The age doesn't need review.

By the age of 10 their families and schools have taught them right from wrong.

Children under 10 do know right from wrong. They know when they are committing a crime.

Having the age as low as 10 is a useful **deterrent**.

If you let them get away without a proper punishment they will just go on to worse crimes. The age should be younger.



The Times Letters to the Editor

“I agree that the brain is far from mature aged ten, 12 or even 25, but that does not mean that the ten-year-old child is not aware of actions that are right and wrong. The problem is more in the rather rigid manner in which our legal system pursues the investigation and prosecution of the offence, applying the same processes to every age of defendant. Raising the age of responsibility simply gives the child licence to believe that he can carry on doing the same thing that he knows is wrong for another couple of years.”

Hedley Piper, Dartmouth

Boy, 7, is Britain's youngest drug dealer

A BOY aged seven from West Yorkshire has become the country's youngest drug dealer.

The child was held by police for possession with intent to supply an unspecified drug last year. Social services were informed after his arrest was recorded by police. However, he could not be charged as he was under the age of 10, the legal age of criminal responsibility.

Andrew Robinson, The Huddersfield Daily Examiner, 2 June 2020

