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Briefing for the Public Petitions Committee on petition PE2269: Strengthen youth justice thresholds, lodged by Leanne Kelly

Introduction

The petition seeks more effective early intervention for children and young people involved in violent, knife and gang-related offending.

It refers to diversion from the criminal justice system through 'Early and Effective Intervention' and the 'Children's Hearings System' and argues that too much reliance on these has led to repeated diversion with limited consequences, thus allowing behaviour to escalate.

The petitioner adds that:

> "My intention is not to criminalise children or move away from the principles of early intervention and rehabilitation. I want to ensure that children involved in serious, violent or escalating behaviour receive the appropriate support at the earliest possible opportunity."

Early and Effective Intervention

The Scottish Government's website, under the heading of Youth justice, explains that Early and Effective Intervention (EEI) forms part of its Whole System Approach for "addressing the needs of young people involved in offending". In relation to EEI, it states that:

> "The police take a flexible approach to offending by young people. This helps prevent future offending or antisocial behaviour by providing timely and proportionate interventions, and alerting other agencies to concerns about the child or young person's behaviour and well-being."

A guide to children and young people in conflict with the law (Children and Young People's Centre for Justice 2026) notes that:

> "The majority of local authorities have developed multi-agency EEI processes as an early intervention response to a child being charged with an offence, that may otherwise have automatically resulted in a referral to the Children's Reporter." (section 10, p 12)

> "The agencies involved in EEI models tend to vary depending on local arrangements, though most have representatives from social work, police and education. Many areas also involve representatives from health, community safety, housing and third sector partners (e.g. Sacro, YMCA, Action for Children, Barnardo's). Where a multi-agency meeting is deemed appropriate, then steps should be taken to ensure it is effective and meaningful for children

and their families to participate in; this reflects the spirit of a rights-based approach." (section 10, p 13)

It goes on to outline some potential outcomes of EEI, including:

- the use of police direct measures
- a decision that existing measures are appropriate
- referral to a range of agencies, including third sector partners (e.g. those offering restorative approaches), social work and education
- referral to the Scottish Children's Reporter Administration (SCRA) in cases where compulsory measures may be necessary.

In relation to when EEI may be appropriate, the guide states that:

> "All offences should be considered for EEI unless they are excluded under:
>
> - Lord Advocate's Guidelines to the Chief Constable on the Reporting to Procurators Fiscal of Offences Alleged to Have Been Committed by Children;
> - Crown Office Framework on the Use of Police Direct Measures and Early and Effective Intervention for 16- and 17-year-olds (not published); or
> - Police deem a referral to SCRA is necessary as compulsory measures may be required.
>
> Whilst EEI is a response to alleged offending or concerning behaviour as a potential indicator of need, decisions made as to the suitability of EEI are primarily based on the gravity of offence and whether compulsory measures of supervision may be required." (section 10, p 14-15)

Children's Hearings System

The purpose of the Children's Hearings System is to determine what measures may be required to address the behaviour and welfare of children. It seeks to ensure that appropriate care, protection and supervision is implemented.

Reporters are employed by the Scottish Children's Reporter Administration (SCRA) to consider the circumstances of children referred to the system. This may be in a situation where the child has been (or may be) harmed by others, or where the child's own behaviour causes concern – including situations where it is alleged that the child has committed an offence. Statistics published by the SCRA indicate that of 8,839 children referred in 2025-26, a total of 2,236 were referred on offence grounds (including 491 children who were referred on both non-offence and offence grounds).

On receipt of a referral, the local reporter will undertake initial investigations before deciding what action may be necessary in the child's interests. The reporter will

consider whether there is sufficient evidence supporting the grounds of referral and, if so, whether compulsory measures of supervision are needed. Where the answer to both questions is yes, the reporter will arrange a children's hearing.

Children's hearings are lay tribunals which consider and make decisions on what measures may be required for the welfare of a child. This may involve compulsory measures of care (e.g. via a compulsory supervision order). Compulsory supervision can include a child being held in secure accommodation.

Children's hearings do not determine the facts of a case. Where the grounds of referral are not accepted, the case is referred to a sheriff court to decide whether the grounds are established. If the court determines that the grounds of referral are established, the case is sent back to a children's hearing for a decision on what action to take.

Scottish Government

In an initial written response to the petition (October 2026) the Scottish Government states:

> "The Scottish Government recognises the serious harm that can be caused by violence, knife crime and gang-related youth offending, and agrees with the petitioner that early intervention is essential in preventing escalation and supporting positive outcomes for children and young people.
>
> Since its introduction in 2011, Scotland's Whole System Approach to youth justice has delivered sustained reductions in offence referrals, prosecutions, court appearances and custody. This proven approach is founded not only on evidence as to what works in confronting and correcting harmful behaviour among young people, but on the principle that children who come into conflict with the law should receive the right help, at the right time, and at the earliest opportunity. Early and Effective Intervention and the Children's Hearings System play a key role in this approach by addressing underlying needs while ensuring that risks to victims and communities are taken into consideration. The Scottish Government therefore considers that the existing Whole System Approach framework – and the essential elements within it – already allow for more intensive intervention where offending behaviour is serious, persistent or escalating."

In relation to youth violence and knife crime, the Scottish Government's Programme for Government 2026 – 2031 (2026) notes:

> "we will continue to work with partners to tackle and prevent youth violence and in particular knife crime, including effective consequences for offences, through a three-pronged approach:
>
> - Education programmes on the danger and the unacceptability of carrying a knife and taking part in violence: Supporting organisations and initiatives such as No Knives, Better Lives, the Youth Navigators project, and Mentors in Violence Prevention programme, supporting young people at risk of, or impacted by, violence and crime.

- Effective punishment: The young person's sentencing guidelines make it clear all sentencing options, including a custodial sentence, remain open to the court following a conviction. This is alongside higher maximum penalties for carrying a knife in a public pace since 2016.

- School and community engagement: With efforts to develop responsible citizens in Scotland and address underlying issues such as glorification and broader societal discourse on crime and violence, to try to prevent a person picking up a knife in the first instance. We will also roll out bleed kits to community settings." (p 67)

Key organisations

- Children First
- Children and Young People's Centre for Justice
- Crown Office and Procurator Fiscal Service
- Police Scotland
- Scottish Children's Reporter Administration
- Victim Support Scotland

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3 November 2026

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot.

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