

EQUALITIES AND HUMAN RIGHTS COMMITTEE

AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND)

BILL SUBMISSION FROM ABERDEEN CITY COUNCIL

- The UN Convention on the Rights of the Child recommends that the age of criminal responsibility is a minimum of 12 years old and the alignment of the Bill to this recommendation;
- The Bill makes a number of changes relating to the disclosure of offences and provides that any conduct by a child below the age of 12 (should the age of criminal responsibility be increased) will no longer be recorded as a conviction. The Bill does however, allow for disclosure of 'other relevant information' held by the police about pre-12 behaviour. The Committee would welcome views on whether the Bill strikes the right balance in terms of addressing offending behaviour by young children under 12 and the disclosure of such information;
- The Bill provides that children under 12 who are subject to a police interview will have the right to have an advocacy worker present during the interview and seeks views on the impact of this change on services;
- Raising the age of criminal responsibility would necessitate a number of changes in relation to information which can be provided to victims. The Bill seeks to balance the best interests of victims (including child victims) and the best interests of the child responsible for any harm caused. The Committee would welcome views on whether an appropriate balance in this area has been achieved;
- Part 4 of the Bill relates to police powers and provides a package of powers designed to ensure that serious behaviour by any child under the age of 12 can be investigated but that such investigations are carried out in a child-centred way. Those powers include, amongst other things, the taking of forensic samples, removing a child to a place of safety and the power to search children. The Bill restricts the application of most of these powers so that they are only available to the police in the most serious of cases. The Committee would welcome views on the approach taken to police powers in the Bill.

The Committee would particularly welcome responses on the following questions. If you would like to make a response, you do not need to answer all of these questions and can feel free to focus just on those that are relevant to or interest you

1. The UN Committee on the Rights of the Child recommends that the age of criminal responsibility is a minimum of 12 years old, which the Bill adheres to. What are your views on the appropriate age of criminal responsibility in Scotland?

Response

This ACR Bill is welcomed by staff across Aberdeen City's Integrated Children & Family services. Scotland has long stood out as having the lowest ACR in Europe. Even raising the age to 12 means Scotland is still at the lower end of when a child reaches the ACR across Europe with many countries setting such between 14-16.

The increase of ACR from 8 – 12 is consistent with other legal processes where children aged 12 and over are fully involved in decisions about their circumstances i.e. adoption and care proceedings.

The change is also fully consistent with the principles of GIRFEC and recognition that for most children under the age of 12, who commit a criminal offence, there usually exist welfare concerns. It is therefore that a child's behaviour is seen within the context of a holistic assessment of their needs.

2. The Bill makes a number of changes relating to the disclosure of offences and provides that any conduct by a child below the age of 12 (should the ACR be increased) that would previously have been recorded as a conviction will no longer be recorded as such. The Bill does however, allow for disclosure of 'other relevant information' held by the police about pre-12 behaviour. The Committee would welcome views on whether the Bill strikes the right balance in terms of addressing offending behaviour by young children under 12 and the disclosure of such information.

Response

Currently, the impact for some adults who committed an offence as a child under the age of 12 can be significant and impinge on their employment opportunities. The offences may be disclosed within a PVG check many years after the offence and bear no relevance to the current life and lifestyle of the adult. The stigma and embarrassment is recognised in this Bill and seeks to mitigate against such.

3. The Bill provides that children under 12 who are subject to a police interview will have the right to have an advocacy worker present during the interview. What will the impact be on your organisation or on the children you work with who might access the advocacy service?

Response

There will be a need to ensure that all areas of the country have access to advocacy workers to avoid children having to wait for excessive periods of time. We are aware for example that presently there is a shortage of specially trained solicitors in the North East of Scotland. This has resulted in some young people (12+) having to wait for extended periods while an appropriate solicitor travels to the area.

4. Raising the age of criminal responsibility would necessitate a number of changes in relation to information which can be provided to victims. The Bill seeks to balance the best interests of victims (including child victims) and the best interests of the child

responsible for any harm caused. Again, the Committee would welcome views on whether an appropriate balance in this area has been achieved.

Response

The Bill recognises the need to balance the rights of victims and the right of privacy for the child who has caused harm. There is a need to ensure that victims know that the crime has been investigated and when this involves a child under 12 that the matter has been referred to the Principle Reporter for consideration. It is however important that the welfare of the child who has caused harm remains focal and that their best interests are protected when keeping victims informed.

5. Part 4 of the Bill relates to police powers and provides a package of powers designed to ensure that serious behaviour by any child under the age of 12 can be investigated but that such investigations are carried out in a child-centred way. Those powers include, amongst other things, the taking of forensic samples, removing a child to a place of safety and the power to search children. The Bill restricts the application of most of these powers so that they are only available to the police in the most serious of cases. The Committee would welcome views on the approach taken to police powers in the Bill.

Response

In the rare circumstances when a child under the age of 12 is suspected of committing an offence the Bill still allows for the child to be interviewed and questioned with appropriate safeguards. These interviews will be undertaken by Police Scotland and appropriately qualified social workers.

6. Please tell us about any other comments you feel are relevant to the Bill