

Age of Criminal Responsibility (ACR) Bill
COSLA Response to the Equalities and Human Rights Committee, Scottish Parliament

COSLA welcomes the opportunity to provide a response to the Equalities and Human Rights Committee's request for evidence on the Age of Criminal Responsibility Bill. We trust our response will be useful to the Committee's considerations.

Q1) 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?

- COSLA is broadly politically supportive of raising the age of criminal responsibility from 8 years to 12 years old. As a result, the intentions of the Bill are welcome, given that Scotland currently has the lowest age of criminal responsibility in Western Europe and the change would put Scotland in line with the United Nations Convention of the Rights of the Child. In addition, raising the age would shift the focus to supporting children instead of criminalising them.

Q2) 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.

- The balance appears to have been met by the Bill as it is important to move away from criminalising young people from an early age, whilst maintaining the ability to have access to relevant information for those under the age of 12 which can be important. In addition, the Bill appears to have struck the right balance to victim's rights for compassion, investigation and support as well as addressing issues to minimise risk.
- The Bill provides for later disclosure where this information would be of benefit to public protection. However, this disclosure would require supporting guidance in line with key articles in the EHCR and UNCRC to ensure that potential adverse consequences for the child entering adulthood are avoided.

Q3) 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?

- It would be an important right for a child under 12 years old to have support/advocacy during a police interview. However, it would be useful to obtain further information about how the advocacy service would work and how this would be managed and resourced locally alongside local authority services to determine a potential impact.

- The Bill also refers to “police interviews”. However, these interviews when required would very likely be jointly planned between police and local authority social work services. As a result, the role of local authorities would be important and care would need to be taken in drafting the role of the advocacy service to ensure it complements the local authority role in any planning or interview process.

Q4) 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.

- The considered sharing of selected information with victims is important in allowing children and young adults to understand the process and to trust that harmful behaviour is being addressed. It is also necessary that victims understand and, wherever possible, are involved in the development of their safety plan. GIRFEC and Child Protection procedures within local authorities should help to support an appropriate balance in this area as they encompass all children and young people.

Q5) 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. 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 use of police powers contained in the Bill should be in a proportionate manner and subject to independent scrutiny. It would also be important that lead partner agencies work together to ensure a child-centred approach is taken, using the shared language of GIRFEC and the wellbeing of the child when dealing with a child involved in harmful behaviours and putting in place appropriate support.

Q6) Please tell us about any other comments you feel are relevant in the Bill.

- The impact of proposed changes to the age of criminal responsibility should be further explored with statutory partners such as local authorities to facilitate implementation such as adequate resources for joint interviews involving social work staff and police, as well as training and support materials for the wider local government workforce.