

PE1847/B

Petitioner submission of 6 January 2021

As the Scottish Government acknowledge the articles of UNCRC do not specify an age of criminal responsibility. General Comment 24 [paragraph 22](#) (2019) however is unequivocal in stating why the age of 12 years old is low for ACR.

‘Documented evidence in the fields of child development and neuroscience indicates that maturity and the capacity for abstract reasoning is still evolving in children aged 12 to 13 years due to the fact that their frontal cortex is still developing. Therefore, they are unlikely to understand the impact of their actions or to comprehend criminal proceedings.’

As the government points out the Age of Criminal Responsibility (Scotland) Act 2019, is not fully enacted and children living in Scotland deserve better than waiting until Autumn 2021, until it is. They have waited for generations, as we know the law was set in 1933 setting out 8 as ARC.

Any child between the ages 8 and 11, can in the meantime be investigated for committing a crime by relevant bodies. This is not the same as committing an ‘offense.’ If found guilty this can result in a charge and a recorded warning on the relevant recording system. This is a live warning and can remain so for two years. This procedure is likely incompatible with Article 6 of the Human Rights Act 1998. This information can be retained and disclosed against them in future.

We know the above process are usually applied in an arbitrary fashion, often directed at young children from poorer backgrounds. Indeed, one report highlights exactly that fact. Poorer children are often punished for things, that their better off peers are not.

The above legal technicalities mean very little to a young child finding their way in the wider world. Every parent that I have spoken with are horrified that a child from Primary Four/Five and upwards, can be investigated as potential criminals. This is unacceptable situation in a modern social democracy and the resulting change must be urgent.

A cursory glance at the broad overview provided by Child Rights International Network, shows just how far behind other countries we are on this issue :

<https://archive.crin.org/en/home/ages/europe.html>

If children of aged 8 and upwards can be investigated as criminals, then why can’t they be involved in discussions about laws that will directly affect them?

I am also aware the Scottish Government holds no information or figures on how these laws affect children.

I am also aware of the communication dated 6th December 2018 from Strasbourg by the Commissioner for Human Rights. highlighting a number of areas of concern.

<https://rm.coe.int/letter-to-maree-todd-msp-minister-for-children-and-young-people-concer/16808ffc7a>

The letter also discusses previous historical concerns on this issue dating back to 2008. Lack of progress is again mentioned in 2012. The Commissioner also points out that the age of 12 for the Age of Criminal Responsibility is way below the majority of other Council of Europe member states.

It's clear that the Scottish Government have stalled on this issue for a long time, although they speak of a culture change, they have created a situation that is confusing and damaging for everyone involved, including children, parents, and relevant authorities. The overwhelming evidence shows that the Scottish Government