

## **EQUALITIES AND HUMAN RIGHTS COMMITTEE**

### **AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND) BILL**

#### **SUBMISSION FROM RENFREWSHIRE COUNCIL CHILDREN'S SERVICES**

- 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?

We welcome the raising of the age of criminal responsibility in line with the recommendation from the UN Committee on the Rights of the Child of a minimum age of 12 years old.

We support the intention of the Bill to better protect children from the harmful effects of early criminalisation, while ensuring that incidents of harmful behaviour by those aged under 12 can continue to be effectively investigated and responded to appropriately.

Responding to childhood behaviour in a criminalising, stigmatising manner serves only to promote escalation and further harm. As noted in the policy memorandum, Scotland has proven approaches to confronting and correcting this childhood behaviour that do not need a criminal justice response. We would therefore be supportive of future consideration of further incremental increase in the age of criminal responsibility, recognising the current framework of Getting Right for Every Child, including the Whole System Approach which encompasses early and effective intervention.

- 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.

Given the potential lifelong implications of the disclosure of information, we welcome the intention of the Bill to afford children the opportunity to learn and move on from rather than be hindered by mistakes made in childhood. However we recognise that there are some rare circumstances where, for the protection of vulnerable people, information may require to be disclosed. The role of the Independent Reviewer will be key and it's important therefore that guidance is developed to assist in ensuring decisions are made which balance the potential need for public protection with the rights of the child and fairness.

- 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?

We support any action which has the potential to provide additional support to children and young people. We welcome the intention for advocacy workers to be suitably qualified and experienced, however note the later proposal that the advocacy worker should be legally qualified. Caution is required to ensure that the advocacy role does not solely replicate the role of the duty solicitor. Consideration requires to be given as to how this role will engage with the child and key services and the role that they should play before and after any interview.

The Bill states the right of the child to have a supporter and the right to support and assistance from a suitably qualified and experienced advocacy worker independent of the local authority. Further clarification and guidance would be welcomed in relation to the appropriateness of both being present during the interview. The Bill indicates that an interview may not begin unless the supporter is on the premises. It is later noted that an interview may not begin unless the advocacy worker is on the premises. Does this mean that both supporter and advocacy worker must be on the premises for an interview to begin?

- 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 need to balance the best interests of the child with the needs of victims for appropriate relevant and proportionate information is recognised. The Bill appears to continue the victim information scheme that the Scottish Children's Reporter Administration already has in place which will, we believe, offer assurances to victims. Given the focus is on process information, such as decisions to convene a hearing and the determination of any such hearing, and remains at the discretion of the Reporter (within the legislative guidance), we do not see this as significantly impacting on the child. In practice, we anticipate that the potential for any disclosed information to be used against a child should be kept in mind in any decision making.

- 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.

In terms of the sections of the Bill relating to the taking of forensic samples, we would highlight the importance of appropriate child friendly facilities to undertake this task.

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

One of the earlier questions refers to a police interview. Our reading of the Bill is that the intention is for these interviews, when required, to be jointly planned between police and social work and in the main jointly carried out. Although there may be only a small number of cases, there could be resource implications for local authorities of social workers being involved in carrying out interviews that would previously have been a police only role. We support the decision not to legislate for all interviews of children carried out under ACR and recognise this is proportionate and in line with GIRFEC principles.