



**MINIMUM AGE OF CRIMINAL RESPONSIBILITY
RESPONSE TO SCOTTISH GOVERNMENT CONSULTATION**

Care Protection & Risk

1. Do you think that the support needs of, and risks posed by, children aged 8-11 years demonstrating harmful behaviour can be met through the extension of the National Child Protection Guidance?

No comment

2. Do you think that a multi-agency scoping study of training and skills would be helpful?

No comment

Children's Hearings System

3. Should the age of criminal responsibility be raised to 12, do you think that it will be possible to deal with the harmful behaviour of 8-11 year olds via existing care and protection (welfare) grounds through the Children's Hearings System?

Yes

Role of the Police

4. Should the age of criminal responsibility be raised to 12, do you agree with the assessment of the Advisory Group that some police powers should be retained in relation to children under 12?

Yes

5. In relation to forensic samples, should the Police ever be able to retain samples taken from children aged under 12?

Yes

We believe that the retention of samples taken from children aged under 12 is reasonable in certain circumstances (such as where serious and sexual harm has occurred), as long as the retention period is not excessive. This would help establish patterns of behaviour at an early stage, and put in place support that is required in order to help reduce the risk of future harm.

Careful consideration should be given as to the specific conditions under which samples should be retained.

6. What safeguards should be put in place for children aged under 12 in relation to the use of these powers?

No comment

Disclosure and Protection of Vulnerable Groups

7. Do you think that there should be a strong presumption against the release of information about a child's harmful behaviour when an incident occurred before the age of 12?

Yes

8. Should individuals who may have obtained a criminal record based on behaviour when they were aged 8 to 11 prior to any change in the age of criminal responsibility no longer have to disclose convictions from that time?

Yes

9. Where it is felt necessary to release information about an incident occurring before the age of 12 (e.g. in the interests of public safety), do you agree with the Advisory Group's recommendation that this process should be subject to independent ratification?

Yes

10. Should an incident of serious harmful behaviour that took place under the age of 12 continue to be disclosed when that person reaches the age of 18?

No

Victims and Witnesses

11. Do you have comments on wider issues in respect of disclosure for all under 18s?

No comment

12. Do you have comments on arrangements to provide appropriate and effective support available to victims affected by harmful behaviour, where that behaviour involves children under the age of criminal responsibility?

Yes

The harm caused to a victim is not dependent on the type of crime, the perceived seriousness of the harm by criminal justice agencies, or the age of the person who has caused the harm.

Currently, victims receive a Victim's Care Card from the police when a crime has been reported, a right provided to them through the Victims and Witnesses (Scotland) Act 2014. This card provides information on the crime, such as the incident reference number, relevant dates and the investigating officer's name, and most importantly, information on support services available to the victim. At this stage, a referral to victim support should be provided, unless the victim does not wish this to occur. It is essential that this practice continues regardless of the age of the person who has caused the harm.

The impact of youth crime is often compounded through a lack of knowledge of the system and next steps. In order for victims to have confidence in the youth justice system, and to provide them with closure and reassurance, information should be provided on the system in place to deal with youth offending. This includes what the arrangements are for children under the age of criminal responsibility who are involved in harmful behaviour, including Early and Effective Intervention, the Children's Reporter and the Children's Hearing System. It is our view that this information should be provided in addition to the Victims' Care Card in order to provide clarity from an early stage as to the processes that will be involved, and the rights that victims will have in their case.

A joint research project conducted by Victim Support Scotland and the Scottish Government (2012) has highlighted the specific and varied needs of young victims of crime, and the current gaps in available services for this particularly vulnerable group of people in Scotland. VSS continues to call for a national service model of support for young victims of crime to be developed and implemented across the justice sector, as well as up-to-date research on the needs of young victims, to ensure that they receive the support that they need, when and how they need it.

13. Do you have any comments on the circumstances in which it might be appropriate to share information with victim where harmful behaviour involves a child under 12?

Yes

The victim should be told whether the facts of the case have been established, whenever this occurs. This will provide the victim with closure, and reassurance that the harm caused to them has been recognised, and will be dealt with.

As recognised in the Advisory Group Report (p.36), "there should still be scope for the victim of a child's harmful behaviour to be informed as to what action has been taken to address that behaviour, with the right supporting context about the limits to what can be shared. The information that is provided to victims would have to be very carefully considered, in order to protect both the child and the needs of the victim."

Age of Criminal Responsibility

14. Do you agree with the Advisory Group's recommendation that the age of criminal responsibility in Scotland should be raised from 8 to 12 years of age?

Yes

15. While arrangements are already being made to consult with groups of children and young people, please tell us about the groups of children and young people you believe should be consulted as part of this consultation process and how they should be consulted.

No comment.