

Consultation Questions

Based on our engagement with stakeholders there is evidence of support for the age of referral to the Reporter to be increased for those 16 and 17 year olds who might require a compulsory supervision order, including the joint reporting of those who offend.

We would welcome your views on increasing the maximum age of referral to the Children's Reporter.

1. Do you agree that the maximum age of referral to the Reporter should be increased to 18?

- a) Yes – All cases
 - b) Yes - Care and protection cases only
 - c) Yes - Offence cases only
 - d) No change – The existing age criteria should remain
- Please provide reason(s) for your answer (free text).

2. If the age of referral is increased to 18, are the existing grounds of referral to a Children's Hearing sufficient (see pages 11-12 for existing grounds)?

- a) Yes
- b) No

Please provide reason(s) for your answer (free text).

3. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for local authorities, Police and other service providers/organisations?

4. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for SCRA (the public body which operates the Reporter service)?

5. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for Children's Hearings Scotland (the body which operates the national children's panel)?

6. If the age of referral to the Reporter was increased, are amendments required to ensure sufficient access to information and support for victims harmed by children?

- a) Yes
- b) No

Please provide further details for your answer, including any extensions or amendments you would wish to see.

Yes.

As acknowledged in the consultation document, there is a need to 'ensure the interference is proportionate by balancing the interests of the victim in the disclosure of information against the interests of the child' when it comes to providing information and support to victims harmed by children. This is the case both when the victim of the child perpetrator is an adult, but especially so when they are also a child or young person themselves.

Victims need to be provided with relevant information and support that does not jeopardise the necessary protections that are in place for the child perpetrator. Given the emphasis on providing community-based support as part of Early and Effective Intervention (EEI) processes, it is important that measures put in place to aid the rehabilitation of the young person do not run contrary to what is best to support their victim and take the trauma they may be experiencing as a result of the crime into account.

The age of the perpetrator has no bearing on the level of trauma of the person who has been a victim of their actions.

Considerations should be given as to how the SCRA Information Service and the Victim Information and Advice Service operated by COPFS can be integrated or work together to provide suitable updates on cases that have been referred to the Principle Reporter. Given the age of criminal responsibility in Scotland was recently raised to 12 years, it may be appropriate that a greater amount of information be made available for perpetrators aged 12 and above.

As noted in the consultation document, victims can access support from Victim Support Scotland whether the case is dealt with in the Children's Hearings or criminal justice systems. Victim Support Scotland and other relevant support organisations should be signposted as early as possible in the process with regular reminders that these services are available, in line with the Victims Code for Scotland.

7. If there are any further comments you would like to make, which have not been addressed in the questions above, please use the space below to provide more detail.

Impact Assessments

We propose to carry out impact assessments alongside the development of any new legislation which would be required to implement changes to the children's hearings system.

These include a Data Protection Impact Assessment, Child Rights and Wellbeing Impact Assessment, Equality Impact Assessment (related to the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). We would be interested in your views on these areas to help us in developing these assessments.

1. Is it fair that some 16 and 17 year olds are treated differently?

yes

no

2. Should all 16 and 17 year olds be considered by the Children's Reporter and the children's hearing?

yes

yes, but only in some cases

No

3. Is there anything else you want to say about this possible change?