



THE RIGHTS OF CHILDREN IN CONFLICT WITH THE LAW

June 2020

'Be Brave for Our Rights' shield by Tammy Henderson, supported by The Children's Parliament

"MANY CHILDREN WHO ARE IN CONFLICT WITH THE LAW IN SCOTLAND DO NOT EXPERIENCE 'JUSTICE' IN THE TRUE MEANING OF THE WORD."

INTRODUCTION

This report is based on work by the *Centre for Youth & Criminal Justice*.

We work to improve how children (that's everyone under the age of 18) experience the youth justice system. We are part of the University of Strathclyde. We get most of our funding from the Scottish Government.

We have published this child-friendly version of our '*Rights Respecting: Scotland's approach to children in conflict with the law*' report to make sure it is accessible to our younger readers, giving them an understanding of the issues around the justice system in Scotland.

In this report you will read a lot about the things that are wrong at the moment. You will also read that we have ideas about what needs to change, so that we respect the rights of children when they are in conflict with the law.

THIS REPORT IS DIVIDED INTO FIVE PARTS, WHICH ARE AS FOLLOWS:

PART 1: THE MEANING OF WORDS AND PHRASES USED IN THIS REPORT AND WHEN WE TALK ABOUT CHILDREN IN CONFLICT WITH THE LAW

PART 2: NUMBERS OF CHILDREN IN CONFLICT WITH THE LAW AND GOING TO CHILDREN'S HEARINGS OR A COURT

PART 3: CHILDREN IN CONFLICT WITH THE LAW: THE THINGS THAT ARE WRONG AT THE MOMENT

PART 4: IDEAS ABOUT WHAT NEEDS TO CHANGE SO THAT WE RESPECT THE RIGHTS OF CHILDREN WHEN THEY ARE IN CONFLICT WITH THE LAW

PART 5: CONCLUSION

This report is based on 'Rights Respecting? Scotland's approach to children in conflict with the law' written by Claire Lightowler. Colin Morrison of TASC (Scotland) Ltd turned Claire's ideas into this report for children and young people. Gary Morrison did the design work, and Sarah Ahmad created the graphics throughout.

Thank you to the young people of Youth Justice Voices, who took time to give us their views on this report which we hope you agree has significantly improved it.

THE MEANING OF WORDS AND PHRASES USED IN THIS REPORT AND WHEN WE TALK ABOUT CHILDREN IN CONFLICT WITH THE LAW

To understand all the things that this report talks about it is helpful to know the meaning of some words and phrases that are used. Here's our guide to what you need to understand. Even if you don't read these all now, if you come across a word or phrase in the report that you don't understand, then come back to this section to find out what it means.

A **child** is a person under the age of 18.

Human rights are the freedoms every person is entitled to because they are alive. This includes the right to justice and the freedom to say what you think.

Children's rights are human rights. Because children are younger than adults they need extra attention and protection. The **United Nations Convention on the Rights of the Child**, called the **UNCRC** for short, is the international agreement that sets out all the rights children have from birth to the age of 18.

When something is **rights-respecting** it means that a person, a group, an organisation or a place understands and protects everyone's human rights. An **infringement** of rights is when your rights are ignored or denied to you.

The **law** is all the rules that a country has that must be obeyed.

If someone does not obey the law we can say they have broken the law, **committed an offence**, or they are in **conflict with the law**.



When we say **children in conflict with the law** this means anyone aged 12 to 18 years old who comes into contact with the justice system because they are suspected or accused of committing an offence.

The **justice system** is all organisations and professionals that deal with crime and the courts. This includes the police, prosecution and defence lawyers, the courts and prison.

The **Children's Hearings System** is the care and justice system for children and young people. One of its fundamental principles is that children and young people who commit offences, and children and young people who need care and protection, are supported through the same system.

A **court** is the place where a decision is made about whether someone has committed an offence (a crime) or not. There are different kinds of courts, they might have a Sheriff or a Judge who is in charge.

A **victim** is a person who has been harmed, injured or killed because of a crime or accident.

A **criminal record** is a list of the offences/crimes that a person has been found guilty of doing. A person with a criminal record might be expected to say they have a criminal record when they apply for jobs or training or want to volunteer or get a visa to travel abroad. This can include saying that a crime happened when they were a child.

Deprivation of liberty means taking away someone's freedom. It could mean they are put in secure care or a Young Offenders' Institution or prison.

Secure care or **secure accommodation** is a kind of residential care that restricts the freedom of children under the age of 18. It is for children who may be a significant risk to themselves, or others in the community.

A **Young Offenders' Institution** is a place where young people age 16 to 21 might be sent to if they are found guilty of a crime.

The **age of criminal responsibility** is the age at which a person is considered old enough to understand the crime they have committed and able to take full responsibility for their actions. The law says that children might be able to take *some* responsibility for their actions, but cannot be entirely blamed for what they do, as an adult might be. The law in Scotland says that a child under the age of 12 cannot be held criminally responsible. There are lots of reasons we can say a child cannot be criminally responsible - such as their brain has not fully developed to understand the consequences of what they choose or do, they might be under the influence of others, they might be forced into acting a certain way because they are relying on or trust someone, maybe no-one has ever helped them understand what is right and what is wrong. Some people say that the age of 12 is still too low. Across the world those who support children's rights say it should be at least 14 years old.

Poverty means not having enough money for basic needs such as food or housing or doing the things that you would normally expect a person or family to be able to do. People can live in poverty even when they have a job, because they don't get paid enough. There are different ways to measure poverty. In Scotland it is said that one in every four children live in poverty. Children who live in poverty suffer from more illness, do less well at school and can experience more mental health problems.

Childhood trauma is something scary, dangerous, violent or life threatening that happens to a child. This can be a one-off event or can be something that lasts for a longer time.

Additional support needs can be to do with the child's health, disability, learning or family circumstances. Children with additional support needs are often not supported enough when they are in conflict with the law. Sometimes the speech, language and communication needs of children are not known or not understood. The needs and rights of children with autism or a learning difficulty/ learning disability can often be infringed when they are in conflict with the law.

Social inclusion means making people and all groups of people in a society feel valued and important. **Social exclusion** is when a person or a group of people feels they don't belong, maybe they are discriminated against or made to feel not welcome, and so they can't take part in things or get the opportunities that should be their right. **Social justice** means that every individual, group of people or community has the same opportunities in life, are treated equally and do not experience discrimination.

Early Intervention is when babies, infants, children or young people get the help they need to grow and develop. If a baby, infant, child or young person is growing up in a poorer family or they have experienced childhood trauma, or they are at risk of harm, then early intervention means that they get the help they and their family need as soon as it is known they need it, rather than waiting for a problem to happen.

Remand is where the Court decides that you will go to a secure care centre or Young Offenders' Institution until your Hearing takes place.

"CHILDREN THAT COMMIT CRIMES ARE DEALT WITH IN THE SAME SYSTEM AS THOSE GOING INTO CARE BECAUSE THEY NEED TO BE PROTECTED FROM OTHER PEOPLE. COMMITTING A CRIME DOES NOT MEAN THAT CHILDREN ARE 'BAD', IT MEANS THEY MADE A MISTAKE BASED ON CIRCUMSTANCES AND ARE IN THE HEARING SYSTEM TO MAKE THE DECISIONS FOR A BETTER LIFE."

(JADE, YOUTH JUST US)

NUMBERS OF CHILDREN IN CONFLICT WITH THE LAW AND GOING TO CHILDREN'S HEARINGS OR A COURT

In one year in Scotland there were 4,836 children in conflict with the law. When a child is in conflict with the law they can go to a Children's Hearing or to an adult Court.

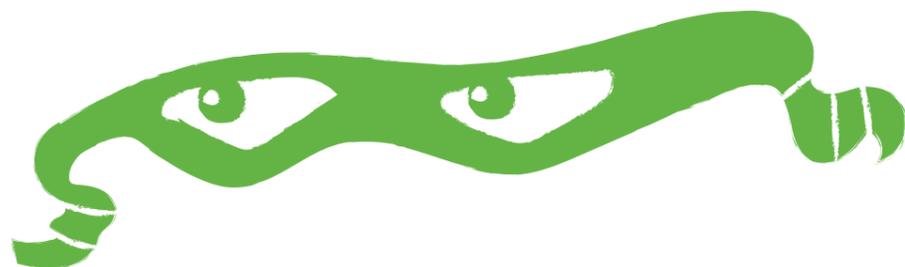
3,060 (63%) children in conflict with the law had their offences dealt with at a Children's Hearing.

The most common types of alleged offences were threatening or abusive behaviour, assault and vandalism. In 2019, 212 children were placed in secure care (this could be for care or protection reasons, not just offending).

1,776 (37%) of children in conflict with the law were prosecuted in an adult Court. Nearly all of those prosecuted in an adult Court were 16 or 17 years old (99%) but there was one 13 year old, one 14 year old and nine 15 year olds who were prosecuted in an adult Court. Article 1 of the UNCRC says "a child means every human being below the age of eighteen years" yet our justice system seems not to recognise that this is the case. It is clear from the UNCRC that 16 and 17 year olds are not adults.

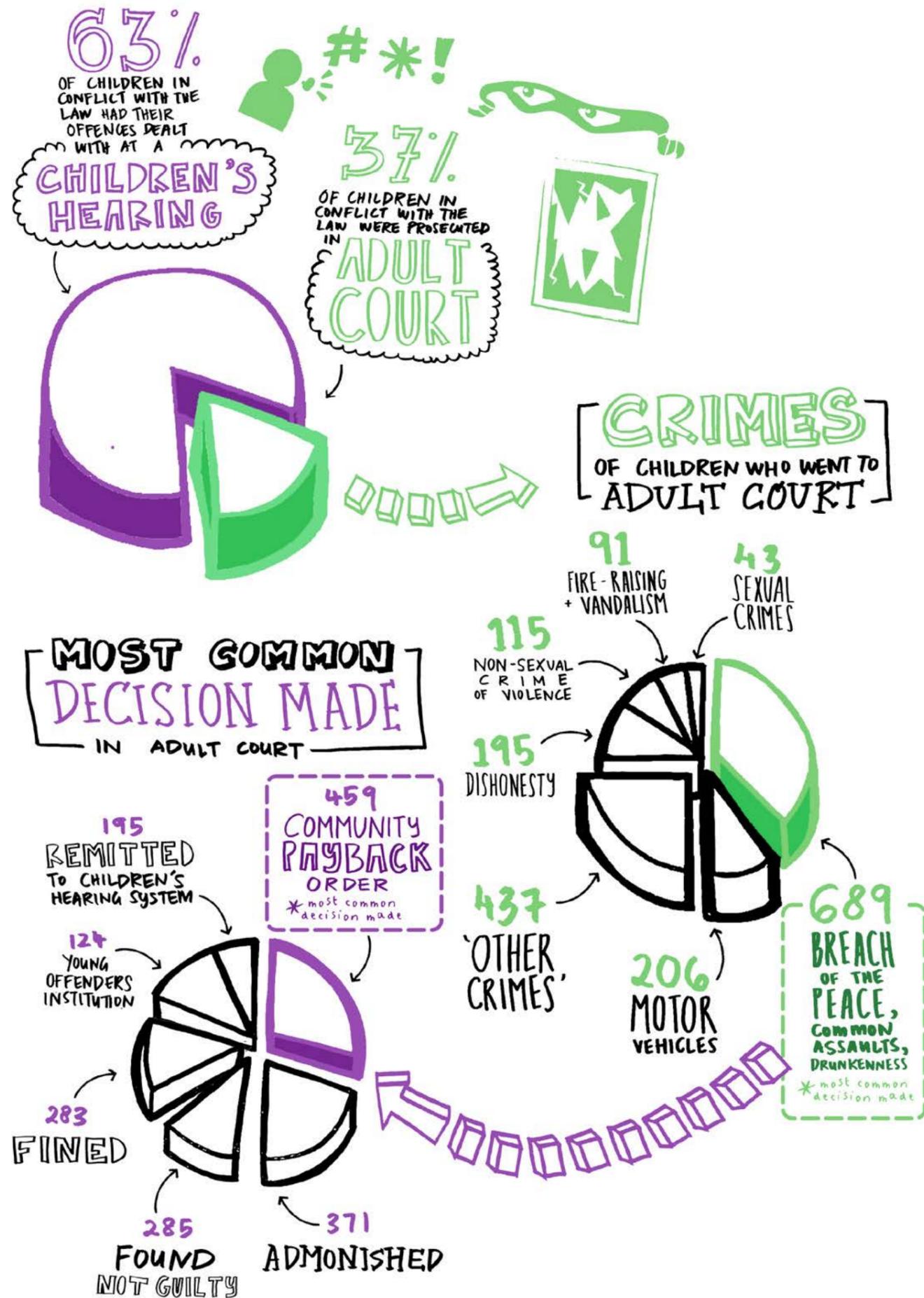
The crimes of the 1,776 children who went to an adult Court were reported as follows:

- 689 were offences like breach of the peace, common assault, drunkenness
- 206 were motor vehicle offences
- 437 were 'other crimes'
- 195 were crimes of dishonesty
- 115 were non-sexual crimes of violence
- 91 were fire-raising or vandalism
- 43 were sexual crimes



The most common decisions made by the adult Courts when dealing with a child were:

- 459 (26%) were given a **Community Payback Order**. This can be any one or more of these things: unpaid work, supervision from a criminal justice social worker, paying compensation to a victim, attending a programme arranged by a social worker, an order that the child must stay at a certain address (like with their parent), an order not to do certain things like go where a crime was committed, or have treatment to do with mental health, drugs or alcohol.
- 371 (21%) were **admonished** - this means a firm warning
- 285 (16%) were **found not guilty**
- 283 (16%) were **fined**
- 124 (7%) were sent to a **Young Offenders' Institution**
- 95 (5%) of these 1,776 cases were **remitted to the Children's Hearing System**, this means a child was found guilty and then sent back to the Children's Hearing so they could decide what the best action to take was.



CHILDREN IN CONFLICT WITH THE LAW: THINGS THAT ARE WRONG AT THE MOMENT

The Scottish Government says that when it comes to children: **“We should grow up loved, safe and respected so that we realise our full potential”**. But for children who are in conflict with the law there are things that happen that mean these children do not experience love, safety or respect.

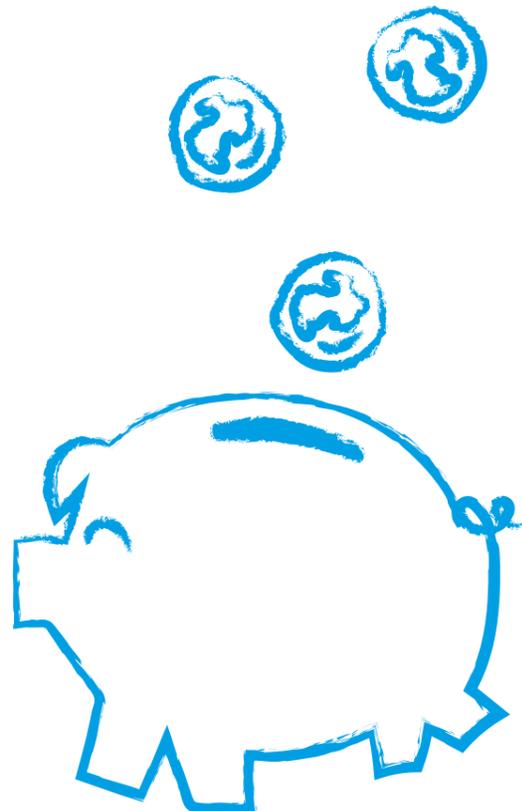
It is a problem when we focus on needs and wellbeing; and not enough on the rights of the child

- When the Scottish Government talks about children in conflict with the law they say that children’s needs must be taken into account. They also talk about children’s wellbeing. But they don’t say what the UNCRC says - that **‘the best interests of the child shall be a primary consideration’**. The justice system does not clearly say that children have rights and that these rights should be met.
- As an example of this - children have a basic right to understand what is happening to you if you are in conflict with the law, and also to have your say. But in Scotland children in conflict with the law say they do not have things explained to them, they don’t understand what is happening and they feel powerless. Some children report that when they are sent to secure care or a Young Offenders’ Institution they do not know why this has happened.

Poverty, social exclusion and childhood trauma are linked to committing offences and being the victim of crime

- A child aged 15 who lives in poverty is more likely to be involved in violence towards others, compared to a child who lives in a better off community.
- Young people in poorer communities who gather together in public places are more likely to be charged by the police. Police are unfairly targeting some children from poorer backgrounds.

- Children who are considered to be a very serious risk to others are more likely than other children to have experienced trauma, including abuse or neglect.
- The Secure Care Census in 2018 found that in the year before they were admitted to secure care 35% of children had attempted to end their own life through suicide, 71% had self-harmed, 88% had run away, 48% had been subjected to Child Sexual Exploitation, and 45% had experienced sexual health concerns.
- Of the 12 year olds who go to a Children’s Hearing because they have committed an offence, 4 in every 5 have a parent that is a risk to them due to domestic violence, substance misuse, mental health issues, criminal behaviour, abuse or neglect.
- However, it is also important to note that children can do well at school despite adversities and there are many adults in a range of jobs that experienced adversity as children.



When you have an additional support need or experience social exclusion you are more likely than others to be in conflict with the law, and to be treated unfairly

- If you come from a poorer neighbourhood, if you have autism, if you have a learning difficulty or if you are care-experienced and you commit an offence, you are more likely to face the formal justice system. So, you are more likely to be in conflict with the law if you are already experiencing disadvantages in your life.
- Children with additional support needs are often not supported enough when they are in conflict with the law. Sometimes the speech, language and communication needs of children are not known or not understood or professional people don’t know what to do to communicate with and support the child.
- At least 1 in 9 young men from the most deprived communities have spent time in prison by the time they are 23 years old.

When children go to a Children’s Hearing

- Sometimes children have to tell very personal things about themselves over and over to different people. This can happen when there are different adults on the panel every time the child goes to a Hearing.
- When a child goes to a Hearing there might be no adult there who is a legally qualified person. This can mean the child does not have a fair Hearing with a person who properly understands and respects the child’s legal rights.

- Even though a child goes to a Hearing, and the hearing makes a decision that the child needs something, this doesn’t always mean they get the help and support they or their family need.

When children go to an adult Court

- The vast majority of children in Scotland who come into contact with the adult Courts are not there because they have committed the most serious types of crimes.
- We know that between 50% and 70% of children in conflict with the law have additional support needs such as a speech, language or communication issue; this can be because of things like learning difficulties, learning disability or autism. We also know that children in conflict with the law are more likely to have experiences of childhood trauma. The Royal College of Psychiatrists say that going to an adult Court for children in these circumstances is distressing and traumatic.
- It is likely that many children do not understand what is happening in an adult Court or do not feel able to have their say. If a child in Court is upset or confused the way they behave might be misunderstood. For example if a child avoids eye contact, or cannot explain what has happened, or gives very simple short answers, then people might think they must be guilty.
- When children go to an adult Court many are found not guilty (16%) or receive an admonition (20%). This means that they have had to go through something very upsetting and scary, when the adults who made the decision for them to go there probably should have known this was not necessary.



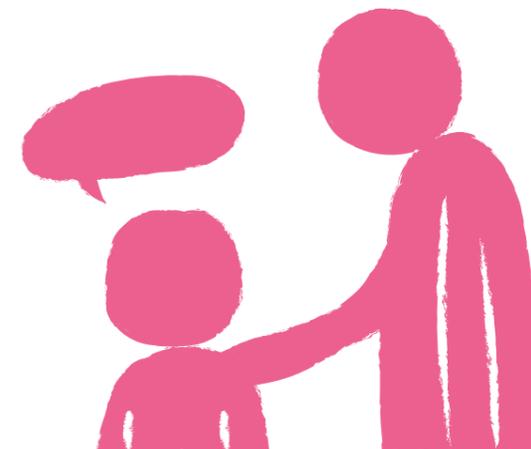
- It has recently been decided that if a 16 or 17 year old is on a Compulsory Supervision Order and has a social worker then they should be considered as a child - and if they are in conflict with the law they should go to a Children's Hearing. But if a child doesn't have a Compulsory Supervision Order they can still be sent to an adult Court. This difference is not okay.

When we fail to support families and children who have experienced trauma

- When a child is in conflict with the law it might be that their whole family needs support and help but is not getting it.
- School exclusion is linked to continued offending, so to exclude a child in conflict with the law is to punish them and put them at further risk.
- Children in conflict with the law may have experienced childhood trauma, but they and their families are not receiving the kind of therapeutic helping support they need. Being in a Children's Hearing or a court can build on this trauma and leave the child intimidated or frightened.

Children as victims

- When children are victims of a crime it is often another child who has harmed them.
- There is a lack of information about children who are victims of crime in Scotland. In England and Wales the annual crime survey collects data and estimates that between 10 to 15 in every 100 children aged 10-15 years old were victims of at least one crime in 2018, usually this is a crime of violence.



Children who commit the most serious harms and wrongs

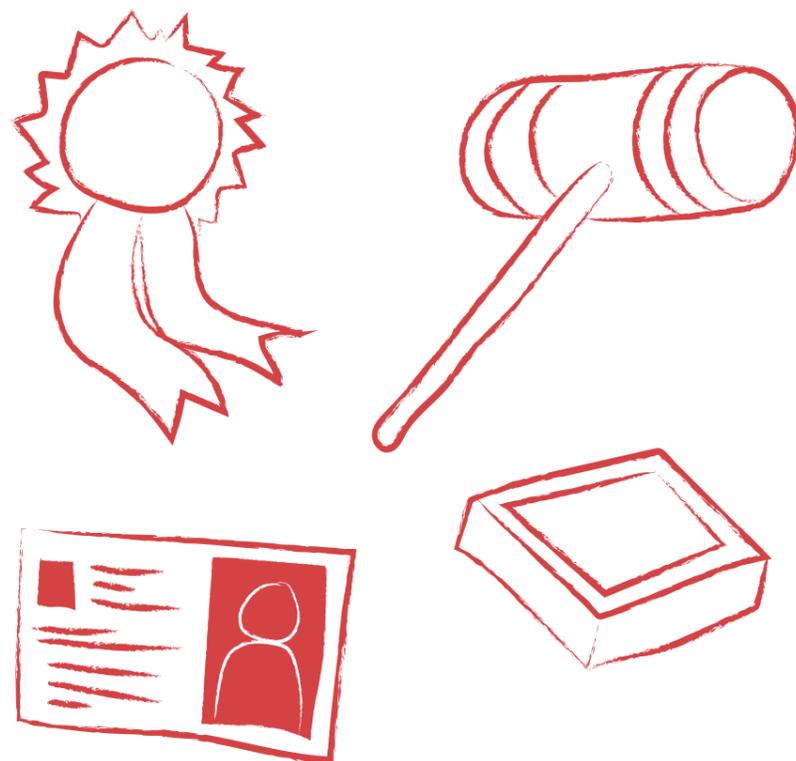
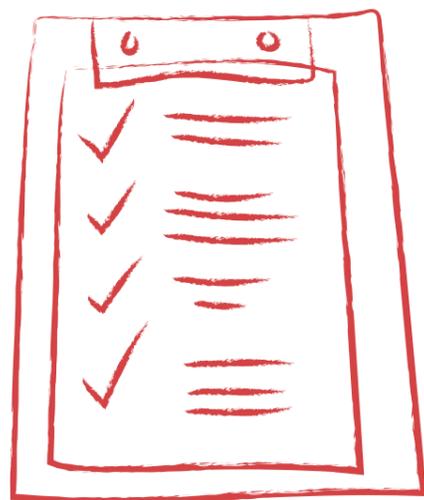
- Some children are accused and convicted of very serious crimes.
- We do not think enough about the kinds of things we do when a child has committed a serious crime and harmed others. We need to keep other people safe, think about how to make sure they understand what they have done, the impact it has had on others, we need to hold them to account for what they have done, but we need to avoid punishing a child by depriving them of their liberty.

The age of criminal responsibility is too low

- The age of criminal responsibility is 12 years old. This means that Scotland still has one of the lowest ages of criminal responsibility in Europe. The UNCRC has said that this age should be at least 14, and that countries should really be working to make this age 15 or 16. As long as Scotland has an age of criminal responsibility that is 12, it is saying that children as young as 12 are fully responsible for any criminal acts.

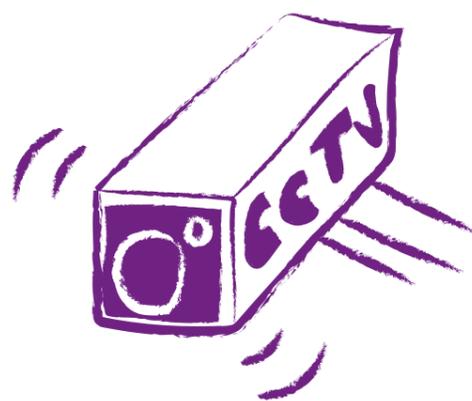
Children in custody/the deprivation of liberty

- There are children in secure care or custody because there are no appropriate supports for them in the community - this does not mean that there isn't a way to support them in the community, it means we are not making it available.
- Secure care can be a safer place for children than where they were before - but not if it is unclear when they can leave, or if it ends up feeling like a punishment.
- Reports from experts have told us that even if a child is in detention for a very short time this can affect the child's psychological and physical well-being and their development.
- When children are deprived of their liberty they may not be able to keep in contact with family or friends, maybe because there is no telephone line they can use, or staff shortages mean that there is no-one to help make it happen.



- When a child is in custody they are at risk of violence from others, including the use of violence by staff if they restrain a child. When staff restrain a child they can accidentally cause pain and in Young Offenders' Institutions staff are allowed to deliberately cause pain.
- The use of separation or segregation of a child to punish them is cruel.
- The Independent Inquiry into Child Sexual Abuse reports on 1,070 alleged incidents of child sexual abuse in custodial institutions in England and Wales between 2009-2017. Of these, 578 were described as sexual assault or rape. We do not have the information we need about the experiences of separation, segregation, restraint or about sexual abuse in custodial settings in Scotland.
- Children are also experiencing strip searches. In one year we know that 788 strip searches of children took place by the police in Scotland, of which 753 found nothing of concern. Three intimate searches also took place, all of which found nothing (information from Police Scotland, 2018). So, in 96% of cases nothing was found, this means that strip searches are being used as routine rather than good information that the child has something on them.

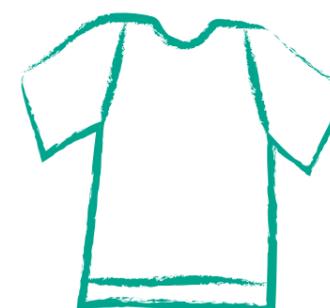
- The number of children who are on remand, this means they are deprived of their liberty before a court has found them guilty or sentenced them to imprisonment, has increased: 41% of children in custody are on remand and 36% of young people aged 18-20 in custody are on remand.
- It seems that the adult Courts and Children's Hearings System are less likely to use alternatives to custody like electronic tagging when it comes to children (than they are for adults).
- When children leave custody there is often no planning and no support for them. They might not even have the medication they need.



- There are more children from England being put into secure placements in Scotland. For children so far away from family and friends this is a difficult situation. It makes it more difficult to help them with the transition to getting home.

When children have criminal records

- When a child is in conflict with the law, in childhood, they may have to declare (say) as an adult that they committed such an offence. They might have to say when they are applying for a job, to volunteer, applying to college/university or for training, or to get a visa to travel. This can leave the adult feeling anxious, embarrassed, ashamed or excluded. It can stop them doing things because they don't want to share such information.
- Because children in conflict with the law are already more likely to be poorer or experience social exclusion or discrimination, having to declare an offence from their childhood acts as another burden and a barrier to new opportunities.
- Many children and their families do not understand what happens to a child's criminal record when they become an adult.



The deaths of children and young people in YOI/secure care

- In the past 10 years two children have taken their own lives whilst in a Young Offenders' Institution in Scotland. They are **Raygen Malcolm Josep Merchant** in 2014 (aged 17) and **William Lindsey** (also known as William Brown) in 2018 (aged 16).
- Two children have also died who were in an open unit as part of a transition from spending time in secure care. They are **Neve Frances Bysouth** (aged 15) and **Georgia May Rowe** (age 14).
- In the last 10 years, 24 young people under the age of 25 have died while in a prison or Young Offenders' Institution. Their names were:
 - In 2018: **William Lindsey** (aged 16) **Katie Allan** (aged 21), **Zach Banner** (aged 22) and **Gary Williamson** (aged 22)
 - In 2017: **Robert Wagstaff** (aged 18), **Liam Kerr** (aged 19) and **Ryan Forbes** (aged 23)
 - In 2016: **Kevin John Gartland** (aged 24)
 - In 2015: **Mark John Andrew Smith** (aged 23) and **John William Monteith** (aged 24)
 - In 2014: **Dionee Kayleigh Kennedy** (aged 19) and **Colin Penrose** (aged 22)
 - In 2013: **John Perry** (aged 24) and **James Summer Barr** (aged 24)
 - In 2012: **Ross McColm** (aged 18), **Ryan Jamie McNeil** (aged 19) and **Sarah Mitchell** (aged 19)
 - In 2011: **Ross James Drummond** (aged 21) and **Dale Mulholland** (aged 22)
 - In 2010: **Andrew Adam Stone** (aged 19) and **Paul James Murdoch** (aged 24)
 - In 2009: **Matthew Kirk** (aged 22)
- Children do not feel safe in Young Offenders' Institutions. High rates of self-harm and bullying were a factor in nearly all deaths in custody.
- We know that being traumatised, being young, being held on remand and being in the first three months of custody increases the risk of suicide.
- We know that when a child or young person needs support for mental health issues often they do not get it.



IDEAS ABOUT WHAT NEEDS TO CHANGE SO THAT WE RESPECT THE RIGHTS OF CHILDREN WHEN THEY ARE IN CONFLICT WITH THE LAW

The justice system must focus on the rights of the child

- As we said earlier, the Scottish Government says we have a justice system that cares about the child's needs and wellbeing. But it would be better for the child in conflict with the law if there was a focus on their rights, so that everyone could understand how children find themselves in conflict with the law, and what we need to do to fully deliver on our promise to children that they be loved, safe and respected. If we think about rights first, then we can understand that some children experience social exclusion and they are at more risk of getting into conflict with the law. We need a justice system that cares about social inclusion and social justice.

The justice system must see the child first

- When a child commits an offence we need to see the story and distress behind their behaviour. This matters if we want to make sure we do not punish or criminalise that child, and understand their experiences and needs and any harms done to them.

Everyone under 18 should be considered a child

- The law in Scotland needs to say that you are a child up to and including being 17 years old, so everyone under 18 is a child.
- If everyone under 18 is a child, they should be part of the Children's Hearing System, no matter what their needs are or if they have committed a crime.



Everyone must learn about and respect children's rights

- We need to remember that human rights apply to children, children are human too! We have 'children's rights' because we want to put a focus on the best interests of children and think especially hard about how to nurture, protect and support them to participate in decisions made about them.
- There are many international agreements and laws that help us understand the rights of children, including when children are in conflict with the law. It is the responsibility of the Government and public bodies like the Children's Hearing System, Courts and Police to understand these rights and make sure they are protecting and promoting children's rights.
- Every child should have opportunities to learn about their rights.
- When a child is in conflict with the law they (and their parent or carer) should be given clear information about their rights. If they need it, they should have an adult they can trust who can help them understand these rights.
- If children are in conflict with the law they have a right to understand what is happening to them in a Children's Hearing or a Court.
- Adults need to learn about rights too - this includes parents and carers, adults in the community and professional people, including those that work and volunteer in the Children's Hearings System and the justice system; this would include Police Scotland and the Scottish Prison Service. Social workers are often the professional people who deal with and support children in conflict with the law. It is especially important that social workers understand and work to promote and protect children's rights.
- When adults learn about children's rights they need to think about how they might be discriminating against certain children because they are poorer or have a disability.



- When adults learn about children's rights they need to think about how they involve children in decision making and having their say.
- Some adults could be champions for children in conflict with the law. These champions would uphold children's rights and support children to access their rights.

Help to prevent offending and keep children safe

- As a country, we need to do more to help prevent children from offending in the first place.
- When a child does something that harms themselves or others they need to get the support they need, as early as possible, to make them safe and help them think about what they may have done.
- When a child is in conflict with the law it might be that their whole family needs support and help.
- If a child is in conflict with the law they should be able to get involved in support or learning programmes that means they do not have to be prosecuted.
- When a child is in conflict with the law they should not be excluded from school because this puts them more at risk of harming themselves or others by committing crimes.

Changing the experience of attending a Children's Hearing or adult Court

- The Children's Hearings System and adult Courts need to look and see if any part of the child's experience might be frightening or intimidating, and if it is they need to make changes. Children need to be involved in reviewing what happens and making it better.

- The adults on the panel at a Children's Hearing need to have training in children's rights and understand any additional support needs, for example speech, language or communication needs a child might have, or experiences of trauma that impact on their lives.
- All children in the Children's Hearing System or going to an adult Court should have access to an advocacy worker and independent legal advice, to ensure that all children in conflict with the law know their rights and have help to make them real.
- Children in conflict with the law need access to free legal aid.
- If a child goes to an adult Court a fair trial for them would mean that what happens is adapted to meet their needs. It means that there needs to be specially trained professional people who understand and can support children, especially children experiencing trauma and who need communication support.
- There is new guidance in Scotland that says that 16 and 17 year olds should go to a Children's Hearing or an alternative to prosecution unless it is very serious. We don't know yet if this is working, we need to watch what happens.
- It is important to remember that even though we want all children, including those aged 16 and 17, to have their offences dealt with at a Children's Hearing, some children say that Children's Hearings can also be traumatic, judgemental or disrespectful. Children's Hearings also need to understand and respect the experiences and the needs and rights of children.

The rights of children going into care or custody/when a child is deprived of liberty

- If a child is put in secure care or a Young Offenders' Institution this must be a last resort, and only happen if there is clear evidence that there is a need to protect the public or the child from significant harm. Before a child in conflict with the law is deprived of their liberty all the other options in the community must be considered.
- If a child is going into any kind of care away from their family, such as a residential centre or secure care or custody, they should have a

Coordinated Support Plan or a Child's Plan that goes with them so that information about them is used to help think about what they need to be loved, safe and respected. A plan must consider the education, family contact and mental health needs of a child.

- If a child is in secure care or custody they must be able to get any support they were getting before being put there.
- If a child is going to a Hearing or Court and they might be placed in care or custody - or if they might be released from care or custody - then their appearance should as early as possible in the day to make sure this happens as smoothly as possible and with support. This is especially important when a child has additional support needs.
- We need to know when, why and how staff use separation, segregation, strip or intimate searches or restraint when a child is in custody. The use of these things suggest that children's rights are not being respected and that they are being treated with methods that are degrading and cruel. If any of these things are done to a child there needs to be clear rules as to how they are done.
- A child should never be put in solitary confinement.
- Scotland needs a plan to help our country work toward being one where no children are deprived of liberty.
- Scotland needs to pass a law that says that no child under the age of 18 can be put in a Young Offenders' Institution or an adult prison.

The rights of children who are victims of crime

- When a child is the victim of a crime we need to make sure they get the support they need.
- Children who are victims should have the chance to be heard and to talk about what happened to them and how they feel.
- It is possible to involve children in restorative approaches if they want to be, but sometimes this is not appropriate because the child who committed the crime may struggle to understand this approach. Whatever happens, the victim of a crime should be listened to, and it may be possible to help repair relationships where harm has been done.

The rights of children who commit the most serious harms and wrongs

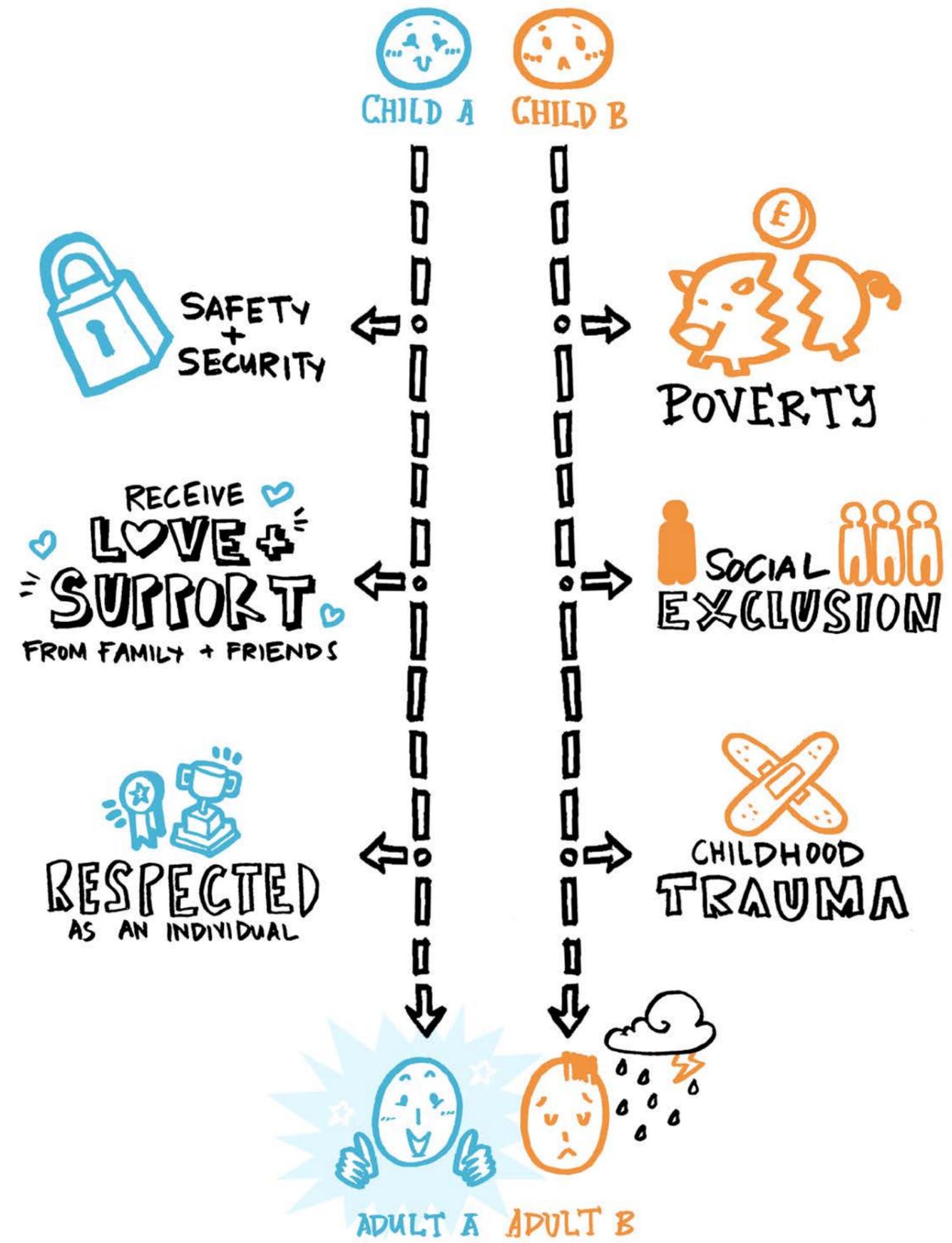
- Children and adults, including professional people, need to know more about why some children do the most serious harms and wrongs. We need to be better at seeing when a child (including younger children under the age of 13) is distressed, has experienced trauma and might cause serious harm - then we can support them. It is best to do this before they become violent towards others.
- The child who commits serious harm may also be the victim of harm caused by other children or adults.
- We must remember that no matter what a child has done, they are still a child and need all the things that every child needs, including love, respect and safety.

Changing the age of criminal responsibility

- The age of criminal responsibility in Scotland is 12. It should be raised to at least age 14, as recommended as the minimum acceptable age by the UNCRC. But Scotland can do better than this, and we should be looking to raise the age of criminal responsibility to 16.

Changing what happens for children with criminal records

- There can be circumstances when an adult is asked if they have had committed an offence, including when they were a child. Children and adults need information that helps them to understand what they need to share, and when.
- The law about what an adult needs to disclose should be looked at to make sure that what they have to share from their childhood really is fair and necessary.
- A rights-respecting system would mean that offences from childhood would not need to be declared in adulthood unless they were very serious.
- This law is being looked at in Scotland at the moment.

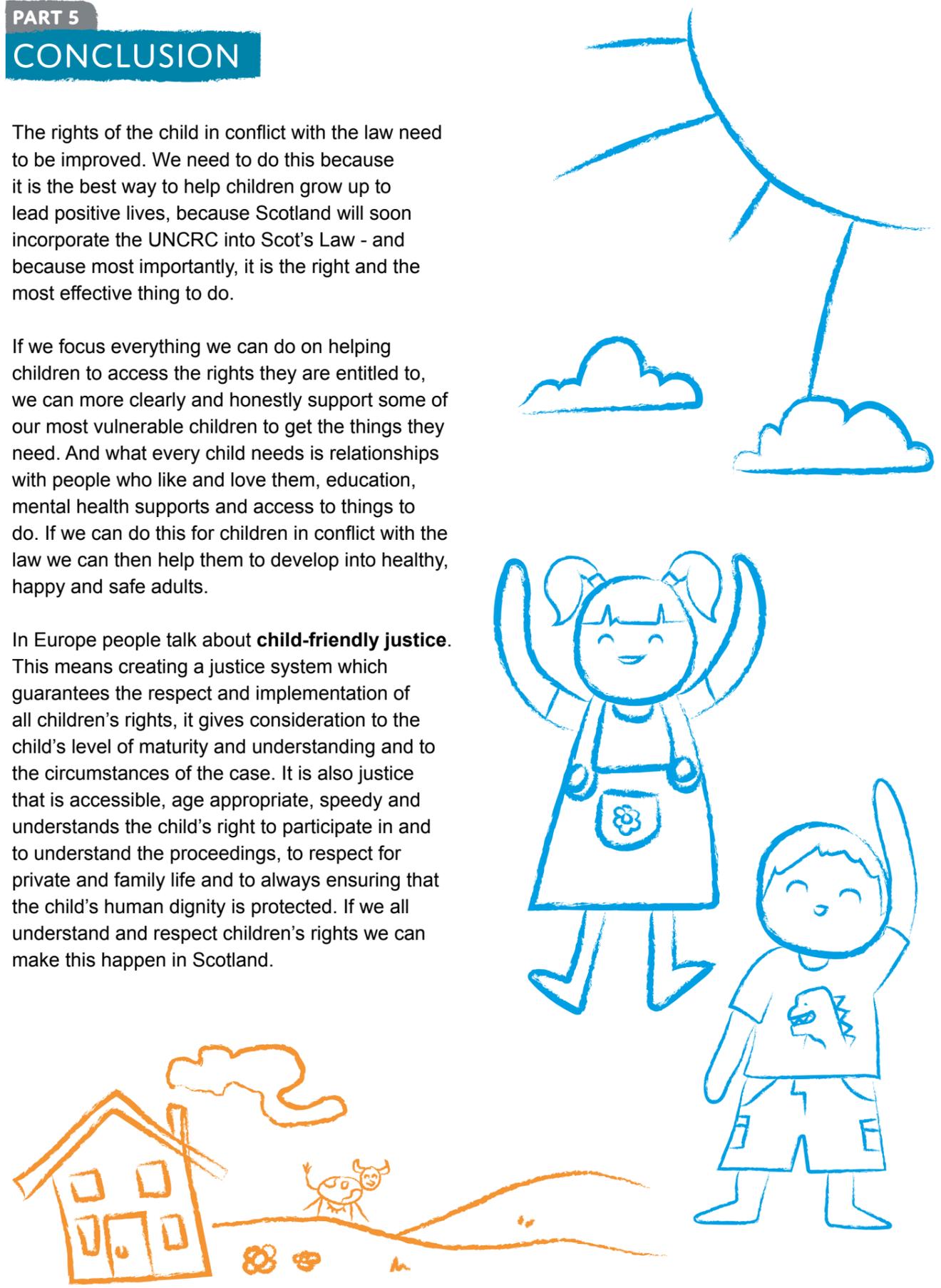


PART 5
CONCLUSION

The rights of the child in conflict with the law need to be improved. We need to do this because it is the best way to help children grow up to lead positive lives, because Scotland will soon incorporate the UNCRC into Scot's Law - and because most importantly, it is the right and the most effective thing to do.

If we focus everything we can do on helping children to access the rights they are entitled to, we can more clearly and honestly support some of our most vulnerable children to get the things they need. And what every child needs is relationships with people who like and love them, education, mental health supports and access to things to do. If we can do this for children in conflict with the law we can then help them to develop into healthy, happy and safe adults.

In Europe people talk about **child-friendly justice**. This means creating a justice system which guarantees the respect and implementation of all children's rights, it gives consideration to the child's level of maturity and understanding and to the circumstances of the case. It is also justice that is accessible, age appropriate, speedy and understands the child's right to participate in and to understand the proceedings, to respect for private and family life and to always ensuring that the child's human dignity is protected. If we all understand and respect children's rights we can make this happen in Scotland.



#RIGHTSRESPECTING

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