

Scottish Government engagement with children and young people on justice

A conversational topic guide for workers



Created and developed by
Youth Justice Voices
Supported by



On behalf of



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Scottish Government Engagement with Children and Young People

Request for 1-1 calls and consultations on:

- Youth Justice Vision for Scotland 2020-2022
- Age of Criminal Responsibility (Scotland) Act 2019 –
The Use of a Place of Safety
- Raising the Age of Referral to a Children's Hearing

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Acknowledgement

A special thanks to the Youth Visionaries young people, who helped influence the topic guide. They have worked incredibly hard to create opportunities for other young people to be heard. They urge workers to do the same and want to emphasise how important it is that children and young people's views are included in these important consultations.

“You should give good vibes and positive energy about the inclusiveness of the young people in creating this piece of government work.”

- Youth Justice Visionaries' team member

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Introduction

This topic guide has been created to capture the views of children and young people on the next Youth Justice Vision for Scotland.

It has been created on behalf of the Scottish Government with the support of The Children and Young People's Centre for Justice (CYCJ) and Scottish Throughcare and Aftercare Forum (Staf), Youth Justice Voices Project. The questions in this topic guide have been developed and sense checked by young people (known as Youth Justice Visionaries) in line with the Scottish Government's consultation questions. It is a guide for practitioners to use in conversation with young people.

We are keen to hear what children and young people think. We are aware that, although there are many surveys just now, there is a gap in knowledge about the specific experiences and voices of children and young people in youth justice policy. We want to change this. Whilst we are very conscious of the pressure that is currently on children, young people and practitioners and how busy people are; we believe it is really important that children and young people are heard in these important matters. This will help us shape policy in relation to the next Youth Justice Vision and Action Plan; the potential extension of referrals to the Children's Hearing System (CHS) for all 16 and 17 years olds; and the use of a Place of Safety when police need to speak to a child who might have caused someone harm.

Using the topic guides

We would like you to use these resources as prompts to guide conversation between you and the child/young person. These discussions can take place in whichever way suits the young person best. Questions could be asked over the phone, text, email, virtually or in person. The intention is that they are used flexibly based on what children and young people are most interested or concerned about and in a manner that suits them. There are three different topic guides. These cover Youth Justice Vision, extension of the CHS and Place of Safety. Responses can be submitted for all three, a single topic, or a selection of questions can be answered from each. An optional recording template is included in the appendices.

We would appreciate if you could record information anonymously for each conversation and share this with the Scottish Government by **30th of September, 2020**. In doing so, we request that you explain the project to the child/young person using the information sheet below and verbally gain their consent and agreement to this information being shared anonymously with

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the Scottish Government. Please ensure that you have explained to the child or young person that if they tell you information that they, a member of their family or someone else is at immediate risk of being hurt or harmed, you have a duty to share this information. You can send any responses to careandjustice@gov.scot.

Information for children and young people

The Scottish Government wants and needs to hear from you!

We know that young people rarely get a say in the matters that affect them. We want to change this. Right now the Scottish Government are gathering views on what the next Youth Justice Vision and action plan should look like. We want to hear your views on what the Scottish Government needs to focus on for the next 2 years and beyond.

We have asked the people that work with you to talk about this and see if you would like to take part. If you are happy to do so, they will ask you some questions and write down your views, so they can share this with the Scottish Government. The Government will read all the information you and other young people have given them and write a short report saying what they did with the information. This will be looked at alongside views from workers, researchers and the public and will help them to focus on what work needs to happen in their new youth justice vision and action plan. Only information relevant to the three topic areas and questions will be shared with the Scottish Government. The Scottish Government won't receive any of your personal details.

If you are happy to participate, please let your worker know.

If you are aged 16-25 with care and justice experience and interested in future participation opportunities please get in touch with [Youth Justice Voices](#).

Topic 1: Youth Justice Vision and Action Plan

The Scottish Government's approach to helping the needs of young people involved in offending (the Whole System Approach) aims to ensure that anyone providing support puts the child or young person – and their family – at the centre.

After 5 years, Scotland's youth justice strategy - [Preventing Offending – Getting it Right for Children and Young People](#) needs refreshed and updated for the future. The Scottish Government want to create a new vision and action plan for youth justice.

What the Scottish Government want to know

There have been some positive changes over the years but there is still more we can do. We want to hear fresh ideas and concerns that the Scottish Government and those working directly with young people might not have thought of.

Any suggestions will be considered alongside other feedback we receive from the public, workers and researchers, and will help us to decide what we need to do over the next two years and beyond to make things better. There is a guide in the appendix which lists some of the potential priority issues the Scottish Government are considering focusing on in their next action plan. We hope this can help guide conversations if you are unable to think of your own priorities, but we are keen to make sure that you come up with your own. The priorities also include explanations which have been written by young people so they are easier to understand. Participation has also been added as a priority that young people have suggested is important.

Questions

1. How can the government improve the justice system for children and young people? What should they focus on?
2. How do we prevent offending in the first place?
3. How should we help and support children and young people who get into trouble with the law?
4. Should sentenced under 18s go to a Youth Offenders Institute (YOI) or secure care? What other options should be available?
5. How do we get better experiences and outcomes for children, young people and victims?
6. How do we get young people out of the justice system and on to living a better lifestyle?
7. Optional question* for use with appendix 1

Topic 2: Age of Criminal Responsibility (Scotland) Act 2019 – The Use of a Place of Safety

The Age of Criminal Responsibility (Scotland) Act 2019 was passed by the Scottish Parliament in May 2019. When it comes into action the Act will raise the age of criminal responsibility in Scotland from 8 to 12. This means a child under the age of 12 will no longer be able to be treated as if they have broken the law in Scotland.

We will still make sure that people are protected and kept safe. If any children under 12 do something dangerous or harmful we will make sure we act but in a way which wouldn't criminalise children. This includes a power which allows the police to take a child to a place of safety, for a short time, if that is needed to protect people from an immediate risk of significant harm. The power for the police to take a child to a place of safety is not new. Police can already take a child to a place of safety where they are at risk of harm. For children over 12, they can also take a child to a place of safety before they have to go to court.

What the Scottish Government want to know

The Scottish Government has to make a list of places of safety which can be used. In most cases the child will be returned home, but sometimes a place will need to be found by social workers, which might be with other family or in emergency foster care. They also want to make a list of places which Police can get to straight away to avoid the use of police stations. Examples might include children's hearing centres or schools but we would welcome young people's views on this.

Questions

1. What types of buildings should be used as an emergency Place of Safety?
2. What would make children feel safe and supported?
3. What else could make a child or young person feel relaxed and comfortable in the Place of Safety?
4. If you could design the Place of Safety, what would it be like?
5. What else do we need to know?

Topic 3: Raising the Age a Young Person can go to a Children's Hearing

At the moment, all under 16s can go to a children's hearing if there are worrying things going on in their lives, and the Children's Reporter thinks a discussion (a hearing) is needed. 16 and 17 year olds can only go if:

- they already have a compulsory supervision order.
- they have been referred to the Children's Reporter before their 16th birthday but a decision is made after their 16th birthday.
- a court has decided that a children's hearing is needed.

What do The Scottish Government want to know?

They want to know what you think about changing the law so that all under 18s who may need extra legal protection and support can be referred to a children's hearing.

This includes young people at risk of exploitation, abuse or harm due to their own behaviour or the behaviour of others.

These changes will allow the Procurator Fiscal and the Children's Reporter to discuss offence cases and decide where the case would be best dealt with. The most serious cases could likely still be dealt with by the criminal justice system. It would also allow the Children's Reporter to arrange a hearing if a 16 or 17 year old was being abused, neglected or harmed.

Questions

1. Do you think that all 16 and 17 year olds should be able to be referred to the reporter?

Yes

Yes – but only when they have been abused or neglected

Yes – but only if they have got in trouble with the law

No – keep things the same

For example, you can have a hearing at 16/17 if you are on a supervision order but you can't be referred to the reporter for help or if you have been in trouble with the law if you came off your supervision order before your 16th birthday. See appendix 3 case study examples for workers.

What are your reasons for this answer?

2. If this change is made, and all 16 and 17 year olds can be referred, are new reasons for referral to the Reporter needed?

Yes

No

What are your reasons for this answer?

3. If this change is made, what impact do you think this will have on:

a) Children and young people

b) Services

c) The Reporters

d) Panel members

And what should we do about it?

4. If this change is made, are changes needed to ensure victims are given more information?

a) Yes

b) No

What are your reasons for this answer?

5. What else does the government need to know about this issue?

Appendix 1: Youth Justice Vision priorities

The Scottish Government has listed some of the priorities that they think their next Youth Justice Vision and Action plan might focus on. This has come from research and findings, including the Independent Care Review. They are listed below.

Children's Rights

Making sure that all children and young people in Scotland know their rights and have them met under the UNCRC as part of the law. This includes the right to life, support, survival and development; the right to be treated fairly and not discriminated against because of someone's background; the right to express views freely; the right for their best interests to be at the heart of everything and their views to be listened to and taken seriously with everything that effects them in their life.

Speech, language and communication difficulties

We know that miscommunication causes difficulty amongst young people in the justice systems and the impact this has on their life chances. We need to help children and young people to communicate and understand information in whatever way is best for them.

How we help children in trouble with the law

The Whole System Approach (WSA) is the Scottish Government's policy to help children and young people who are in trouble with the law. We must make sure that anyone providing support puts the child or young person – and their family – at the centre.

Children who are placed in Secure Care or a YOI

We should find other ways of helping children and young people who are in secure care or a young offenders institute (YOI). Where someone under the age of 18 needs to be placed in these places, we should think about what supports and helps they might need like education and mental health.

Mental health

We should encourage positive mental health for children and young people in trouble with the law and provide mental health services which offer support. This includes supporting the development of wellbeing and promoting resilience among children and young people in trouble with the law, and making sure young people are prepared for living independently.

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Data and evidence question

We will gather data and evidence to ensure we are supporting young people the best way we can and see if any improvements are needed. We will also use this data and evidence to keep track of any developments to ensure the justice system we have works for young people.

Support for victims

We will ensure all victims of crime are supported the best way possible. This may include asking other organisations to support victims of crime. We may use restorative justice which is where the victim of a crime can meet the person who committed the crime and explain how the crime has affected them.

Children's Hearing System for 16 and 17 year olds

Currently 16 and 17 year olds can't be referred to the children's hearing system unless they are already looked after. We will look at the law regarding 16 and 17-year olds to see if we can make changes so that we are able to refer them to a children's hearing to find the best support for them.

Participation

We will do more to listen to children and young people if they get into trouble with the law. We will listen to their views and experiences and make sure they understand what is happening by involving them in all the decisions that we can. This includes, where possible, having a say in the support and the services that they receive.

Question

If you had to choose three priorities from this list what would you choose and why?

Please let us know about any other ideas you have that the Scottish Government should concentrate on in the next strategy.

Appendix 2: Raising the age a young person can go to a Children’s Hearing - Examples

The examples below have been created by the Scottish Government. They show the difference the change could make.

JANE

Jane has just turned 16 and lives with her parents and two sisters aged 14 and 12. She has a learning disability and rarely leaves her home. She tells her sisters that she has been sexually abused by her father for the past 3 years. Police and social work are told.

There is not enough evidence to prosecute her father and her mother does not believe that anything happened.

Jane’s younger sisters could be referred to a children’s hearing. The hearing could then consider whether both girls should be looked after away from home or other measures put in place to protect them. Jane could not be referred to a children’s hearing as she is over 16.

Current position	If proposed change is made
<ul style="list-style-type: none"> • No legal powers to protect Jane (unlike her younger sisters) • Unless she chooses to leave home, Jane will remain living with her father • A social worker or other service can offer help to Jane, but not if her parents don’t allow Jane to meet them (unless Jane is able to insist to her parents that she does so) 	<ul style="list-style-type: none"> • The children’s hearing can provide protection for Jane and her sisters. • The order can say that Jane has to live away from her father and control her contact with her father (like her younger sisters) • The order will mean that Jane will see a social worker or other service, regardless of what her parents think (like her younger sisters) • Within the children’s hearings, Jane can have a solicitor or advocacy worker to make sure her views are heard.

HARRY

Harry had been on a compulsory supervision order because his relationship with his parents had broken down and they were unable to control him. He was placed with foster carers and got on well with them. After Harry's 16th birthday a children's hearing ended his compulsory supervision order, although Harry stayed living with his foster carers.

A few months later, after an argument with his foster father, Harry left home.

Harry is now homeless and using drugs. He met his ex-foster mother in the street and talked about hurting himself. His drug taking makes him vulnerable to involvement in offending, accidental overdose and risks of self-harm.

At present Harry could not be referred to the Reporter as he is over 16 years.

Current position	If proposed change is made
<ul style="list-style-type: none"> • No legal powers for Harry to get the guidance and treatment he needs. • Because he used to be in care, Harry would qualify for support from the local authority but he would have to ask for it himself. 	<ul style="list-style-type: none"> • A children's hearing can put Harry on a compulsory supervision order. • The order can say where Harry has to live to keep him safe. • Professionals will offer advice and guidance without him having to ask for it. • He may also be supported to attend drug treatment services.

LEE

Lee is 16 and had a compulsory supervision order for three years after he was absent from home and was involved in stealing cars.

The compulsory supervision order ended after he made real progress. Lee got a placement on a training programme and moved in with foster carers who were prepared to continue to care for him whether there was a Compulsory Supervision Order in place or not.

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Two months after the Hearing which ended his Compulsory Supervision Order, Lee was charged with assault of a teenager who had previously assaulted his younger brother. Lee now has to go to court about this assault.	
Current position	If proposed change is made
<ul style="list-style-type: none"> • The procurator fiscal may decide it is in the public interest to prosecute Lee. • The court process will take a number of months and could result in a prison sentence or a community sentence. • If Lee is guilty of the assault the court may ask for advice from the children's hearing, and may decide the children's hearing should deal with his case. • The victim of the assault may give a victim impact statement to the court, which could affect the decision made. • In court Lee's foster carers will not be involved in the proceedings, and a lawyer is likely to speak for Lee. 	<ul style="list-style-type: none"> • If the procurator fiscal decides not to deal with Lee's case, the children's reporter will deal with it. • A children's reporter can decide if Lee needs to have a children's hearing, or whether Lee will work with support and guidance without a children's hearing. • Decisions for Lee may be made more quickly than decisions in the court. • Decisions in the children's hearing will focus on what is in Lee's best interests, helping him to ensure he does not offend again. • The children's reporter will tell the victim brief information about the disposal of the case but will keep Lee's details confidential • In a hearing, Lee will be expected to attend and to participate along with his foster carers. Lee may still be supported by a lawyer.

What about victims?

The impact of crime can be huge for victims whatever the age of the person responsible.

Victims should have confidence that their voices will be heard. Victims need access to the right help, information and support. They should feel supported and informed at every stage of the process.

Although the focus of this consultation is on whether we allow 16 and 17 year olds to be referred to a children's hearing, we will also think about whether victims needs better information and more support.

Appendix 3: Scottish Government Youth Justice Vision and Action Plan: Feedback from Discussion with Young People

Responses can be submitted for all three topics, a single topic or a selection of questions can be answered from each. **Please do not include any personal details.**

Organisation:

Youth Justice Vision and Action Plan

8. How can the government improve the justice system for children and young people? What should they focus on?
9. How do we prevent offending in the first place?
10. How should we help and support children and young people who get into trouble with the law?
11. Should sentenced under 18s go to a Youth Offenders Institute (YOI) or secure care? What other options should be available?
12. How do we get better experiences and outcomes for children, young people and victims?
13. How do we get young people out of the justice system and on to living a better lifestyle?
14. Optional question* for use with appendix 1

ACR - Place of Safety for Under 12s

1. What types of buildings should be used as an emergency Place of Safety?
2. What would make children feel safe and supported?
3. What else could make a child or young person feel relaxed and comfortable in the Place of Safety?
4. If you could design the Place of Safety, what would it be like?
5. What else do we need to know?

Raising the age a young person can go to a children's hearing

1. Do you think that all 16 and 17 year olds should be able to be referred to the reporter?
2. If this change is made, and all 16 and 17 year olds can be referred are new reasons for referral to the Reporter needed?
3. If this change is made, what impact do you think this will have on children and young people; services; the reporters; panel members?
4. If this change is made, are changes needed to ensure victims are given more information?
5. What else does the government need to know about this issue?

Any other feedback?

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