



The Age of Criminal Responsibility: Exploring how the Children's Hearings System currently addresses the serious behaviour of children just above the ACR threshold.

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Background

The ACR Advisory Group reports to Ministers regarding the impact of the previous rise in ACR and are interested in:

Four broad areas of interest: Operational challenges, potential impact on victims, concerns from the community, and a close consideration of the data and research findings (which is where we come in)

Current project

Previous research by SCRA that looked at a very large sample of children referred to the Reporter for offences aged 12-15 years found that the majority of offences were of low gravity, few children were deemed to require statutory intervention or compulsory measures, there were high levels of adversity, neglect, trauma, abuse and poverty and many had long history of service involvement and continued to be involved with the children's hearing system in the following 12 months.

This current project therefore focused only on **serious offences** referred to the Reporter (either solely to the Reporter or jointly to the PF and Reporter), Combines case file analysis for **59 children** (boys=30, girls=29) with semi-structured interviews with **10 Reporters**, Serious offence referrals of children made between 1/10/22 and 30/6/23 identified using 'the section 39 test' and any further referrals in the following 12 months.

Aims of the project

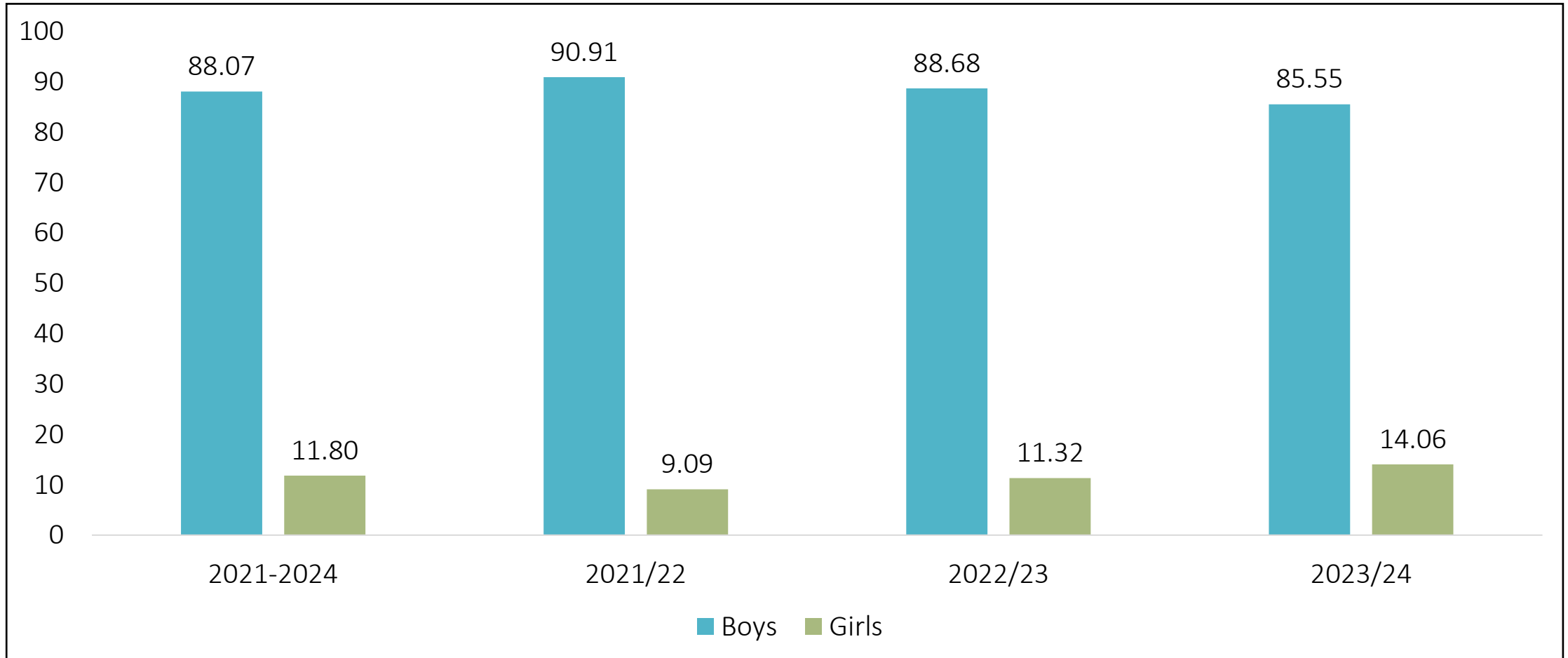
This report aimed to describe:

- What trends exist in the nature and frequency of serious offences* referred to SCRA?
- To what extent are the lives of children referred for serious offences characterised by adversity and trauma?
- What factors are associated with or influence serious offending, and do these differ by gender?
- What are the patterns of serious offending among children aged 12-15 in terms of volume, gravity and recidivism, and do these differ by gender?
- What are the responses of statutory agencies, including the Children's Reporter, to the behaviours of these children?
- What, if any, impact does the handling of serious offences through the Children's Hearings System have upon public confidence in Scotland's approach to youth justice?

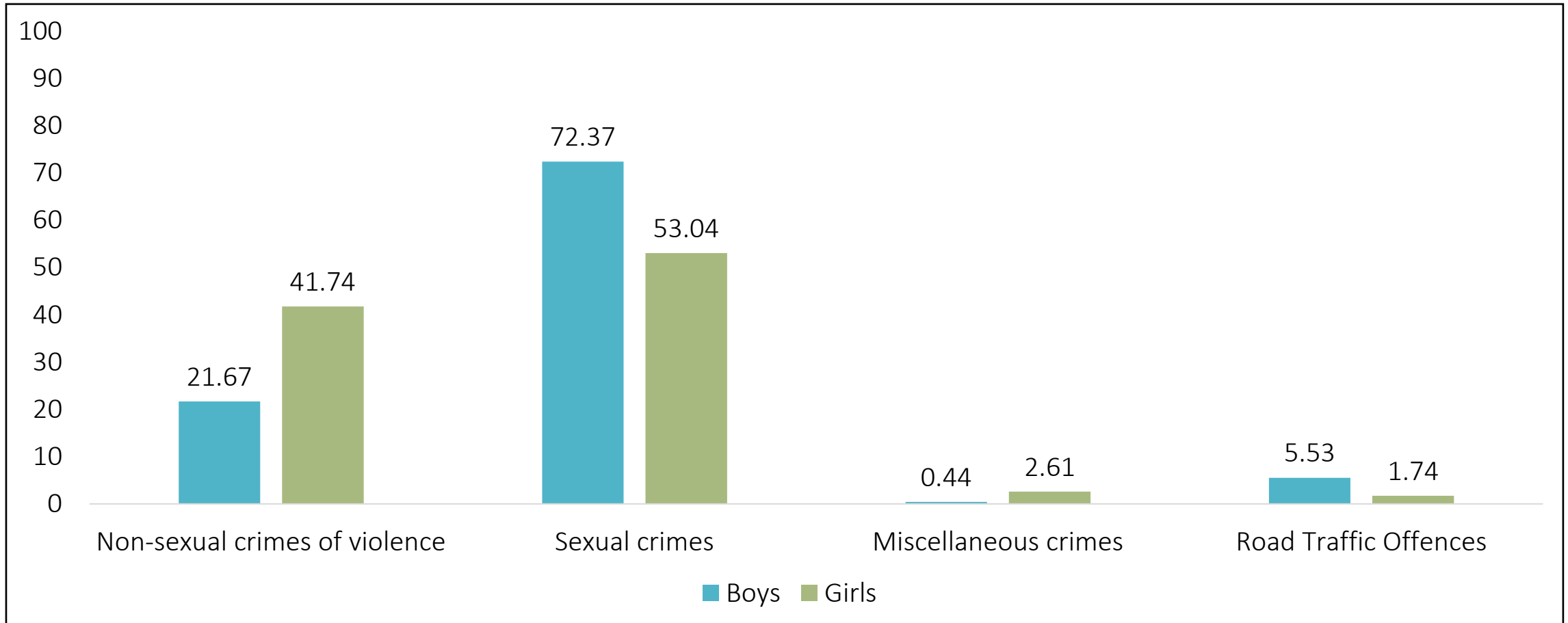
Trends analysis

- There were 29402 distinct offence charges received between 1/4/21 and 31/3/24. Of these, 4.3% (n=1256) met the definition of seriousness used.
- Data relates to 788 children (boys n=694; girls n=93) charged with serious offence behaviours.
- The majority (70%) were sexual offences. The remainder were non-sexual crimes of violence (24%) and roads/railways offences (6%).
- Referrals for charges of attempted murder and allegations of rape/sexual assault by penetration were rare, accounting for 0.03% and 0.6% of serious offence referrals respectively.

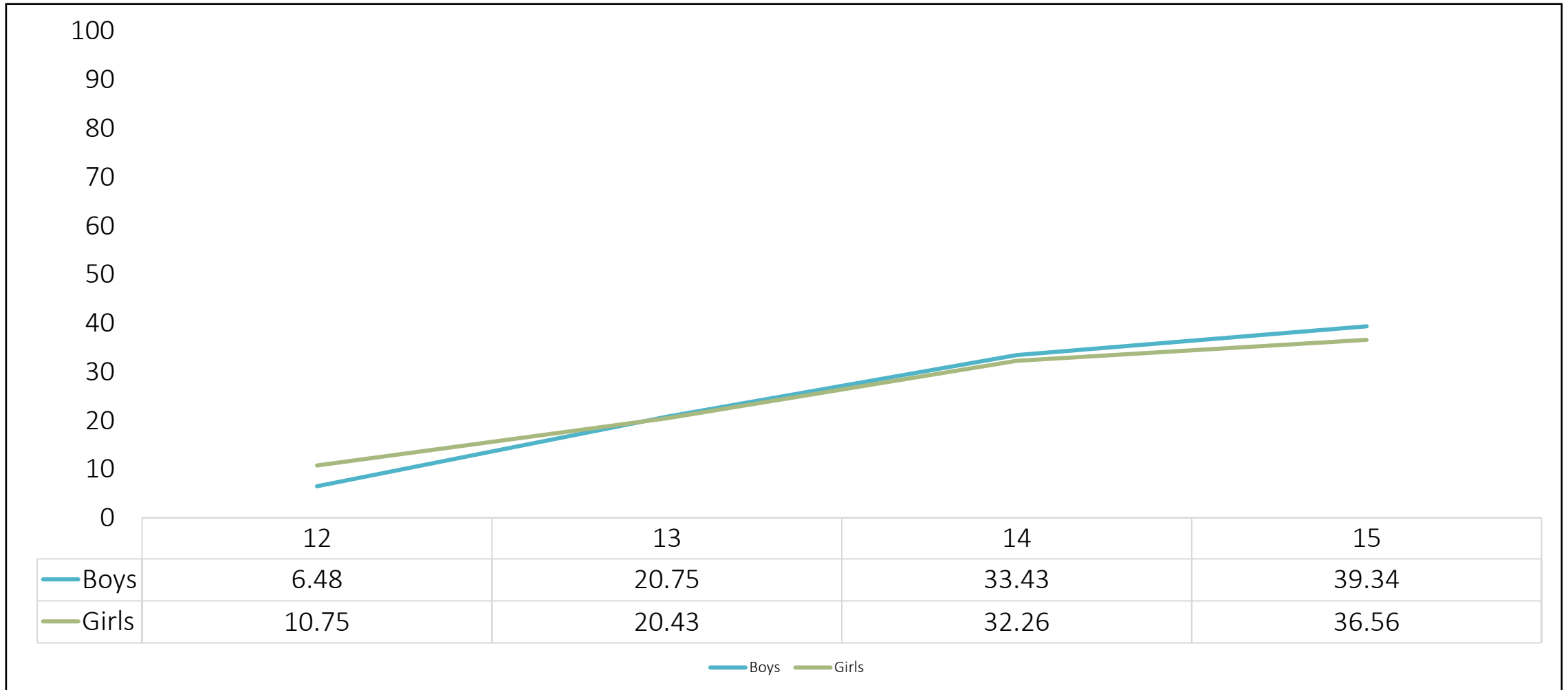
Trends analysis: no. of referrals



Trends analysis: offence types



Trends analysis: age at serious offence referral



Sample: 9 months and the sub-sample

Data drawn from case samples of 59 children randomly selected from 254 children referred for serious offences between 1/10/22 and 30/6/23

The case sample was broadly representative of the offences across the wider sample; however sexual offending by boys was over-represented

	Full 9 months of referrals		Case Sample	
	Girls (N=30)	Boys (N=224)	Girls (N=29)	Boys (N=30)
Violent offences	60%	33%	62%	27%
Sexual offences	40%	58%	38%	73%
Driving offences	0%	8%	0%	6%
Weapons/lasers	0%	1%	0%	0%

Pathways to referral – research sample

- The majority of the offences that met the s39 test were jointly reported (73% boys, 83% girls)
- The remaining offences in the sample were standard offence referrals and included:
 - SOSA 2009 (s3) (s20) (s24.1)
 - Civic Gov 1982 (s52.1)
 - Assault to severe injury
- Clear gender difference in delays in decision making around offences
 - Boys experience longer period between incident and final decision (mean 240 days vs. 161 days girls)

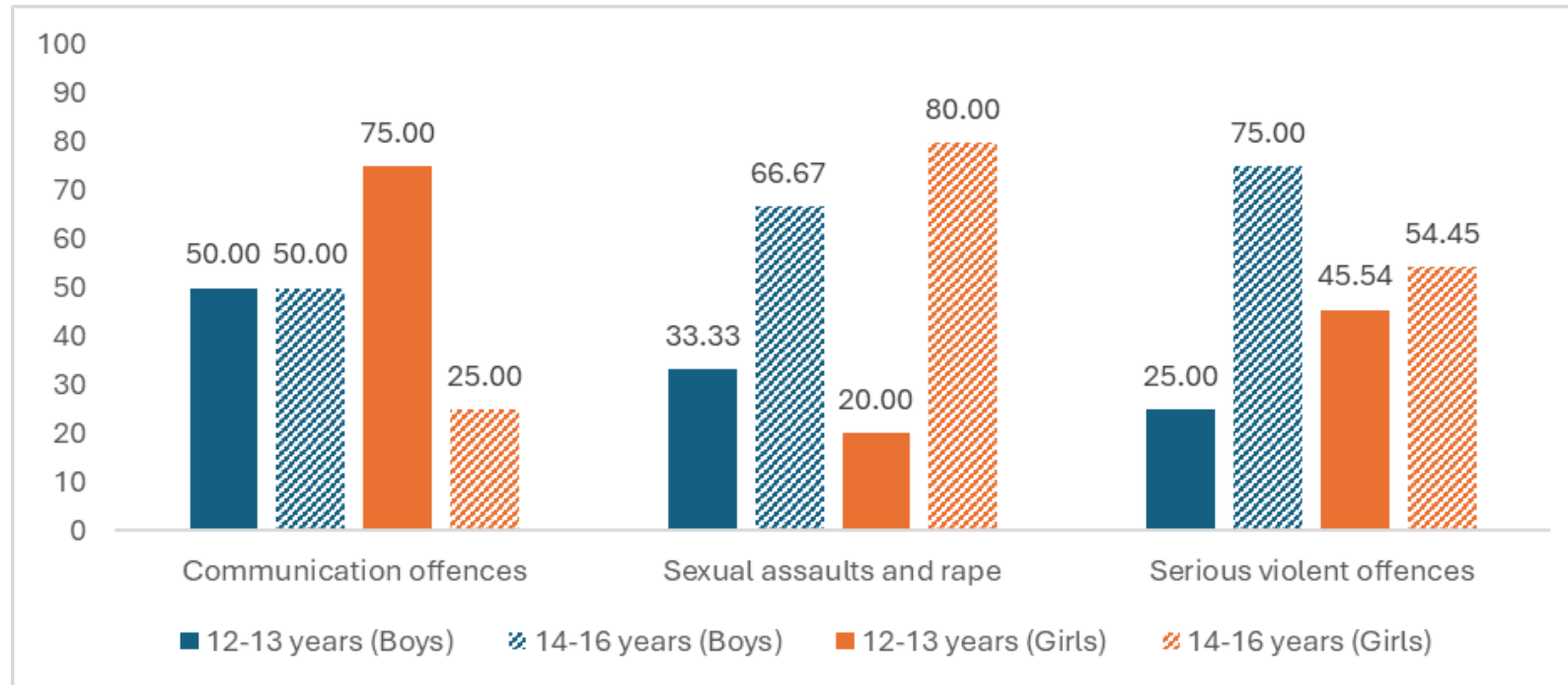
This delay is likely driven by the time it takes to decide to refer incident to SCRA*, however there is little difference in time to make decisions between standard referrals and joint reports, which might indicate it's not solely coming from the PF.

Similar pattern seen for violent and sexual offences (boys: 267/268 days vs. 144/128 girls)

Serious offences in the sample by age

The mean age of the children at the time of the index offence was 13.66 years (range: 11 to 15). There was no age difference by gender (boys mean: 13.53 vs. girls mean: 13.66 years), although children were slightly older (but not significantly so) at the incident date if they had been jointly reported compared with a standard referral: (Boys: 13.59 years vs. 13.38 years; Girls: 13.75 years vs. 13.20 years).

In terms of offence classification:



Serious offences in the sample by gender

"The difference that I tend to see with girls is self-harm. Quite often with the girls it's that kind of added element there and they might not be offending, violently offending in their communities. That's not to say that it doesn't happen as I had a girl of 13 who had assaulted someone to injury."

"More than often or not it's boys. That's not to say that there are no girls, but when the girls are reported or referred for serious offences it's very serious".

- **Girls in our case sample were more likely than boys to have an index offence that was related to violence (62% vs. 27%). In contrast, boys were more likely than girls to have an index offence that related to a sexual offence (73% vs. 38%).** Boys were more likely than girls to have an index offence relating to dangerous driving (6% vs. 0%). **For boys the violent offences tended to be serious assaults but for the girls there was a 3:1 ratio of serious assaults to assaults.** Girls also were more likely to be involved in a group incident rather than alone.
- Boys were more likely than girls to be referred for an index offence relating to a sexual assault or rape, while girls were more likely than boys to be referred for sexual communications offences (45% vs. 23%).

Backgrounds of children

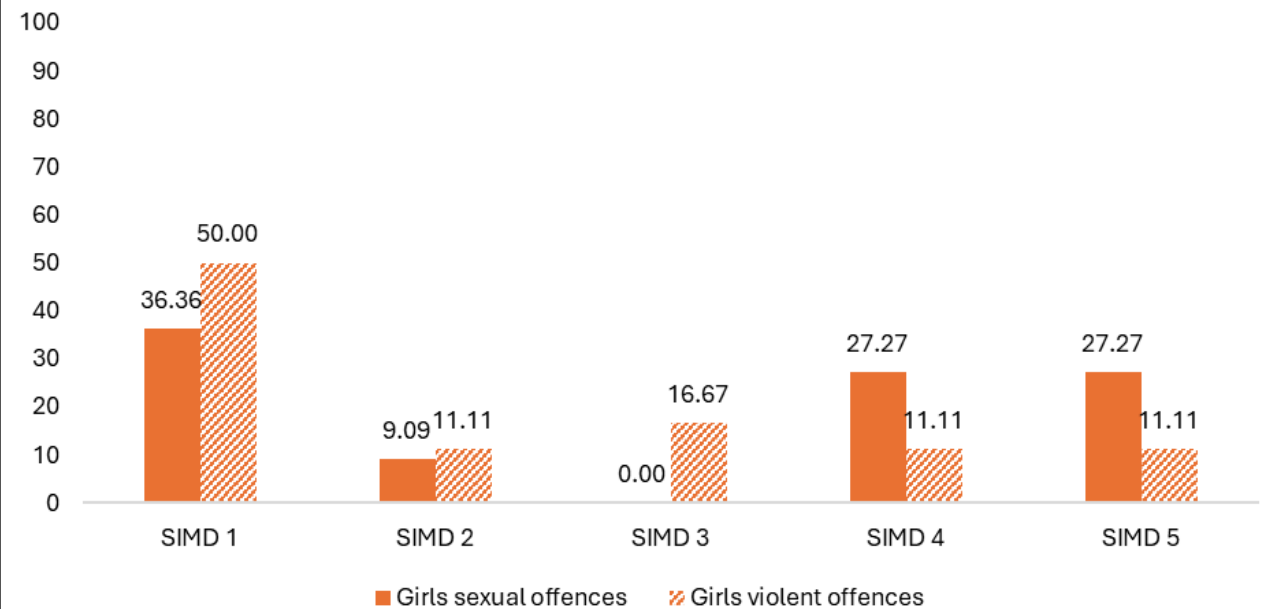
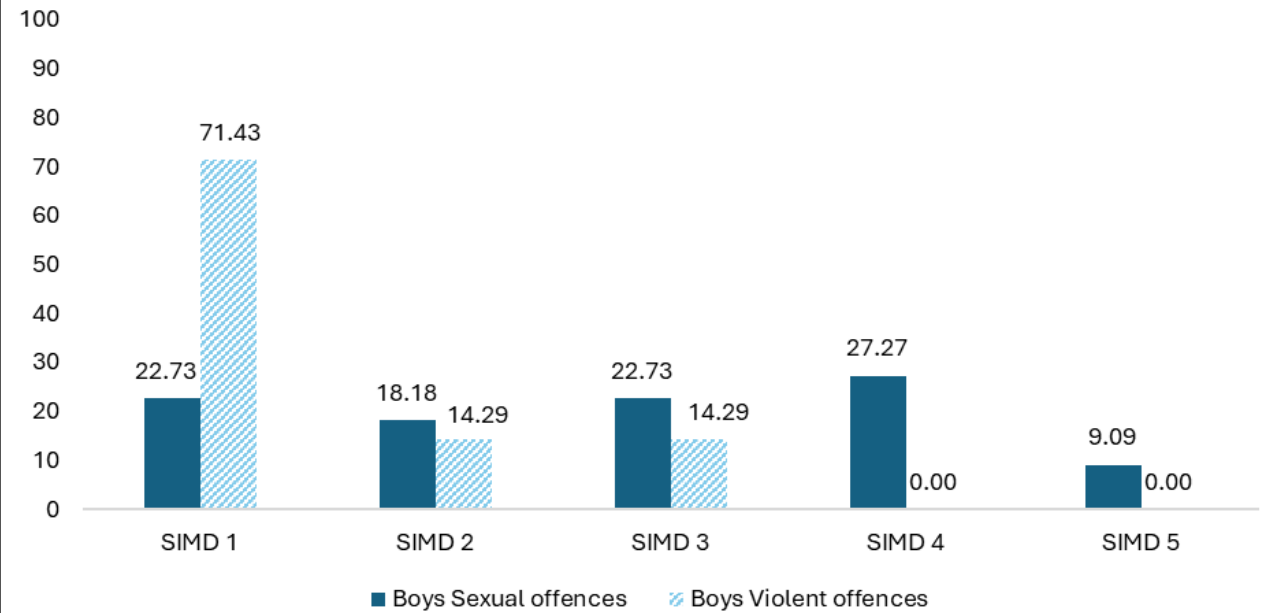
"I would say most of the children who are referred for serious offences either have adverse childhood experiences or they have some kind of diagnosed or undiagnosed neurodiversity" (Reporter)

"At times you can look at these teenagers and think this is the inevitable consequence of your childhood" (Reporter)

"The vast majority of children and young people who commit a serious offence have a background of other issues, whether it's trauma, neglect or whatever it is" (Reporter)

"The cases where there is often nothing are the ones that are more likely to be sexual offences. If [the offence] has been referred to us [by the Fiscal] and we've requested reports and assessments, they've come back and there is nothing in that child's background to explain why they would have demonstrated that behaviour. There's no ACEs or anything. They've got supportive parents and nothing obvious that would have led to that [the sexual offending]". (Reporter)

Deprivation index by offence referral



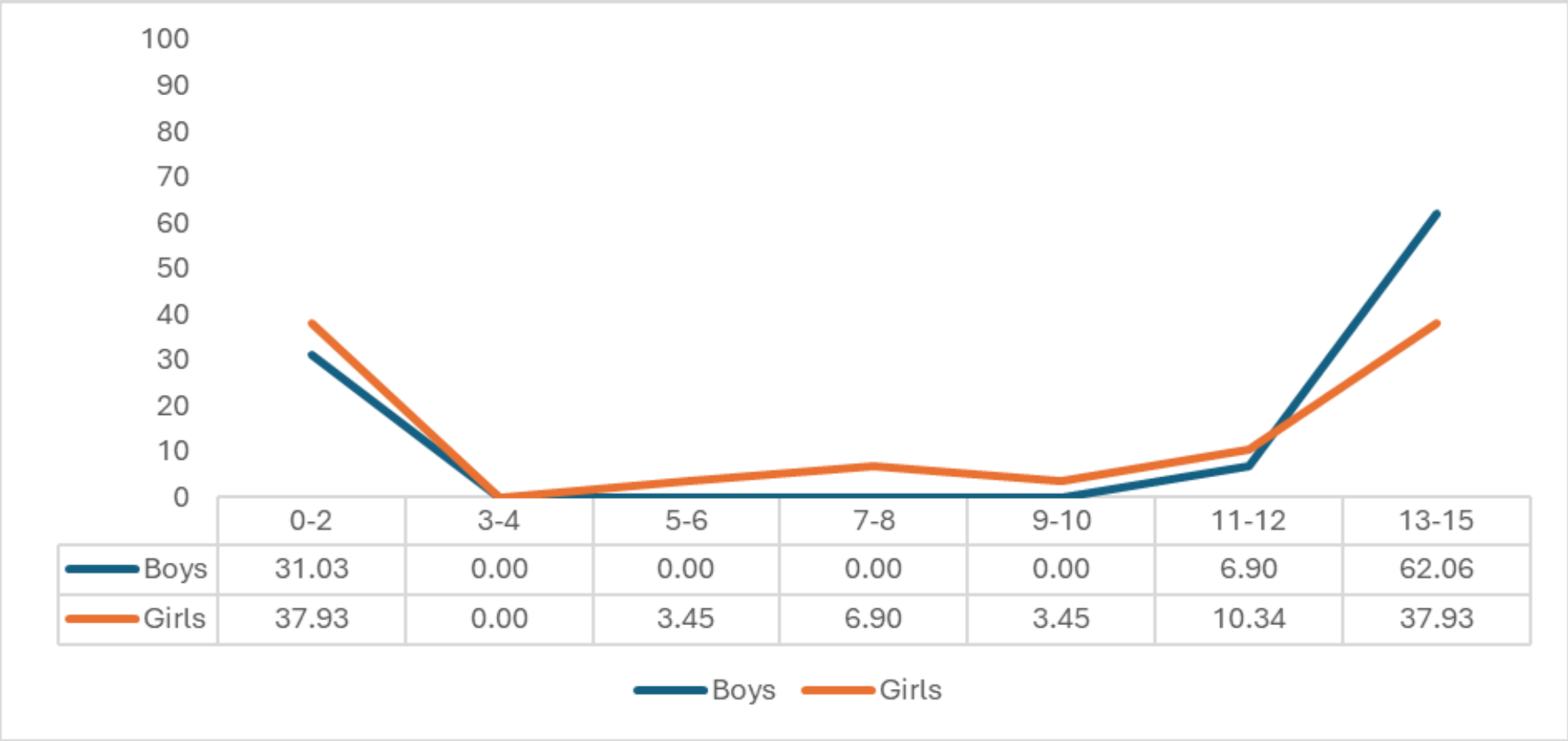
The backgrounds of the children

- Living situations
- Parental needs incl. mental health, addiction, lack of stability
- Child's own mental health or additional needs
- Disrupted schooling
- Loss and bereavement
- Traumatic experiences

Summary of system contact among the sub-sample of children

- 64% had a previous history of social work involvement
- 42% had been previously referred to SCRA on offence grounds
- 56% had been previously referred to SCRA on non-offence grounds, with this more common for boys than girls (72% vs 40%)
- 36% had previously been placed on a CSO, with this more common for girls than boys (43% vs 28%)
- 24% were on a CSO when the serious offence occurred
- 31% of the children referred for serious offending were not known to either social work or SCRA

Age at first system contact



Victims

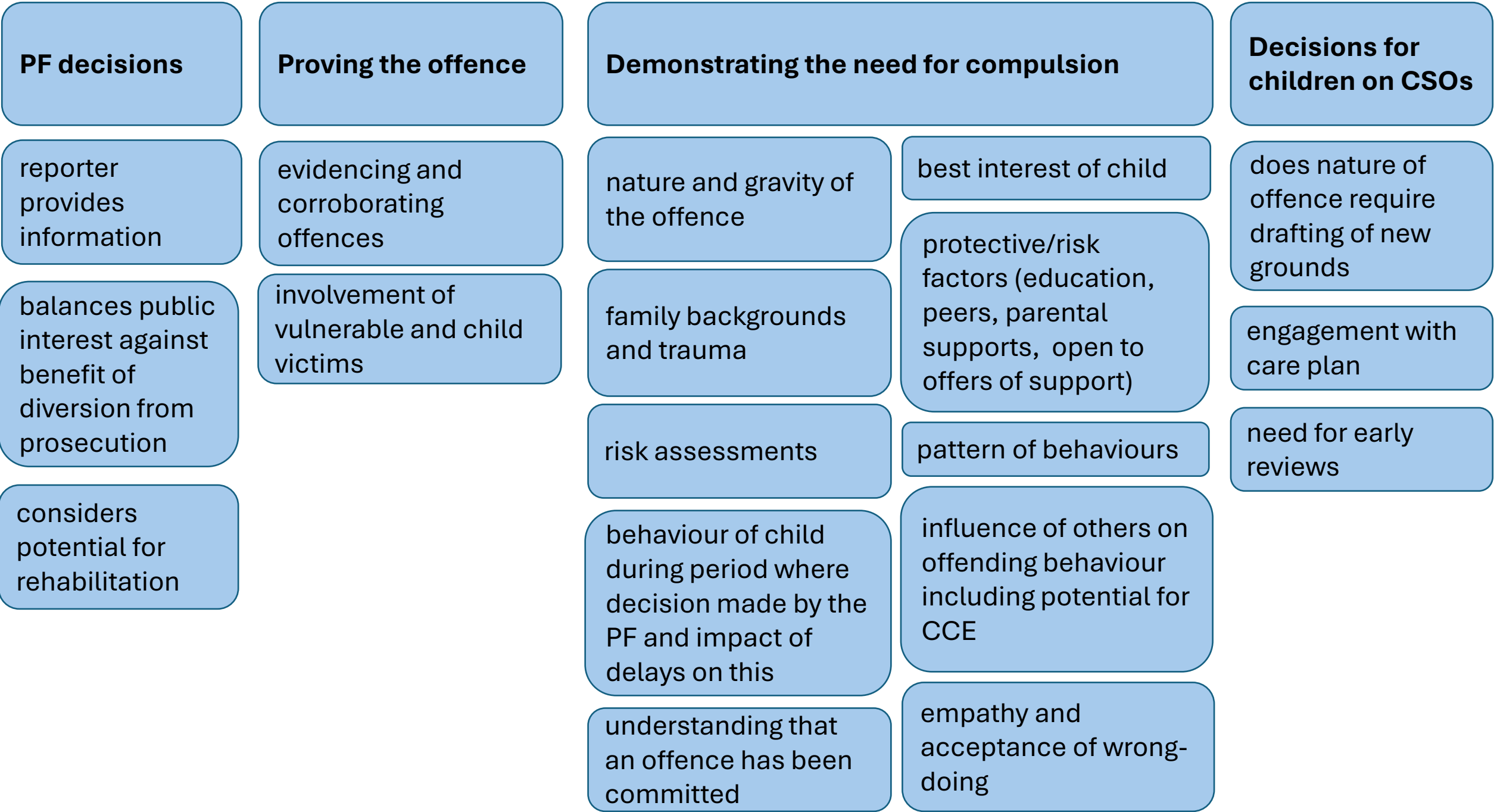
In the majority of offences, the victim was another child (82%), and In **every** case where there was a child victim, the victim was known to the child who had committed the offence, while three quarters (78%) of the adult victims were not previously known to the child.

Distribution (%) of victims by their relationship with the child who was alleged to have committed a serious offence

Victim type	Offence classification and child's relationship to victim	Total
	All offences	
Child	Peers 13+	63%
	Peers <13	2%
	Previous or current partner	16%
	Family member	7%
Adult	Trusted adult	4%
	Older peer	2%
	No previous relationship	12%

Reporter decisions

	9 months of referrals		Case sample	
	Girls (N=30)	Boys (N=224)	Girls (N=29)	Boys (N=30)
Arrange hearing	3%	5%	3%	0%
Insufficient evidence	7%	5%	7%	3%
Insufficient evidence refer to LA	0%	<1%	0%	0%
Current measures sufficient	27%	18%	28%	27%
CSO not necessary refer to LA for voluntary engagement	33%	42%	31%	50%
CSO not necessary	30%	28%	31%	20%
No jurisdiction	0%	1%	0%	0%



Re-referrals

- The majority (66%) of young people in our sample were not referred to the Reporter for additional offences within 12 months.
- Of those who were referred again, the majority were boys (34% of all, 70% boys vs. 30% girls). The mean number of offence referrals was 9 (boys, range: 1-36) and 3 (girls, range: 1-7).
- Of that number who were re-referred within 12 months of the index offence, the majority were joint referrals (79% of the boys and 50% of the girls).
- However, the nature of their further offences tended to be of lower gravity than the index offence. The range of offences included vandalism, fire-raising, possession of weapons, assault (including assault of a police officer), threatening and abusive behaviour, theft and drug offences and road traffic offences.
- One child (a boy) was referred to SCRA for alleged sexual offences in the 12 month follow up period; however, the referral related to an alleged offence that had occurred prior to the index offence. No other children who had been referred for sexual offences went on to be referred to the Reporter for a further sexual offence within the follow up period.

Engaging with children

- Engaging with children experiencing multiple adversities and repeatedly coming to police attention takes time, consistency and building relationships. [Capacity & funding]
- Some Reporters expressed concerns around the extent to which the interventions put in place to provide support were managing to engage with children who were coming to police contact again.
- For over half (57%) of those children in our sample who had been rereferred on offence grounds, social work reports indicated there were concerns around engagement.
- These concerns generally focussed upon mixed levels of engagement rather than no engagement at all, with only <5 (19%) of the young people who offended again considered to be showing no engagement at all with supports.

Repeat (persistent) offending

"My experience is that they [repeat and serious offending] are separate. You will have young people who are persistently offending, low level offences, breach of the peace, vandalism, minor assaults, just antisocial behaviour".

"Assault to severe injury or a sexual offence... I would say they're more likely to not follow someone who's persistently offended. Not always, but I would say there are two types of paths there".

Reporters highlighted the issue of repeat offending as an area of challenge for the children's hearings system.

Three broad categories of children who repeatedly offend were identified, namely:

- Children who engage in repeat offending, with suspicions of exploitation
- Children engaged in non-serious repeat offending
- Children who have already committed a serious offence and continue to commit serious offences

Children already subject to a CSO were identified as a group where engagement around repeat offending could be particularly poor, with reporters emphasising that some children in this situation consider themselves to be 'untouchable'.

For children who are repeatedly offending, reporters highlighted the need for earlier interventions when there are changes in behaviour. This could be through the drafting of new grounds by the reporter or through social work calling for an early review.

Addressing the behaviours of this group can be very challenging, particularly if there is little engagement and an inability to recognise that the behaviour is wrong and/or they are being exploited.

It was also felt that increasing pressures on social work could sometimes result in Reporters being unaware of factors that would have changed their decision making.

Interventions

- Reporters in areas with dedicated youth justice teams spoke highly of the skilled work that these individuals do with children who offend
- Range of interventions being provided to children, including: social work led interventions, education led interventions, Barnardo's, First Steps, Youth 180, Aspire, SACRO, FCAMHS systemic family therapy, ISMS, Action for Children.
- However, concerns were raised that not every area in Scotland had access to the same resources with some local authorities lacking specialist youth justice provisions and relying on third sector organisations to provide interventions.
- Concerns were also raised about how resource issues could affect the identification and delivery of interventions

Perceptions of the CHS

"I don't think the public out there understand that to provide support to a young person whose behaviour is going off the rails has got a far better chance of them not doing it to someone else, which is surely, as a society, our number one goal, not just for the future victims, but for the person, for the offender". (Reporter)

- Confidence in the hearings system relies on seeing that behaviour has changed
- Our findings indicate that for most of the children whose cases we examined there was evidence of behaviour change. However, some children continued to come to police attention.
- Reporters specifically highlighted victims' experiences, particularly in relation to sexual offending, as being a potential barrier to public confidence in the children's hearings system.
- Key issues raised included: lack of awareness among the public about the purpose of the children's hearings system; the challenges of evidencing sexual offences; the impact of court upon vulnerable witnesses and how this can affect the ability to evidence offences; information provided to victims; and the sense of injustice that victims can feel when there appear to be no consequences for the child who has harmed.

Summary

- The majority of children referred for serious offences have experienced trauma and adversity. However, there are some young people referred (particularly) for sexual offences who will not have been previously known to services.
- Reporters are raising concerns around knowledge of consent that we saw replicated within the case file analysis. Beyond the youth justice response there are implications for sexual health, parenting and relationship education.
- There were significant gender differences in decision making for boys and girls, with boys more likely to experience delays in their cases being referred to the children's reporter. This is likely to reflect the severity and nature of the offences but has implications for the ability of services to respond appropriately and quickly to children's needs.
- Very few serious offences referred to the reporter resulted in a hearing being scheduled. Our findings suggest that changing contexts, good risk assessments, appropriate care planning and the level of support children received all contributed to the decision not to schedule a hearing. In most cases existing measures and referral to the local authority were seen as the most appropriate response.

- A referral for a serious offence does not mean a child is likely to offend again.
 - two thirds of children referred for a serious offence did not have another offence referral within 12 months of being referred.
 - none of the children referred for sexual offences were referred for a further sexual offence.
- A small number of children continue to engage in offending behaviour and do not engage well with the supports put in place to reduce offending. There are some concerns among reporters that children who offend while already on CSOs view themselves as being 'untouchable'.
- Repeat offence referrals along with victim experiences have the potential to undermine public confidence in the CHS. It was identified that greater public awareness of the CHS and its purpose is required.
- Social work service inputs around children who offend are highly valued by reporters and our results indicate they do make a difference. However, concerns exist about resources available to social work services, including regional variations in the services and resources available to children who offend. If the ACR is raised, and we would argue that it should be, it needs to be underscored by investment.

Time for discussion

“the evidence around using harsher punishments as a deterrent, frankly, does not stack up. We should be reassured that Scotland has the structures and mechanisms in place to deal with such incidents in a sensitive, holistic, and trauma-informed way. However, whether it has the capacity and resource to do so is another matter”. (Prof. Susan McVie)

- Do you think the evidence supports an increase in the ACR?
- Children coming into conflict with the law is reducing but do we have the capacity/funding to support those children who do?
- Are we doing enough to support the identification of children who are being exploited?
- How do we address sexual communications offences among children?
- How do we better explain Scotland's welfare-based approach to the public?