

CHILDREN AND YOUNG PEOPLE IN CONFLICT WITH THE LAW: POLICY, PRACTICE AND LEGISLATION

Section 10: Early and Effective Intervention

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Children and Young People's
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Featured artwork created by children and young people with justice experience

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1. Introduction

This section focuses on Early and Effective Intervention (EEI), which was introduced to Scotland under the [Whole System Approach \(WSA\)](#) in 2011. The WSA is the Scottish Government's programme for responding to children who have come into conflict with the law, or are at risk of doing so, aiming to respond to children in a proportionate, needs led way, respecting their rights, regardless of what stage of the justice system they are involved in, and keeping them away from formal systems where safe and appropriate. This approach is based on evidence that contact with formal systems can often result in further criminalisation for children and young people (McAra and McVie 2022 and earlier publications), with EEI designed to reduce the volume of 'offence grounds' referred to the Children's Hearing System (CHS), and the number of children prosecuted in court. The WSA is rooted in Getting it Right for Every Child (GIRFEC), Scotland's policy approach to dealing with every child in a way that identifies and addresses their needs working with the child, but crucially the people and systems round them, which the child often has little control over. The WSA, GIRFEC and the CHS are further discussed in [Section 1](#) of this guide.

EEI, like GIRFEC, is a rights-based approach and must comply with the [United Nations Convention on the Rights of the Child \(UNCRC\)](#). The UNCRC is an international human rights treaty that sets out the civil, political, economic, social, and cultural rights which every child (every under 18) is entitled to, within its 54 articles, ratified by the UK in 1989 and incorporated into Scot's law in 2024.

EEI is specifically supported by UNCRC Article 40, known as the rights to Juvenile Justice, or more recently Child-Centred Justice, which details the need for countries to adopt specific approaches to justice for children, on account of their unique age and stage of development. Article 40 (3) dictates:

"3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions **specifically applicable to children** alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
- (b) Whenever appropriate and desirable, measures for dealing with such children **without resorting to judicial proceedings**, providing that human rights and legal safeguards are fully respected."

(United Nations Committee on the Rights of the Child, 1989, p. 12).

EEI fulfils a significant role in achieving article 40.3, so long as significant importance is placed on implementing it in a truly rights-respecting manner.

The UNCRC and other related rights instruments are discussed in Section 3 of this guide: Child and Human Rights: Our Responsibilities.

EEI was developed as a mechanism to support all children who come into conflict with the law, and oversight should sit within Children's Services Planning as specified in the [Children and Young People \(Scotland\) Act 2014](#). It is important to recognise that **children referred to any EEI process have not been convicted of an offence**. EEI aims to provide the right response, at the right time, and recognises that in many situations no response will be the most proportionate course of action for children. In addition, when a response is required, it

must be appropriate, proportionate, and meaningful in addressing the needs highlighted by the child's alleged involvement and/or presenting behaviour in the situation which has raised concern (United Nations Committee on the Rights of the Child, 1989, p. 12).

The [United Nations Guidelines for the Prevention of Juvenile Delinquency \(the Riyadh Guidelines\) \(1990\)](#), which remain largely relevant today, highlight the importance of a preventative approach to children coming into conflict with the law, which is child-centred in orientation, where children are not seen as mere objects of socialisation or control but have an active role and partnership within society. The focus of any preventative programme should be on wellbeing from early childhood, with those around the child and wider communities key to effective prevention, as reflected in [GIRFEC](#) and earlier policy approaches, subsequently reinforced by the [Children & Young People \(Scotland\) Act 2014](#). GIRFEC currently places importance on meeting needs in childhood via the [Whole Family Wellbeing Fund](#), guided by the [Routemap and National Principles of Holistic Whole Family Support](#). The Riyadh Guidelines also note the importance of avoiding criminalising and penalising a child for behaviour that does not cause serious damage to the development of the child or harm to others; formal agencies of social control should be utilised as a means of last resort. Thus, EEI attempts to embody these values and principles.

In 2019, the Committee of the Rights of the Child issued [General Comment 24](#) on Children's Rights in the Justice System, which supports the implementation of Article 40. It states:

"The diversion of matters away from the criminal/juvenile justice processing to a range of appropriate programmes should be the preferred manner of dealing with child offender in the majority of cases. States parties should continually extend the range of offences for which diversion is possible, including serious offences where appropriate" (pp.7-8).

EEI, under the wider WSA, has diverted thousands of children a year from both prosecution in court, and referral to the Children's Hearing System on offence grounds (8,066 offence ground referrals in 2012/13) (SCRA, 2016, p.12) to 2,447 in 2024/25 (SCRA, 2025, p.6; [Online Statistical Dashboard - SCRA](#)). In 2023/24 there were 2,626 children dealt with via EEI: around five times those proceeded against in court ([Criminal Proceedings in Scotland: 2023-2024: Supporting Tables - Youth Convictions](#), Table 6, Table 1). EEI has become a key conduit of diversion and proponent of UNCRC Article 40 for children in Scotland.

More recently, the [Global Declaration on Justice with Children \(2025\)](#), a collective international commitment to place children at the heart of justice systems, proposed a [conceptual framework for 'Child-Centred Justice'](#), detailing how children's rights in justice systems should be promoted internationally, the term 'child-centred' having evolved from juvenile and then child-friendly justice, as justice for children becomes more participatory. It states that:

"Child-centred justice systems are essential to preventing harm and ensuring children's access to justice. A child-centred justice system recognises children as rights-holders who are entitled to a range of judicial and non-judicial mechanisms. It entails transitioning from justice systems and services that merely involve or accommodate children to those inherently designed with their rights and well-being as a core focus."

1.1 General principles

EI, as will be explained later, is a specific route to intervention when children have come into conflict with the law, and usually to the attention of police. The support it can provide, as with other interventions, focuses on the wellbeing needs of children using the principles of GIRFEC, with best practice for its effective delivery outlined in the Scottish Government [EEI: Framework of Core Elements](#). The Core Elements highlight EI understand the behaviours leading children to EI referral, and support them by:

- placing the child or young person and their family at the heart, and promoting choice, with full participation in decisions that affect them
- working together with families to enable a rights respecting, strengths based, inclusive approach
- understanding wellbeing as being about all areas of life including family, community and society
- valuing difference and ensuring everyone is treated fairly
- considering and addressing inequalities
- providing support for children, young people and families when they need it, until things get better, to help them to reach their full potential
- everyone working together in local areas and across Scotland to improve outcomes for children, young people and their families

2. Definitions

2.1 Children

Currently, in Scotland, a child is defined differently depending on the legal context:

- [The Children and Young People \(Scotland\) Act 2014](#) , [United Nations Convention on the Rights of the Child](#) and the Council of Europe Guidelines on [Child Friendly Justice](#) defines a child as being under 18 years old.
- [The Children \(Scotland\) Act 1995](#) (section 93), [Criminal Procedure \(Scotland\) Act 1995](#) (section 307) and [Children's Hearings \(Scotland\) Act 2011](#) (section 199) define 'children' as a) under 16 years old; b) those referred to the children's reporter prior to their 16th birthday and c) those young people age 16 and 17 who are subject to a Compulsory Supervision Order (CSO) through the Children's Hearings System (CHS); this remains the legal definition of a child in Scotland. The 2014 Act did not alter this definition. Some aspects of this Act have been amended by commencement of part 2 of the Children (Care and Justice) (Scotland) Act on 30 March 2026 – see [Section 1](#) of this guide.
- The [Adult Support and Protection \(Scotland\) Act 2007](#) defines an adult as someone over the age of 16
- The [Criminal Justice \(Scotland\) Act 2016](#), which came into force on January 25, 2018, refers to 'younger child', which is anyone under 16 or aged 16 or 17 years old, and subject to CSO, an 'older child' as 16-17 years and not subject to a CSO. Some

aspects of this Act have been amended by commencement of part 2 of the Children (Care and Justice) (Scotland) Act on 30th March 2026 – see [Section 1](#) of this guide.

[The Children \(Care and Justice\) \(Scotland\) Act](#), when fully commenced, will change the definitions of a child to anyone under 18 in the [Criminal Procedure \(Scotland\) Act 1995](#) (section 307) and [Children's Hearings \(Scotland\) Act 2011](#) (section 199), as well as largely removing the distinction between a “older” and “younger child” in respect of police custody in the [Criminal Justice \(Scotland\) Act 2016](#) (see [Section 1](#) for more details).

Article 1 of the [UNCRC](#) highlights that all under 18s are children and have all the rights of the convention. Therefore, all under 18 years within this section, and throughout this guidance, are referred to either as ‘child’ or ‘children’.

3. Key Findings from Research

A significant body of international research highlights the importance of a preventative approach to children being (or at risk of being) in conflict with the law, whilst cautioning against net widening. The Edinburgh Study Youth Transitions and Crime (Edinburgh Study) by McAra and McVie (2010) was influential in shifting policy and practice within Scotland to a preventative approach as enshrined within the [Whole System Approach \(WSA\)](#). Four key findings of this study highlighted:

1. Serious offending behaviour is associated with victimisation and social adversity
2. Early identification of at-risk children is not a watertight process and may be damaging in the longer term
3. Critical moments in the early teenage years are key to pathways out of offending
4. Diversionary strategies facilitate the desistance process.

The findings of the Edinburgh Study strongly reflect the Kilbrandon philosophy that we should be responding to children’s needs not deeds - that often children involved in offending behaviour are our most traumatised and victimised individuals (McAra & McVie, 2010), and should be responded to as children first (Case & Haines, 2015), (Case & Hazel, 2023). The Children First, Offenders Second (CFOS) approach developed in Wales and England highlights four principles:

1. **Promoting children’s rights and adults’ responsibilities;** prioritises children’s rights, strengths, capacities and potentialities, making the facilitation and realisation of these the primary responsibility of the adults with whom they work.
2. **Promoting desistance and inclusion;** promotes children’s strengths and capacities as a means of facilitating desistance, restoration and inclusion.
3. **Promoting diversion and systems management;** emphasises diversion and child friendly systems management as vehicles for promoting positive behaviours/outcomes for children, whilst avoiding the potentially criminogenic consequences of system contact.
4. **Promoting relationship-based partnerships;** is underpinned by children’s participation and engagement, which is driven by positive relationships between the child and practitioner.

(Case & Haines, 2015)

Both the Edinburgh Study and CFOS recognise that coming into conflict with the law is a normal facet of child development; however, not all children who do so will come to the attention of the police, and most will grow out of it. Thus, offending behaviour “should be responded to accordingly, rather than criminalised/exacerbated through risk, offence - and offender-focused formal intervention(ism)” (Case & Haines, 2018, p. 11). A strengths-based approach, that leverages and builds on existing strengths within the child and the systems surrounding them is crucial to shifting away from a deficit-based model. Furthermore, the CFOS approach highlights the importance of adults and systems around the child taking responsibility, rather than seeking to hold the child responsible beyond their ability and capacity.

3.1 Unintended consequences

Despite the well-researched intention to keep children and young people out of formal systems, [evidence](#) suggests that early intervention has the potential to lead to future negative contact with systems. This is exacerbated further for groups of children who are the most vulnerable. Gillon (2021, p. 4) highlighted that caution was required, as whilst the intentions underpinning EEI are “benevolent, it was evident that the process could easily be led by a crime control agenda rather than a forum to address wellbeing”. This then results in children being labelled and stigmatised at an early age.

Despite the EEI process being classed as ‘informal’, findings from Gillon’s research have indicated that in reality this is an extension of the formal youth justice system, rather than the alternative that it was set up to be. This must be borne in mind during any decision making and potential intervention.

3.2 Adversities

The factors which may increase the vulnerabilities of a child towards conflict with the law are well evidenced and may vary across a combination of personal, systemic, environmental, community, structural and societal domains. The interactions and influences of these areas upon each other have different weighting at different points in a child's development, however, they are not predictive. It is crucial that responses are proportionate and bespoke given the potential impact service involvement could have on the child and their family. Whilst the concerns may be similar, the way a child experiences them will be unique to that child and their wider situation. Formal system contact has been found to be a significant indicator of future system contact; thus, the importance of having robust preventative responses that can provide the right support, at the right time, without stigmatising and labelling children for normative behaviour, is critical (McAra & McVie, 2010).

Further research by Jahanshahi et al. (2021) into the impact of adverse childhood experiences (ACEs) and poverty on childhood offending behaviour suggests that it is not just the type of childhood adversity that a child experiences which matters, but also the structural context. They propose that “in the presence of ACEs, the direct impact of poverty at the household level on childhood offending is difficult to detect. However, living in persistent poverty at the neighbourhood level remains a key predictor of childhood offending, and has an interdependent relationship with some types of ACEs that deserves further attention” (Jahanshahi et al., 2021, p. 734). Furthermore, most anti-social behaviour and behaviour where children come into conflict with the law takes place in areas of economic and social

deprivation, where there are fewer opportunities for pro-social activity than in wealthier areas, and where social controls are frequently poor (Sepulveda Carmona, 2010).

Recent research by the Scottish Children's Reporter Administration, [Children 12-15 involved in serious offending \(2025\)](#) indicates that "*the lives of children who are referred to the Reporter for serious offending tend to be characterised by poverty, maltreatment, exclusion from education and engagement in risk taking within the community*". They also found high correlation of mental-ill health, neurodiversity and learning difficulties within the case sample cohort (p.4).

Thus, a range of strategies are required to address childhood offending behaviour that focus on wider inequalities, as well as at the individual, family and neighbourhood level.

The application of a preventative and early intervention approach must always be developmentally informed and consider the evolving array of research regarding the impact and relationship between ACEs, brain development, poverty and trauma when shaping responses and processes (Liddle et al., 2016; McEwan, 2017; Vaswani, 2018). Practitioners working with children whose distress behaviours bring them into conflict with the law often seek to understand the reasons why other children from similar backgrounds do not, thus assessment processes can be complex. Children may display behaviours which the systems around them struggle to respond to appropriately. This can result in the children becoming labelled and stigmatised, which subsequently negatively affects the child, their opportunities, and their relationships. More information on trauma and adversity can be found in [Section 5](#).

Drawing on a range of theories from across different fields of learning can assist in identifying the most appropriate interventions required to understand and respond to that specific child and their specific needs. Theories/approaches it can be useful to consider include: child development, resilience, attachment theory, neurodevelopment, motivational interviewing, cognitive behavioural theories, systems theories and speech, language and communication needs (SLCN) (see [Sections 6, 8 and 9](#))

4. Policy Context and Legislation

EEL focuses on the needs of the child and recognises that addressing underlying needs, building strengths and reducing vulnerabilities will increase the likelihood of positive outcomes for the child and their family, as well as those harmed by the child's actions and wider society. Addressing needs and building capacity is at the heart of Scottish policy and legislation relating to children. For example:

- [The Kilbrandon Report 1964](#) underpinned the [Social Work \(Scotland\) Act 1968](#) and established the Children's Hearings System (CHS) in Scotland. This emphasised the importance of early intervention to prevent the development of future problems, identifying all children as in need of care and protection, linking the needs of children in conflict with the law to the needs of children in care.
- The [Children \(Scotland\) Act 1995](#) with its focus on minimal intervention, and providing support to children in need is reflected in the underlying theme of EEL.
- [Getting It Right For Every Child \(GIRFEC\)](#), which has been developed since 2006, emphasises the ethos of Kilbrandon within current policy in relation to children in

conflict with the law. The GIRFEC approach upholds that intervention should be appropriate, proportionate, and timely. It prioritises acting early on concerns or in response to a crisis to prevent escalation of concerns or deterioration in wellbeing; recognising the pressures that children and families can be under, and the impact of these, it seeks to build on strengths. It emphasises that where planning is required to meet a child's wellbeing needs through the delivery of targeted interventions, it will be done through the single planning framework of the Child's Plan. This links support and activities to desired outcomes and requires professionals to work together and share information proportionately and appropriately. Refreshed GIRFEC [policy and practice materials](#) were published in September 2022.

- [The Children and Young People \(Scotland\) Act 2014](#) places children's services planning responsibilities on local authorities and others to ensure the needs of children generally, and those with particular needs are met, and places statutory responsibility on local authorities to provide a mandatory level of early and education and children for pre-school children. Whilst earlier sections on the use of a named person and child's plan under GIRFEC have been repealed by the Children (Care and Justice) (Scotland) Act 2024, this recognised existing good practice such as the use of Child's Plan nationally under GIRFEC to effectively co-ordinate essential supports and protections for children continuing out-with statute. Direction of what must be included in any [assessment of wellbeing](#) under GIRFEC remains.

The process of referring a child to the Children's Reporter is unchanged by the 2014 Act. If a wellbeing assessment indicates that a child is in need of protection, guidance, treatment, or control, and a CSO may be required to ensure their needs are met, as specified in the [2011 Act](#), a referral should be made to the Children's Reporter.

- [Preventing Offending: Getting it right for children and young people who offend \(2015\)](#) included EEI as part of the advancing WSA agenda. The emphasis is on supporting partners to integrate EEI with the 2014 Act and other relevant legislation, such as the [Data Protection Act 2018](#), [Human Rights Act 1998](#), and [Age of Criminal Responsibility \(Scotland\) Act 2019](#). Practice must continue to evolve to support and promote an improvement culture among national and local partners. The strategy also emphasises the need to maximise the opportunities for, and encourage greater use of, diversion from formal systems and processes, to respond swiftly and bring responses to offending behaviour much closer to its occurrence.
- [The Age of Criminal Responsibility \(Scotland\) Act 2019](#) was fully enacted as of December 17, 2021, meaning no child under the age of 12 can be held criminally responsible.
- [Justice for children and young people: vision and priorities 2024-26 - gov.scot](#) is the current youth justice strategy; it highlights the importance of a continued focus on EEI.
- [The Scottish Government's Standards for those working with children in conflict with the law](#) was published in 2021. This document highlights 10 standards that practitioners should meet when working with children in conflict with the law.

Standard 2 states “Prevention and Early Intervention is available to every child in Scotland who is involved in or at risk of coming into conflict with the law”.

- [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act \(2024\)](#) was passed and fully commenced in 2024.
- [Children’s \(Care and Justice\) \(Scotland\) Act](#) was passed by the Scottish Parliament on 25 April, 2024. Whilst this did not make specific provision regarding EEI, when Part 1 is commenced, likely in Spring 2027, the Act will enable all children under the age of 18 to be referred to the Principal Reporter where necessary. It will be important to ensure EEI is consistently available across Scotland to 16/17-year-olds to ensure they benefit from all alternatives to prosecution, as with younger children, where safe and appropriate

More information of policy and legislation can be found in [Section 1](#).

5. Key Considerations

EEI is a voluntary process where concerns regarding a child's wellbeing have arisen in response to their alleged conflict with the law, or where their behaviour raises concerns. It is a response to allegations of offending or concerning behaviour as potential indicators of wellbeing needs that may benefit from proportionate and appropriate support.

5.1 Children’s views

As part of initial discussions with the child and their family following a referral to EEI processes, the child's views on what occurred, and level of insight for their involvement in the alleged matter should be considered. This does not necessitate that the child takes full responsibility; it creates a space for discussing what occurred, in which the child can acknowledge any role in the incident and reflect upon the incident's impact on others. Consideration must be given to the fact that children may feel anxious acknowledging their actions within the alleged incident(s); they may initially deny involvement, especially when police are involved. It helps to provide clear explanations as to the purpose and focus of EEI: it is about promoting wellbeing and providing support for any issues that the child/family may be experiencing, rather than criminalising the child. Careful consideration should be given as to who is best placed to have such conversations with the child and family; it may be a teacher, third sector worker, or other practitioner involved in the EEI process. The explanation should foreground the parameters of what is expected, highlighting the reasons behind EEI, and the fact that it's a voluntary process. This may encourage greater engagement and allay any anxieties. Thus, children and their families must be provided with the information to enable them to make considered decisions about their involvement in any EEI process. EEI must not lead to unnecessary interventions in the lives of children, as set out by [UNCRC Article 16](#). This stipulates that no child shall be subjected to arbitrary or unlawful interference with their privacy, family, home, or correspondence, nor to unlawful attacks on their honour and reputation, and that the child has a right to the protection of the law against such interference or attacks.

5.2 Parental responsibilities

Articles 18 and 27 of the UNCRC confirm the importance of the responsibility of parents for the upbringing of their children. Furthermore, the Convention requires States parties to “provide the assistance to parents (or other caregivers) necessary to carry out their child-rearing responsibilities” (United Nations Committee on the Rights of the Child, 2019, p. 24). The inclusion of parents within any EEI response can be critical to improved outcomes for children beyond any intervention; it provides the opportunity for a more collaborative and inclusive working partnership. The level of parental/caregiver involvement should also be expected to be proportionate to the child’s age, agency and developing capacity (United Nations Committee on the Rights of the Child, 2019, p. 4). This underlines the rights of children to parental guidance in account of their evolving capacities to make their own decisions, and recognition they require guidance and direction to build capacities, under UNCRC Article 5. To uphold children’s rights EEI must focus on embedding the inclusion and influence of the child’s views as stipulated in Article 12 in both the decision-making process regarding individual children and in shaping national EEI policy, practice and processes going forward.

5.3 Decision making

The first consideration of EEI should be whether there is a need for *any* response: the matter been sufficiently addressed by the child and their existing supports with no outstanding needs identified, and a formal Police Warning may suffice. When needs are identified, these should be met through the offer of support from universal services including education, health, and employment/training where possible, with potential third sector involvement as appropriate - the child may at times require a response from specialist resources. There should be pathways between EEI and these services to ensure concerns are responded to timeously, preventing deterioration in the child’s situation or an escalation in their behaviours before such supports are made available. Given the potential impact system contact may have on children and their families - as well as the impact the concerning behaviour may have upon the wider community, and those harmed - it is important that EEI provides a clear, consistent, and credible response to any such behaviour. It is about more than just preventing further incidents; it should lead to improved outcomes in the lives of children, promoting their development into confident individuals, effective contributors, successful learners, and responsible citizens.

The implementation and delivery of EEI must be in line with developments in practice and changes in legislation to ensure compliance, and identify any necessary adaptations as required. [General Data Protection Regulations \(GDPR\)](#) was introduced in May 2018; it is crucial to ensure that all processes are in line with this legislation, particularly Article 8 of the [European Convention on Human Rights \(ECHR\)](#) - right to respect for private and family life, and all articles of the UNCRC. For EEI, it may be helpful to ensure information sharing processes are compliant by checking with the organisational Data Protection Officer.

5.4 Younger children

The [Early and Effective Intervention – Framework of Core Elements](#) state that children under 12 (the age of criminal responsibility in Scotland) may still be referred to EEI for concerning and harmful behaviour if this would be to the benefit of the child.

Where EEI is deemed the appropriate pathway to a proportionate response, it is vital these children are not viewed as having committed criminal offences (United Nations Committee on the Rights of the Child, 2019). Any subsequent assistance or service provided must be done so in a child friendly, multi-disciplinary manner, reflecting the needs of the child (United Nations Committee on the Rights of the Child, 2019). It may be that existing local systems and universal services can provide a prompt response to any child or children that would fall into this situation, in which case EEI may not be the preferred pathway to support. However, a flexible approach, which allows the right service at the right time to respond to the needs raised by the concerning behaviour (rather than waiting until a child has been charged), reflects early intervention and may prevent future contact with formal systems.

To uphold children's rights, all instances should be recorded and reviewed from the first moment of contact with the system; this helps with identifying gaps in the way that we respond to younger children as an unintended consequence of raising the age of criminal responsibility and prevents net-widening.

5.5 Victims

The individuals harmed by the behaviours and actions of children referred to EEI will have a range of emotions and experiences and are often children themselves. Developing appropriate processes to ensure that those harmed and affected are considered within interventions should be an integral part of EEI provision. This may involve restorative approaches ([see Section 12](#)). It is the hope that, as the [Scottish Government's Restorative Justice Action plan](#) is delivered across Scotland, there are increased opportunities for restorative approaches for those involved in EEI. Proportionate information regarding the outcome of the referral to EEI, whilst complying with data protection legislation, is crucial and clarity as to who shares this information with individuals harmed is necessary. Presently this is the responsibility of Police Scotland.

6. Models of EEI

The majority of local authorities have developed multi-agency EEI processes as an early intervention response to a child being charged with an offence, that may otherwise have automatically resulted in a referral to the Children's Reporter. In Scotland, the two main EEI models across the country are:

- A multi-agency group decision-making forum
- A lead contact who screens referrals, making some individual decisions and referring other children to an EEI or multi-agency group/Team Around the Child meeting (TAC).

A survey into EEI practice and processes, completed by CYCJ in 2023, found that of the 23 local authority areas across Scotland that responded, 16 have multi-agency screening groups where referrals are discussed, and actions agreed.

The models across the country vary with respect to the nature of the referrals discussed. In some areas, EEI processes will include anti-social behaviour referrals alongside alleged offending behaviour, and in other areas, low-level wellbeing concerns are also considered.

The most important feature in any EEI model is the inclusion and involvement of children and their parents in the EEI process, which is integral to decision-making. Contact with the child and their family should be made at the earliest opportunity to: explain the purpose and process of EEI; discuss the referral; gather their views and response to the alleged incident and the child's wider situation; and to establish what (if any) supports are required/would be helpful. In addition, they should be invited to participate in any meetings and have their views represented and considered in any decision making, regardless of whether they choose to attend. This must be enacted meaningfully. Retrospectively notifying a child/family that a referral has been made, and decisions have been taken (in which they have had no voice) contravenes the child's rights.

Decisions must be based on proportionate information from appropriate partners in relation to the child and their wider situation; they should be timely and relevant to the wellbeing needs identified.

The agencies involved in EEI models tend to vary depending on local arrangements, though most have representatives from social work, police and education. Many areas also involve representatives from health, community safety, housing and third sector partners (e.g. Sacro, YMCA, Action for Children, Barnardo's). Where a multi-agency meeting is deemed appropriate, then steps should be taken to ensure it is effective and meaningful for children and their families to participate in; this reflects the spirit of a rights-based approach. This may mean questioning: who is present; the purpose of their presence and what they meaningfully bring to that discussion; and if they have no knowledge of the child and their family, whether they should only be involved if they are required to work with the child and their family.

EEI disposals include:

- Police direct measures
- Current measures are appropriate, no further action required. There should be clarity and confirmation that existing measures are responding to the identified needs of the child and any additional concern raised by the child's involvement in the matter referred through EEI.
- Single agency referral – i.e. third sector partners (including those offering restorative approaches), social work, education, health, fire and rescue that could undertake specific intervention or support.
- No further action - for several reasons it may be appropriate to take no further formal action in response to an alleged offence or concern.
- Referral to Scottish Children's Reporter Administration (SCRA). This should not be an alternative to offering support through EEI if appropriate and timely but is an option where compulsory measures of care may be considered necessary.

- In exceptional circumstances, it may be appropriate to refer a child to Crown Office and Procurator Fiscal Service (COPFS). However, this is unlikely if agencies are working together to identify the right children for EEI.

It is important that agencies and services involved in implementing EEI can provide a range of interventions as appropriate and proportionate for the specific child/children who have been referred. The intervention should fit the child, as opposed to the child fitting the intervention, and be delivered by the most appropriate service or agency. This may prove difficult, as often criteria and thresholds for services can act as barriers to accessing appropriate supports and interventions. At a local level, pathways should be developed to ensure the child is connected to the right service at the right time; this should avoid any behaviours escalating before support becomes available.

7. EEI in Practice

7.1 Sufficiency of evidence

Police Scotland is responsible for examining the evidence in each case and ensuring that there is sufficient evidence to proceed with EEI. This does not mean that there must be an admission from the child to police. Children and families' initial responses to police may be emotionally charged, affected by shock or stress. As mentioned earlier, an initial denial is common. However, a different agency approaching at a later point may receive a more engaging and open response.

The child must be charged in person and as appropriate in the presence of parents or a legal guardian. Every child that is charged has a right to prompt and direct information of the charges as per [UNCRC Article. 40\(2\) \(b\) \(ii\)](#). The United Nations Committee on the Rights of the Child (2007) outlines that this right also relates to when authorities address the case through processes other than judicial proceedings; the child must be informed of the charge that may justify this approach. This is part of the requirement of Article 49 (3) (b) which states that legal safeguards should be fully respected: "Authorities should ensure that the child understands the charges, options, and processes. Providing the child with an official document is insufficient and an oral explanation is necessary. Although children should be assisted in understanding any document by a parent or appropriate adult, authorities should not leave the explanation of the charges to such persons" (United Nations Committee on the Rights of the Child, 2019, p. 9).

7.2 Suitability of offence for EEI

Following an offence, it is the responsibility of Police Scotland to identify cases suitable for discussion/referral to EEI. All offences should be considered for EEI unless they are excluded under:

- [Lord Advocate's Guidelines](#) to the Chief Constable on the Reporting to Procurators Fiscal of Offences Alleged to Have Been Committed by Children
- Crown Office Framework on the Use of Police Direct Measures and Early and Effective Intervention for 16- and 17-year-olds (not published); or

- Police deem a referral to SCRA is necessary as compulsory measures may be required

Whilst EEI is a response to alleged offending or concerning behaviour as a potential indicator of need, decisions made as to the suitability of EEI are primarily based on the gravity of offence and whether compulsory measures of supervision may be required. Where referral to EEI is not offence-based, then referrals may come from a range of sources; it is important at the local level to ensure multi-agency partners are familiar with the referral pathways and contacts.

7.3 Notification

The police should explain to a child and their parent/legal guardian (where appropriate) that their case may be referred to appropriate local partners. They should be made aware of what this involves, how long it should take, and what information may be shared.

- If under 16 parent/carer must be notified
- Consent is not required for Police Scotland to make an EEI referral. However, consent is required from any child aged 16-17 who is not subject to a CSO
- Initial denial of the alleged offence should not prevent the matter being referred to EEI
- Attitude of the child to police/parents should be recorded where possible
- The child and family/legal guardian should understand what EEI entails
- If the child is subject to a CSO or has a Child's Plan, the lead professional must be notified of the EEI referral

7.4 SCRA check

If a child has been referred to a local EEI process, and it becomes known that they are subject to an open referral with SCRA, then the offence must be forwarded to SCRA to ensure they have all available information to aid their decision-making. However, this would not preclude an offer of support being made to the child and their family in the interim whilst the formal process is followed. Checking to establish whether a child is an open referral to SCRA or subject to a CSO is permissible if done in accordance with data protection legislation.

7.5 Multi-agency group

Where multi-agency meetings are in operation, these should be held at minimum fortnightly to fulfil the aims and objectives of EEI (ten working days from the child being charged to meeting). Each local EEI arrangement should ensure that the appropriate range of agencies is involved, relative to their knowledge of the child. Those in attendance at these meetings should have the necessary level of authority to a) provide agency information to the meeting and b) receive referrals from the meeting. EEI guidance states that decision making "should also include the child and parents either physical attendance or clear expression of their views and decision whether or not to participate" (Scottish Government, 2021, p. 6).

Good practice, in line with Article 12 of the UNCRC, must include discussion with the child and their parent/legal guardian as soon as possible following receipt of referral to EEI, for reasons already outlined in this section. The outcome of any multi-agency meeting should be discussed with the child and their parents as soon as possible, preferably in person, and within five working days.

7.6 Practitioners

Practitioners must use their professional judgement when sharing information between agencies and ensure that the information shared is proportionate and relevant to the wellbeing concern that's been identified. Practitioners undertaking interventions with children must ensure the following:

- There is a variable range of content that can be utilised to focus on the areas of need identified
- Consideration is given to how long the intervention sessions run for, and what the child can tolerate
- A flexible approach to adapting the content and format of sessions

Where a child has been re-referred to EEI it is important to make sure further intervention does not merely repeat the same material and establish what, if anything, got in the way of it being meaningful previously. Previous disengagement should not prevent EEI.

In addition, interventions should set realistic expectations: children will not always be able to make good choices in all situations, especially when less positive influences are more immediate. Where similar behaviour has resulted in re-referral, it may be helpful to explore the barriers the child experienced when putting into practice any new skills or learning.

7.7 Decision making

Decisions regarding children referred to EEI should be made in a timely manner, if they are to be effective. The assessment of the child's needs must be based on the GIRFEC national practice model. It should be holistic, and needs-led, while also being proportionate to the gravity of the alleged offence and level of concern regarding the child.

If the disposal of the EEI process is that compulsory measures of supervision are required, the police should submit the Standard Prosecution Report (SPR2) to SCRA with additional information from EEI advising the reasons for the referral. This should be done within five working days. A disposal to SCRA from EEI does not preclude the offer of support to the child and family if appropriate. If referral to SCRA is required on welfare grounds solely, then agency processes should be followed, or the referral should be made by the lead professional if there is one allocated to the child.

A child should not be re-referred to the multi-agency group for the same alleged offence, even if they have declined to engage with services offered. If the relevant agency has concerns over the wellbeing of the child, then they should follow their agency's protocols in deciding whether further referral is required to social work services, or SCRA, if compulsory measures of care are necessary.

7.8 Communication

Good practice would be to gather the views of the child and their parent at the earliest opportunity regarding the alleged involvement of the child in the matter referred to EEI. [UNCRC Article 12 \(1\)](#) states that the child has the right to express their views freely in all matters affecting them; these views should be given due weight in accordance with the age and maturity of the child. UNCRC Article 13 provides the child with the right to receive and impart information in a made of their preference in order to form and express views .Consideration should be given to the age and maturity of the child, and also any Speech Language and Communication Needs (SLCNs) impacting the child, and what guidance or supports may be required for them to access these rights – see [Section 6](#) of this guide for further information. Inclusion in the multi-agency meeting would also be in line with ensuring clear and transparent processes; children and families should also be given the opportunity to discuss the outcome of any meeting where they have declined to attend. The child and their parents should be notified, preferably in person or in writing, of the EEI outcome within five working days of the decision.

The outcome of the EEI process should also be reported to the person harmed; information regarding the specific child or children involved should be excluded. Instead, it should explain the EEI process and possible outcomes, unless the provision of the information would be detrimental to the best interests of the child concerned (or any other child connected in any way with the case). This requires timely information being fed back to the Reporting Officer. It is the responsibility of Police Scotland to ensure this information is passed to the Reporting Officer.

7.9 Information Sharing

Ensuring EEI complies with [Data Protection Act 2018](#) is crucial; the [Information Commissioners Office](#) (ICO) provides a range of guidance to support adherence with the legislation. A review of EEI processes against the legislation and in consultation with the appropriate service/agency legal representative or Data Protection Officer is recommended.

7.10 Consent

[General Data Protection Regulation \(GDPR\)](#) defines consent as “any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.”

The [Data Protection Act 2018](#) and [GDPR](#) are clear that consent should only be sought where it is the most necessary legal basis for sharing information and there is a genuine choice. Where information will be processed irrespective of consent then it is not appropriate to seek consent, as it is misleading and unfair. Where there is a clear position of power, then such bodies (e.g. public bodies) should avoid relying on consent unless they can evidence that it is freely given. As stated within this guidance, checking your current practice against Data Protection Act 2018 for information sharing and consent practices will ensure

adherence to the legislative requirements. The Information Commissioner's Office provides detailed information in relation to GDPR and [consent](#).

8. Conclusion

EI can provide opportunities to ensure children receive the right help at the right time, in a proportionate and holistic manner, avoiding labelling and stigmatisation. It is important that these opportunities recognise the individuality of each child and their context. Responses should be flexible and adapted to the needs of the child, rather than fitting the child into available services. Sometimes the most appropriate response is no response. On all occasions, EI should be a clear and transparent process that upholds rights and build strengths. Collaborative working between and across agencies, as well as the meaningful inclusion and participation of children and their families, must be at the core of EI practice if it is to embrace the challenge of being a rights-respecting process going forward.

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