

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

Section 2: The roles and responsibilities of key partners

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Children and Young People's
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1. Introduction

Supporting children and young people in conflict with the law in Scotland involves many professionals, agencies, and organisations. This section gives an overview of who is involved, in what capacity, and how they work. In Scotland, the response to children and young people in conflict with the law is framed by [Getting it Right for Every Child](#) (GIRFEC), the [Whole System Approach](#) (WSA), the [Standards for Those Working With Children in Conflict with the Law](#) (Scottish Government, 2021). These prioritise early intervention, keeping children out of formal systems whilst responding to need and reducing harm through building strengths and the capacities of children, and the adults in their lives. It is also important to recognise at the outset of this section that all professionals, regardless of their organisation, have a role in, and responsibility for child protection [National Guidance for Child Protection in Scotland](#) (Scottish Government, 2023) including Initial Referral Discussion (IRD) and the expectation that exploitation is treated as abuse, and children's rights overseen by the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#).

Children in conflict with the law are children first. Their behaviour and understanding is shaped by relationships, environments and experiences which are interconnected. They may experience harm in different contexts (family, peers, community, online, self) while also causing harm to others, through aspects of their behaviour. National Child Protection Guidance (Scottish Government, 2023) explicitly requires that assessment and planning triggered by a child's harmful or distress behaviour has regard for the child's wellbeing as a primary consideration, while still attending to the needs of those harmed.

Not all agencies work directly with children and families but they all impact children's lives through the decisions they make, the thresholds they apply, and how they interpret information. Frontline interactions shape children's experiences of the system and decision-making functions shape children's pathways through it. Both carry equal responsibility for ensuring responses are proportionate, rights upholding and developmentally appropriate.

No single agency can provide the scaffolding required to meet the range of needs children and families may have. The effective responses depend on how well agencies understand their role, how those roles connect, and how they act together when their roles intersect, in real time. This requires a system that is relational, responsive and coordinated, not procedural, threshold driven and fragmented (Scottish Government, 2024).

This chapter focusses on providing an overview of the system and how the roles and responsibilities of each partner can provide effective responses that support children, and their wider communities to thrive.

1.1 How the system connects

Even though services have different roles and levels of involvement with children, young people and their families they need a shared baseline of understanding that children and young people are developmentally different from each other as well as from adults, and that systems and processes must adapt to them, not expect them to fit into adult processes. Without this shared foundation, one service may be trying to engage, explain, and build trust,

while another uses language, expectations, or decisions that a child cannot understand or meaningfully respond to.

Different agencies need to understand enough about each other's role to connect their work. This understanding must shape how services communicate, involve children and families, make decisions, and link their work together. This includes being clear about roles, making sure information is explained in ways that children and their families understand, and maintaining a coordinated approach across services. If that understanding is not shared, services may coordinate professionally but still feel fragmented and confusing to the child and family. Thus, services need to connect in ways that create a joined-up experience for the child and family, not just joined up processes for professionals.

1.2 When systems split

When systems split, it is the system itself that pulls in different directions. This is often triggered when one part of the system feels their professional expertise and views are dismissed, undervalued or misunderstood. Where there is no opportunity to explore differences then disagreements can quickly become positional. Relationships can become strained, with defensiveness, challenge, and drift replacing purposeful collaboration (Munro, 2011);(Frost, 2005). Time is then spent navigating the system rather than responding to the child, decision-making can become reactive rather than grounded in shared understanding (Care Inspectorate, 2023).

When this happens, the system may be mirroring the experiences of children and families of not being seen, heard, or valued. This can reinforce a sense that no-one is holding the full picture of the child's life. Decisions can feel done to rather than with, particularly where processes are complex and their involvement and influence is limited (Independent Care Review, 2020; Lightowler, 2020)

If this is not recognised then the system can unintentionally recreate the conditions it is trying to respond to, disconnection, lack of trust, and reduced agency. Bringing services back together around the shared principles ensures a shared understanding of clear roles, and meaningful involvement and not just about coordination. It is about improving outcomes, strengthening relationships, and that responses are experienced as fair, understandable, and supportive for all involved.

2. Continuum of support and protection

Children do not enter services at a fixed starting point, and nor do they move through them in a straight line. They may come to the attention of services at any point for different reasons such as wellbeing concerns, experiences of harm, exploitation, or alleged offending behaviour.

A continuum approach recognises that children can enter at any point and move across and between points on the continuum in either direction. It can also reflect that children will experience setbacks and progress with their responses being influenced by understanding, context and relationships. Across all responses, the same principles must apply. The level and intensity of response adapts; the values underpinning do not. This reflects child-friendly justice guidance which emphasises preventative and reintegrative approaches, and with UN

child justice guidance which positions diversion from formal responses and alternatives (Council of Europe, 2010).

This is important as systems can drift into thinking early support, targeted intervention, child protection, and justice responses are separate types of work with different underlying principles. They are not. Whilst the processes may differ, they are different expressions of the same shared responsibility, different points on the same continuum of care, protection, accountability, and support.

A continuum approach means that early support is not less important than formal intervention. Protection begins at the earliest point of concern, not only at point of crisis. Formal responses are part of the same continuum. This is a critical message for services: we do not change our values when risk of harm increases. We strengthen, coordinate, and intensify the response when needed, but the principles remain the same (Council of Europe, 2010; Scottish Government, 2023). Child protection in Scotland is a whole system responsibility with Scottish Government setting the policy, legislation and statutory guidance which directs how it is implemented. The responsibility for local implementation is provided through the oversight and direction of Child Protection Committees (CPCs) in multi-agency policy, practice and governance. [CPCScotland](#) brings together all local authority CPCs and the collective wealth, knowledge and expertise from the multi-agency child protection community. How local partners work together to deliver the services needed to support children, young people and their families not just within child protection responses but taking a holistic approach as directed by GIRFEC is the described in the Children's Services Plan (CSPs).

Even with the legislation, frameworks and guidance children involved in justice processes and systems often face greater challenges in having their rights recognised and upheld (Lightowler, 2020). This means professionals must actively uphold and demonstrate those rights across practice and in every decision. In accordance with Article 3. of the UNCRC and s.25 UNCRC (Incorporation) (Scotland) Act 2024, the child's best interests must be a primary consideration in all professional decision-making.

2.1 Core principles applied consistently

Children's rights always apply as all children have the right to protection, participation, fairness and dignity. These rights are not reduced by the system that responds to them, whether this is child or justice orientated.

Child protection is a lens and not a threshold used to determine whether a situation meets a threshold for action. It is about whether a child may be experiencing harm, be at risk of harm, causing harm, and proportionate responses. Protection starts at the earliest point of concern.

Responses must be proportionate and timely with the minimum intervention necessary to keep the child and others safe, while meeting needs and promoting development. This includes acting early to prevent escalation and avoiding both over and under responding.

The whole child must be understood in the context of their lives, including relationships, experiences, family context, peer influences and community environment whether online or physical.

Working together and not in silos is critical as no single agency can meet the needs of children in conflict with the law. Effective responses depend on shared understanding, lawful information sharing, and coordinated action around the child and family.

Working with children and families to make sure they are involved in decisions that affect them, even where influence is constrained. This needs clear communication, meaningful participation, and understanding that engagement is shaped by experiences, past and current.

Balancing protection, support and accountability require holding at the same time the harm aspects of a child's behaviour may cause as well as their being at risk of harm. Responses must be honest about this. Harmful or distress behaviour can only be reduced in the long-term by building the skills and capacity of the child and the support systems around them to meet needs in ways that are at the very least, unharmed. This is not about the rights of the individual having more importance than the rights of others but holding both together to justify and evidence proportionate and appropriate action.

Be clear about responsibility and action at all stages. It must be clear who is responsible for what, when, what is happening now, and what will happen next. This includes being accountable to the child, the family, professional partners, and the wider public.

The following set of questions will ground professionals in holding the child within any process and ensure they are central:

- What is going on for this child and their family?
- What do we know, and what do the family and child understand? What do we still need to know?
- What is a proportionate response?
- What needs to happen today to support and protect this child, their family, and others?
- Who is responsible for what now, including support to the family?
- Who else needs to be involved, and around the child and family?
- How are we working together with the child and family, and sharing information?
- What will we do if we do not agree, and how do we keep the child and family at the centre?

These questions matter because they keep the attention on the child, the family, and shared action. They stop systems slipping into process without purpose.

2.2 National leadership, improvement and support

National partners provide the framework that shapes how Scotland responds to children in conflict with the law. This work must remain closely connected to what is happening in local areas. Without this connection, there is a risk that inconsistency increases and outcomes vary across Scotland.

These partners play a critical role in creating the conditions for coordinated rights-upholding responses across Scotland to children and young people in conflict with the law.

2.3 The Scottish Government

The Scottish Government is responsible for setting the national direction as to how Scotland responds to children in conflict with the law. This includes establishing legislation, national policy and statutory guidance to embed children's rights across all aspects of the work. This responsibility includes:

- Establishing the legal framework for child protection, children in conflict with the law and children's rights.
- Embedding UNCRC requirements across legislation and policy.
- Providing direction on how services should respond to children in conflict with the law.

Their role is not only about setting the direction but making sure that what is set nationally can be understood, applied and sustained in practice.

The Scottish Government relies on insight from practice, research and improvement activity to shape policy, while partners rely on national leadership to provide clarity and direction.

The Scottish Government's commitment to children in conflict with the law is long standing. The [2024-2026 Vision and Priorities](#) (currently being updated) reaffirm this, placing a clear emphasis on a rights-based approach centred on understanding, participation and engagement, and strengthening the use of data and evidence to inform practice.

The commitment has been further strengthened through the [2022 Vision for Justice](#) and the introduction of the [Children \(Care & Justice\) \(Scotland\) Act 2024](#). A key early change, implemented in September 2024, was ending the use of Young Offender Institutions (YOI) for under 18s. As the remaining provisions are implemented, further changes will follow, including:

- Increasing the age of referral to the Children's Reporter for all under 18s
- Extending the legal definition of a child to 18 years.
- Introducing wider reforms aimed at improving outcomes for children and young people.

Taken together, these changes seek to embed further the WSA, strengthening responses that are rights respecting, developmentally informed and trauma responsive across the system.

Article 40 requires a distinct, child centred justice system. This means:

- Keeping children out of formal systems wherever possible.
- Supporting their development, and inclusion within their wider communities and society.
- Treating prosecution and court as exceptional and only used where demonstrably necessary.

The responsibility of the Scottish Government is to oversee that this is realised in practice, not just stated in principle. It must actively shape what government does at every stage.

This includes leading and enabling long-term system reform across care and justice. Developments such as Bairns Hoose and the Scottish Child Interview Model (SCIM) reflect a shift towards trauma-informed, coordinated responses for children affected by harm, including those whose behaviour may have caused harm. The Pathfinder Phase (2023-2027) will inform national roll out and future system design.

This sits alongside wider system reform, including [Reimagining Secure Care](#) and the redesign of the Children's Hearings System. Together these aim to create that more flexible, relational and rights upholding system that can respond to children's needs across the continuum, rather than through fragmented processes.

Significant legislative change has further strengthened this direction, though challenging for services to deliver. The Children (Care and Justice) (Scotland) Act 2024, and the UNCRC (Incorporation) (Scotland) Act 2024 alongside the passing of the Children (Care, Care Experience and Services Planning) (Scotland) Act on the 19 March 2026, and aspects of the Crime and Policing Bill currently pending and due for implementation in Autumn 2026 with aspects being enforceable in Scottish Law, provide collectively reinforced expectations that children are responded to through welfare based, rights upholding approach, even where their behaviour causes harm. These developments also align with the ongoing implementation of the Promise. Taken together, they provide a clear opportunity to strengthen Scotland's long-standing welfare approach to consistently apply in practice.

2.4 Youth Justice Improvement Board

The Scottish Government [Youth Justice Improvement Board promotes a culture of improvement in youth justice at a national level](#) (YJIB), through providing national leadership and oversight for youth justice. It was created in 2015 to provide a strategic focus for all work relating to children in conflict with the law. The Board is chaired by the Scottish Government and brings together senior representatives from a wide range of organisations, including Police Scotland; the Convention of Scottish Local Authorities (COSLA); Education Scotland (ES); SCRA; COPFS; CYCJ; Children's Hearing Scotland; Community Justice Scotland; health and third sector partners. The Board meets at least four times a year and met for the first time in October 2015.

2.5 Youth Justice Implementation Groups

The Youth Justice Implementation Groups are multi-agency groups tasked with translating the national priorities within the Scottish Government [Vision and Priorities](#), accompanying [action plan](#), as well as any additional points identified by the YJIB into practical improvement work. They focus on how policy is delivered in practice, strengthening systems, workforce capability and capacity, and consistency across Scotland. Two core groups lead this work.

Advancing the Whole System Approach Implementation Group (AWSAIG)

Its role is to:

- Maintain the integrity of the Whole System Approach
- Ensure children are diverted from formal systems
- Drive the development of community resources that can safely meet children's and community needs, reducing reliance on restrictive settings.
- Support extension of the WSA beyond 18.
- Improve data, workforce capability and system co-ordination

At its core this group is about making sure the system fits the child, rather than expecting the child to fit the system by providing the right help, at the right time, in the least restrictive way, through coordinated multi-agency responses.

Children's Rights Implementation Group (CRIG)

The Children's Rights Implementation Group focuses on how children's rights are upheld in practice. Its role is to:

- Ensure rights are actively applied in decision-making.
- Strengthen meaningful participation.
- Improve access to support, including for trauma and communication needs.
- Remove barriers that prevent children from understanding or engaging with systems.

At its core this group is about making sure the system works in a way that children experience as fair, understandable and rights-respecting.

Sub-Groups and Shared Areas of Focus

The CRIG and AWSAIG work across shared areas where both rights and delivery systems must align.

CRIG current sub-groups focus on areas where children's rights are at risk of not being fully realised in practice:

- Speech, Language and Communication Needs (**SLCN**)- improving recognition of communication needs and ensuring children can understand and engage with processes.
- Children and Young People in Court- improving accessibility, participation and the overall experience of children and young people within court settings and the associated procedures.

AWSAIG current sub-groups focus on understanding where the system is getting stuck and strengthening the workforce to respond with confidence and competence:

- **Data**- aim of this group is to establish clear and robust multi-agency data collection and reporting to understand children's journeys through the system, identify where change is needed, and evaluate the impact of decision making and interventions.
- **Workforce Development**- this group was established in 2025 to identify the skills and knowledge all partners need to deliver policy and practice in rights-upholding, developmentally and trauma-informed ways. This includes anticipating emerging needs as the landscape evolves, and identify how to provide coordinated information, training and learning opportunities at both strategic and operational levels. This supports the effective implementation of change, while ensuring that learning from practice informs future development.

There is also a joint sub-group on **children in police custody**, reflecting the need for both groups to work together at key points of system contact. This ensures that early responses are both operationally effective and rights upholding.

Further work focuses on community confidence, balancing public understanding with rights-based approaches. This includes ensuring services uphold children's rights in line with UNCRC and Scottish Government legislation and monitoring how these are applied in practice.

2.6 Children and Young People's Centre for Justice (CYCJ)

[CYCJ](#) is a boundary spanning national centre for excellence, primarily funded by the Scottish Government and based at the University of Strathclyde. Its role is to ensure Scotland's approach to children and young people in conflict with the law is [rights-respecting](#), developmentally informed and grounded in evidence.

CYCJ is not responsible for delivering services directly, but to strengthen how the systems work around children and young people, and their families. It does this by connecting policy, legislation, guidance, research, participation, and practice so that national direction translates into meaningful action and learning from practice shapes future policy and reform.

[CYCJ's Strategy](#) for 2025-28 has three overarching priorities:

1. **System Change** – we work to influence care and justice systems and national policy and legislation to ensure that they are rights respecting, participatory and accountable, focusing on prevention, the development of strengths & resilience, and recovery from harm

2. **Community** – we promote the importance of responding to children and young people in conflict with the law with compassion, supported by and included within their own communities

3. **The adults around the child** – we support families and professionals to develop the values, knowledge and skills required to align with international best practice

CYCJ has a responsibility to amplify the voices of children, young people, and families and create opportunities for their voices to be in the spaces that can influence change. This means not only listening to their experiences but helping them share and use their experiences in ways they are comfortable with to inform national discussions, service development, and shaping of future approaches.

Through this role CYCJ helps to create stronger links between what Scotland says it wants for children and what children actually experience. Without this function, there is a greater risk that policy and practice drift apart, learning remains siloed, and opportunities to improve are not maximised.

2.7 The Children and Young People's Commissioner Scotland

Since 2004 the [Commissioner for Children and Young People in Scotland](#) has had a role in promoting and protecting children's rights. This includes supporting children and young people to understand their rights and raising awareness of what they can do if those rights are not being upheld.

Under the [Children and Young People \(Scotland\) Act 2014](#), the Commissioner has the power to examine how well services are upholding children's rights in practice. This includes whether children's rights, interests and views have been properly considered when decisions are made about them. This equally applies to children and young people who have come into conflict with the law and reinforces a clear expectation for all agencies that children's rights must be actively considered, evidenced, and upheld in every decision that affects them.

2.8 Community Justice Scotland (CJS)

[Community Justice Scotland](#) is the national body responsible for supporting improvement in community justice across Scotland. Its role is to identify and promote effective, evidence-informed practice, build capacity across partners, and support a coordinated approach to preventing and reducing harm and offending behaviour.

Community justice is a community-first model of justice, where people who have broken the law are held to account and supported to reconnect and contribute to their communities. It means that some people, where it is safe to do so, receive community-based sentences.

And the evidence emphatically shows that community justice can help people stop breaking the law again which leads to fewer victims and safer communities. Community Justice Scotland works closely with partners across the youth justice system, including local authorities, social work, Police Scotland, SCRA, COPFS and the third sector. The CYCJ works in partnership with CJS in a number of areas, most notably Restorative Justice. As Scotland increasingly moves towards extending the Whole System Approach to young people aged 18-15 years old, there will be further opportunities collaborative policy and practice development between CYCJ and CJS.

2.9 National Youth Justice Advisory Group (NYJAG)

The National Youth Justice Advisory Group (NYJAG) is a national forum bringing together local authority and third sector managers with responsibility for youth justice. It supports the development and promotion of effective practice with children and young people in conflict with the law.

Membership reflects the range of services across Scotland and includes representation from key partners such as SCRA, Police Scotland, COPFS and Community Justice Scotland. NYJAG plays an important role in connecting local practice with national policy and strategic direction. It provides space to:

- Share learning and experiences from across Scotland.
- Identify challenges and emerging issues in practice.
- Inform and influence national policy and priorities.

This ensures that policy development is grounded in real-world practice, and that local areas are supported to align with national expectations.

The group is guided by an Executive Group, including representatives from NYJAG, the Scottish Government and CYCJ. This strengthens the connection between policy, practice and improvement activity. The chair of the NYJAG Executive is also a member of the YJIB, ensuring a direct link between local insight and national leadership.

2.10 The Promise

Following the conclusion of the Independent Care Review in 2020, [The Promise](#) implementation body was set up to drive the changes outlined and mandated within the Independent Care Review's final report (also named [the promise](#)). With an expected lifespan of ten years, The Promise aims to support varied actors across Scotland to promote practice, policy and culture, in order that Scotland's children and young people grow up in a country that is loving, safe and respectful, and which allows them to realise their full potential. Whilst the work of The Promise encompasses a broad range of activities that do not directly impact upon children and young people who come into conflict with the law, at times it will make a direct impact upon the youth justice landscape,

The following objectives were set out in the initial plan:

- The disproportionate criminalisation of care experienced children and young people will end
- Sixteen- and 17-year-olds will no longer be placed in YOIs for sentence or on remand
- There will be sufficient community-based alternatives so that detention is a last resort
- Children who do need to have their liberty restricted will be cared for in small, secure, safe, trauma-informed environments that uphold their rights.

In May 2023, The Promise Scotland published the [Hearings for Children](#) redesign report calling for transformational change to the CHS. The recently passed [Children \(Care, Care Experience and Services Planning\) \(Scotland\) Act 2026](#) contains a number of provisions that, once implemented, will create a more efficient and flexible Hearing system that is more responsive to the needs of children, further protecting their rights when important decisions are being made about their care and potential deprivation of liberty. Of most relevance is the new provision that will provide powers for the police to process an arrested child in a place other than a police station. This represents an important step towards delivering a truly child-centred response to children in conflict with the law, many of whom are care experienced.

The [plan](#) for the full implementation of the promise by 2030 was published in 2024. It has a section specifically related to children in conflict with the law, summarised as follows:

- By 2030, the interactions children and young people have with any part of the justice system will champion and uphold their rights, wellbeing and participation. It will recognise impact of trauma, abuse and neglect on children and families: the
- Care experienced children and young people will not be criminalised, with a progressive, rights-based youth justice approach, building on the Kilbrandon principles (needs, not deeds), a reality for all.
- The workforce will be supported to interact with and treat children and young people in a relational way, rather than interaction being driven by process and procedure.
- Criminal cases involving children and young people will be handled in environments that uphold their rights and support meaningful participation in proceedings, not in unsuitable, traditional criminal courts.
- Children and young people will receive appropriate, proportionate, age-sensitive, and trauma-informed support.
- Every effort will be made to implement the Kilbrandon approach to youth justice, by keeping children within the Children's Hearings System. If cases must take place in formal criminal courts, disposal will occur within the Children's Hearings System.
- The minimum age of criminal responsibility will be in line with the most progressive global standards.

- In line with UNCRC, 16 and 17-year-olds on remand and who have been sentenced will be recognised as children and, if necessary, placed in Secure Care rather than Young Offenders Institutions, never the adult prison estate. Young people who turn 18 while in Secure Care will not be automatically transferred to a YOI.

In December 2025 the Promise published 25 [Route Maps](#) that together will ensure that all key stakeholders are clear on what must be delivered for the promise to be kept, who is responsible, when it should be done, and how the maps depend on each other for progress. Of most relevance is the '[Justice](#)' route map that was developed by the CYCJ in collaboration with partners. Work is ongoing with the promise and other key partners to develop more detailed milestones and actions to ensure that all aspects of the route map are achieved by 2030.

3. Local, strategic and operational delivery

Local partners are responsible for delivering services and responding directly to children and families. This is where national policy, legislation and guidance are translated into day-to-day practice.

3.1 Local Authorities

Local authorities hold overarching responsibility for planning, delivering and coordinating services for children and young people in their area. They have statutory duties to:

- Protect and promote the welfare of children.
- Support children in need, those who are looked after, accommodated, and care leavers.
- Ensure deliver of GIRFEC, promoting wellbeing and supporting children to reach their full potential.

Local authorities may deliver services directly or commission services from the third sector. They also have responsibilities to local communities in relation to offending behaviour and prevention through wider partnership arrangements. Local authorities provide the framework within which all local services operate. Without this coordination there is a risk of gaps in provision with inconsistent responses and escalation which may have been preventable with earlier support.

3.2 Social Work

Social work fulfils the local authorities' statutory responsibilities for children and young people in need of care, protection, assessment and supervision within the GIRFEC and National Performance framework (Scottish Government, 2022a). Within this framework social workers will often act as the [lead professional](#) (Scottish Government, 2022c), coordinating the child's plan and multi-agency response. Social work must respond across the full

continuum, with the aim of supporting children and families early, reducing harm, and maximising diversion from formal systems wherever possible. Practice must reflect the child's developmental needs, as well as their family and wider context whilst ensuring to build strengths as well as reducing needs.

Local authority delivery models vary. Some areas have specialist teams, while others integrate responses across children and families or justice services. Regardless of structure, responses must remain coherent and child centred.

Assessment and planning

All children referred to a Children's Hearing or court on offence grounds should receive a comprehensive, holistic assessment, guided by GIRFEC. This must involve the child and their family drawing on information from all relevant partners and considering all aspects of the child's life. Any assessment must be both rights-informed and needs led as well as focused on reducing harm and supporting development. This includes:

- considering whether statutory measures are required, ensuring these are proportionate
- using the least restrictive response necessary
- clearly evidencing how the child's views have influenced decisions
- identifying how strengths and support networks can be built on

Structured Professional Judgement (SPJ) approaches support this analysis, helping practitioners understand behaviour and identify what will support change.

Working across systems

Social work operates across child protection, children's hearings and criminal justice processes. This requires practitioners to have, or access, knowledge across both children's services and justice systems. Treating these as separate areas leads to fragmented responses and risks failing to uphold children's rights.

The Child's Plan

Where additional support is required, a [Child's Plan](#) (Scottish Government, 2022b) must be developed. This must be completed with the child and family bringing together all agency involvement into one coordinated plan and clearly set out what support should be provided and by whom.

All children involved in hearings or court processes should have a single, integrated plan, not multiple disconnected plans, informed by an appropriate assessment tool.

Connection to other partners

Social work sits at the centre of multi-agency practice and depends on education and health to inform assessment, police, SCRA and COPFS for decision-making processes related to

offending behaviour, and third sector partners to contribute to assessment and deliver support.

Without these connections assessments are incomplete resulting in plans that are likely to not be as effective as they could be with the potential for responses to escalate unnecessarily.

3.3 Education Services

Education services are central to supporting children's development, wellbeing and inclusion. They are often the service with the most consistent contact with children and therefore play a key role in early identification of changes that may indicate concerns, proactive activity to promote prevention and provide ongoing support within existing relationships and spaces. Education must create safe, inclusive environments that support engagement in learning as well as opportunities to build relationships that promote resilience and belonging. Evidence shows that positive school experiences are a strong protective factor. Conversely, exclusion and disengagement are linked to adverse outcomes for children and increased likelihood of involvement in offending behaviour.

Responsibilities

Education services must identify concerns early and respond proportionately, actively contributing to any local early intervention and multi-agency processes. Where they are the sole agency involved, they must initiate and coordinate the Child's Plan. When other services are involved, they must contribute to all multi-agency planning, supporting assessment and understanding of behaviour, including risk of harm. They must also meet duties under Additional Support for Learning legislation, ensuring children's needs are understood and supported.

Connection to other partners

Education must provide critical insight into children's behaviour, their relationships with peers and family, as well as their developmental abilities and their communication style to facilitate and promote their understanding and engagement. When education practitioners work closely with multi-agency partners early signs are recognised and responded to proportionately, with the services understanding how to engage with the child meaningfully and leveraging strengths to develop into protective factors.

3.4 Health services

Health services are a key partner within GIRFEC, supporting children's physical, emotional and mental wellbeing. Health services contribute primarily through universal services that support early identification and prevention whilst providing targeted support for specific needs including mental health, speech, language and communication, neurodiverse conditions and substance misuse.

They also play a key role in supporting children subject to compulsory supervision orders and looked after by the local authority, children experiencing vulnerability and in some situations those children whose behaviour presents a risk of serious harm.

Responsibilities

Health services must provide access to appropriate assessment and intervention sharing relevant and proportionate information to inform decision-making. They also may have a role in contributing to early interventions, and multi-agency decisions and processes as well as supporting holistic assessments and reduction of risk of harm. Health services provide essential understanding of development, trauma, and wellbeing. Without their contribution children's needs may go unmet as understanding of the child is incomplete and interventions are less effective.

3.5 Third Sector Organisations

Third sector organisations provide a range of vital services and support to both children, young people and their families as well as other partners. They provide services at every point across the continuum from early intervention and prevention through to the most serious harm. They are often advocates for individuals prioritising participation and inclusion, providing specialist assessment and intervention when it is not available within statutory services. They also address wider factors linked to harm and offending behaviour through practical supports that can aid addressing structural inequalities such as housing, employability, substance use as well as family support. Third sector organisations work alongside local authorities, health services and other justice partners. Those involved in the justice sector are represented through the [Criminal Justice Voluntary Sector Forum](#).

Despite their importance, the third sector faces structural challenges, including short-term funding, competition between organisations and unequal power relationships with statutory partners (The Robertson Trust, 2012). These factors can limit sustainability, consistency and long-term impact.

4. Justice and decision-making functions

This section focuses on the partners responsible for formal decision-making when children come into conflict with the law. These roles sit at critical points in the system. Decisions made here determine whether a child is supported within welfare-based systems, diverted from prosecution or escalated into formal justice processes. These decisions have extreme significance for children and young people and must be proportionate, necessary and grounded in children's rights and development.

These decisions do not sit separately from the preceding roles and responsibilities as they and often depend on the quality of information sharing, multi-agency understanding and connection as well as credible assessments.

4.1 Police Scotland

Police Scotland are often the first point of contact when concerns arise about a child's behaviour. They can act as a key gateway into both care and justice systems. Police

Scotland must protect the public, investigate potential offences and respond to children in a way that reflects their age, development and rights. Should a child be alleged to have committed an offence, they have a range of options available, including:

- direct police measures
- referral to EEI processes
- reporting to SCRA
- reporting to COPFS

This flexibility is essential to ensure that responses are proportionate and appropriate.

Children's rights in police contact

As gatekeepers to the system, police interactions must uphold children's rights, including:

- access to legal advice
- involvement of parents or carers where appropriate
- use of arrest and custody only where necessary
- ensuring dignity and developmental needs are respected

4.2 Scottish Children's Reporter Administration (SCRA)

SCRA is responsible for determining whether a child requires compulsory measures of supervision through the Children's Hearings System. Its focus is on children who are at risk of harm or whose behaviour indicates a need for care and protection. The Children's Reporter must:

- investigate referrals
- gather information from all relevant agencies
- determine whether grounds for referral are met
- decide if compulsory measures are required

This requires that they balance the evidence in relation to any concerns, the child's needs, and the level of risk of harm with decisions being based on:

- **balance of probabilities** for care and protection grounds
- **beyond reasonable doubt** for offence grounds

Where there is insufficient evidence for statutory intervention, other responses such as voluntary support remain important.

4.3 Children's Hearing System (CHS)

The Children's Hearing System is Scotland's primary forum for making legal decisions about children who require care, protection, for any reason and these concerns indicate a need for compulsory measures. It is grounded in the Kilbrandon principles (Asquith, 1995), recognising that children who cause harm through aspects of their behaviour are often also experiencing or experienced harm. Irrespective of that, all children should be responded to through a welfare, rights-upholding system.

The Children's Hearings, supported by the SCRA and Children's Hearings Scotland, sit at a critical point where concerns about wellbeing, protection and the cause and impact of harm come together within a legal and decision-making framework.

Role and Responsibility

The CHS is responsible for determining whether compulsory measures of supervision are required in relation to a child and, if so, what should these be. This includes:

- Making decisions that protect the child and others from harm.
- Setting and reviewing conditions that support wellbeing, safety and development.
- Ensuring decisions are proportionate, necessary and in the child's best interests.

Panel members are lay people, who receive significant training for their role. They must consider all available information, including children's views, family context, and the assessment and analysis provided by partners. Hearings bring together different agency perspectives into a single decision. Their effectiveness depends on the quality of information shared, a shared understanding of the child's context and, the extent to which children and families are supported to participate. Decisions must be understandable, relevant, and connected to the child's life.

Interface with the Court

The CHS operates alongside the court and there are points where these systems intersect. If grounds are not accepted at a Hearing, then they must be determined by a Sheriff. Also, when a child is convicted at court, an Advice Hearing may be requested, or the case can be remitted to the Hearing for final disposal (see Section 13 for more detail). At this interface, decisions must be:

- informed by a full understanding of the child's context, including their experiences, relationships and development
- proportionate and necessary, with clear justification where panel members do not determine that a child can be responded to within the Hearing System and leave them within formal justice processes.
- consistent with a welfare-based, rights-upholding approach.

4.4 Crown Office and Procurator Fiscal Service (COPFS)

COPFS is responsible for decisions about prosecution and alternatives to prosecution. This includes determining whether action is in the public interest, based on sufficiency of evidence and a broader assessment of the child's circumstances, development and context. These decisions sit at a critical point in the system. They shape whether a child is diverted from formal systems or drawn further into criminal justice responses. For all children under 18, alternatives to prosecution must be actively prioritised, not simply considered. The Procurator Fiscal has a range of options available, including diversion from prosecution, warnings, and other direct measures. Research consistently shows that early system contact and formal processing are associated with worse long-term outcomes, including increased likelihood of reoffending (McAra & McVie, 2007, 2010). Conversely, diversionary and welfare-based responses are more effective in reducing harm and supporting desistance. This places a clear responsibility on COPFS to ensure that decisions are informed by the child's wider circumstances and support proportionate, developmentally appropriate responses.

Exploitation, trafficking and misidentification of harm

In every case, there must be explicit consideration of whether the child may be a victim of exploitation, trafficking or coercion. This is not a secondary consideration. It is central to lawful and appropriate decision-making. Evidence from across the UK highlights the risk of criminalisation of exploited children, particularly where coercion, control and dependency are not recognised (Children, 2024; Home Office, 2026).

This requires prosecutors to:

- actively test alternative explanations for behaviour
- consider indicators of exploitation
- and ensure decisions align with protections under trafficking and modern slavery frameworks

Children's rights and legal duties

Decisions to prosecute must be grounded in children's rights. Article 40 of the UNCRC requires that children are treated in a way that supports their development and reintegration and formal judicial proceedings are used only where necessary

This has now been strengthened through domestic law. In an [Appeal Court opinion published in 2025](#), the High Court confirmed that, when deciding whether to prosecute, the Lord Advocate is exercising a "relevant function" under the UNCRC (Incorporation) (Scotland) Act 2024. This clarification is significant. It means that:

- prosecutorial decisions must comply with UNCRC requirements
- children's rights must be actively considered and evidenced
- decisions may be subject to legal challenge where this is not demonstrated

Joint reporting and system interaction

Some cases require joint reporting to both COPFS and SCRA. In these cases, there is a clear expectation that children should be dealt with through the Children's Hearings System wherever possible prosecution should remain exceptional.

This reflects longstanding principles within Scotland's approach, grounded in Kilbrandon and reinforced through the Whole System Approach. However, research and practice experience highlight that decision-making at this interface can be inconsistent, particularly where insufficient information is available, and the gravity of the offence becomes the paramount consideration. This reinforces the importance of high-quality, holistic information from partners promoting a comprehensive understanding of the child and their situation.

5. Care, custody and support services

This section focuses on services that respond where children's needs are more complex, risk of harm is heightened, or liberty may be restricted. These are some of the most intensive and high-impact parts of the system. Their effectiveness depends on strong multi-agency planning and continuity of support.

5.1 Secure care

Secure care provides accommodation for children where risks to their own safety, or the safety of others, cannot be managed in the community. It represents one of the most significant interventions available. As such, it must always be understood as a protective response, not a punitive one, to be used as a last resort and for the shortest appropriate period. (For more details on Secure Care see [Section 16](#))

Children may enter secure care through several routes, including:

- authorisation through the Children's Hearings System under section 83 of the Children's Hearings (Scotland) Act 2011
- decisions of the Chief Social Work Officer
- remand or sentence through the courts
- police powers pending court appearance

These routes reflect different decision-making points across the system, reinforcing the need for shared understanding and coordination across agencies. There is an inherent tension between the need to protect and the risk of restriction becoming the default when the system needs containment. A rights-based approach requires that deprivation of liberty must remain exceptional and is only justified where a child cannot be kept safely in the community. Where measures could support the child to remain safely within their community, these must be put

in place. In such circumstances, secure care is not an alternative option but would represent a disproportionate and potentially unlawful restriction of the child's rights. Any restriction on a child's freedoms or deprivation of their liberty must be continuously reviewed.

Evidence highlights that, when used appropriately, secure care can support stabilisation, understanding of needs and planning for longer-term change (Scottish Government, 2011). However, earlier research also identified poor outcomes following secure care, particularly where planning was limited with weak transitions or interventions were not sustained (Williams et al., 2019). This has led to a clear shift in expectation.

[The Secure Care Pathways and Standards](#) Scotland (2020) set out what children should experience before secure care, during their stay and after leaving.

Importantly, these standards apply across the whole system setting expectations for how the wider system responds to children at risk of deprivation of liberty. These standards emphasise the importance of relational care that holds participation at the core recognising the importance of consistency and predictability of what a child should expect alongside preparation for returning to their community if services have moved them out of them.

Transitions and continuity

Whilst the move into secure care often happens at the point of crisis and without concrete plans what happens next can be frightening and disconcerting for children and young people when there are no concrete plans or preparations in place. For children to feel safe and supported when moving out of secure care the following is needed to be effective. Planning must begin from the point of admission in a way that the child can tolerate, with clear outcomes linked to the Child's Plan. This must also include working with and supporting the child's family and who they see as important to them. This requires coordinated multi-agency involvement and sustained support on return to the community.

Without this, progress made in secure care is often lost with children returning to the same conditions and situational concerns that they were removed from. This can mean the risk of harm has not been reduced and it may actually increase.

Connection to the wider system

Secure care cannot work effectively without connection and interaction with partners. All partners should be collaborating with secure care providers and practitioners and vice versa to ensure planning and coordination is current and reflects the child's current and anticipated needs as they change and evolve, and particularly when they move closer to returning to their community. Coordination between secure care, social work, health and education must uphold children's rights to receive appropriate therapeutic responses, continuity of their education and participation in discussions and decisions being made about their life. It cannot function effectively as a standalone intervention.

5.2 Scottish Prison Service (SPS)

The role of the Scottish Prison Service in relation to children has changed significantly. Following implementation of the Children (Care and Justice) (Scotland) Act 2024, no child under 18 has been held in a YOI since September 2024.

SPS now has a key role in planning transitions for children who turn 18 while in secure care and supporting continuity when such children then require moving to prison. This is a critical point of risk. SPS relies on local authorities and statutory services maintaining Lead Professional responsibility as well as for continuity of planning with third sector partners often involved in provision of aspects of throughcare and reintegration support. Without this coordination and scaffolding transitions often fail and young people disengage from support.

Custody and outcomes

Evidence consistently shows that custodial experiences are associated with poorer long-term outcomes as well as increased likelihood of reoffending and disruption to relationships and development (Scottish Prison Service, 2013, 2014). This reinforces the importance of minimising the use of custody and ensuring that, where it is used, it supports addressing the needs and harms connected to individuals' involvement in offending behaviour.

The extension of the Whole System Approach to young adults strengthens the expectation that responses remain developmentally informed beyond 18 with transitions planned and supported.

6. Summary

Responding to children and young people in conflict with the law is a shared responsibility, judged not by what individual agencies do, but by how the system works together. When roles are clear, connected and grounded in the same principles, responses are timely, proportionate and make sense to children and families. When they are not, systems pull in different directions, decisions become inconsistent, and children experience fragmentation. This is not about coordination alone, it is about collective accountability for getting it right for every child, every time.

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