

Movement Restriction Conditions: a review from the past to the future

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The Past

Despite Movement Restriction Conditions (MRCs) being a feature of the Scottish Children's Hearing System for two decades its role in supporting children who pose, or are exposed to, the highest levels of risk has often been minimal, and with limited uptake. Moreover, the national uptake of MRCs has been inconsistent, with one report from 2013 showing that 11 of 32 local authorities had never used this resource, whilst by 2016 little had changed in this regard despite a subsequent Scottish Government review of electronic monitoring highlighting its successes across a variety of nations.

The Present

Whilst electronic monitoring more broadly has assumed a greater profile through Home Detention Curfews and recent changes to Bail, the recently published Advancing the Whole System Approach survey report highlights the low uptake amongst local authorities. Whilst the survey showed that over two-thirds use MRCs, official data shows that only 20 MRCs were imposed across Scotland during 2023/24. This is of concern given the finite capacity across Scotland's secure care estate, and may be a consequence of the threshold for imposition of an MRC mirroring that for admission into secure care. This identical threshold may mean that by the time a child reaches that crisis point, the only viable option may be use of secure provision resulting in a deprivation of liberty, that could have been avoided had earlier restriction of liberty been possible, is imposed. Gould (2024) highlights further reservations amongst local authorities related to use in rural settings and technological restrictions. MRCs utilise Radio Frequency technology that can only determine whether the child is (or is not) within a specified place. It does not employ Global Positioning System (GPS) as is found within most modern mobile phones, which provides an accurate approximation of where the device is at any one time; this lack of precision may account for the lack of confidence previously alluded to, and be one reason why this resource is under employed.

Regulation and guidance of MRCs can be found within The Children's Hearings (Scotland) Act 2011 (Movement Restriction Conditions) Regulations 2013, SCRA practice guidance on this issue, and in Scottish Government produced guidance which will be revised in the coming months.

The Future

With continued pressure on secure care capacity, and imminent legislative changes, the coming years may well see a change in Scotland's approach to MRCs. Once fully implemented the Children (Care and Justice) Scotland Act will amend Section 83(4) of the 2011 Children's Hearings Scotland Act meaning that secure care and MRCs will no longer have the same legal threshold. This recognises the distinction between secure care which deprives a child of their liberty, and an MRC which imposes a restriction of their liberty as outlined within explanatory notes. This change will lead to the insertion of a new Section 4A to the 2011 Act, permitting the imposition of an MRC when the child's health, safety or development is at risk and/or that the child is likely to cause physical or psychological harm to another person. New conditions in section 83(4A)(a) also covers a broader range of circumstances, such as where the child can be harmed or abused.

In such instances an MRC (and the intensive support and monitoring arrangements that come with such a measure) could be used to prevent the child from visiting certain locations that pose a risk to the child's health, safety or development. Of course, this should not be done in a way that conveys punishment to the child at risk, and attention must be paid to the person responsible for causing or posing harm to the child. For the time being, this change is yet to be implemented but is scheduled to occur prior to the dissolution of the current Scottish Parliament in spring 2026.

This change may afford local authorities the opportunity to utilise MRCs earlier which may prevent the child from reaching the secure care threshold and thereafter entering the secure environment, and from being exposed to risk for longer periods of time. However, practitioners must ensure the necessary supports and resources are put in place to accompany the MRC, mindful that the device in and of itself does little to address the precipitating, predisposing and perpetuating risk factors that lead children to experience high risk. An MRC is isolation does little to improve the circumstances of the child or their family. As McEwan states, an "MRC itself is not the answer nor is it a punishment but a tool to create opportunities" (2019, p1) and thus attention must be given to those factors that cause the concern, in addition to restricting their liberty to access concerning situations, persons or locations.

To achieve effective and ethical use of MRCs, the newly published [Alternatives to depriving children of their liberty guidance](#) offers examples of how to avoid use of secure care. Appendix 1 of that guidance expands these considerations, offering a range of points worthy of attention that can aid decision making. In addition to the wraparound support previously mentioned, practitioners should also consider whether [CARM procedures](#) would improve the care planning process, whilst creative and flexible application of the MRC is encouraged. It may be that use of restrictions is best suited to particular days, times or even locations, with MRCs also able to monitor whether a child enters a particular location, and thus may be particularly helpful in those small number of instances where a particular person is thought to be at risk from a child. Further commentary can be found via [CYCJ practice guidance](#).

Good Practice and Rights Respecting MRCs

Whilst there is increased evidence of the efficacy of electronic monitoring than has been the case over the past two decades, there remains a gap in empirical research that examines the outcomes for those children made subject to this resource. For some, this may raise ethical concerns over its use. The debate over MRCs perfectly articulates the competing yet coexisting rights that must be considered when supporting children who face, make or take the highest levels of risk. The right to maintain family life and enjoy liberty on one hand, compared to the potential for their best interests not to be met and for continued exposure to harm (including harm to others) on the other is a familiar dilemma for those operating in this space. The rights of those who have been harmed – who are very often children themselves – can be better respected through this approach, which can be adapted to provide specific protection for those at risk. In light of Scotland's obligations to adhere to the UNCRC practitioners must therefore balance these rights carefully, whilst acknowledging that use of MRCs represents a restriction of a child's liberty. That being said, when the application of this restriction aids in Scotland's ambition to avoid unnecessary deprivation of Scotland's children, it is perhaps worth reconsidering our reluctance to utilise MRCs in order to achieve the greater good.

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