

# **Youth Justice Standards:**

## **Scottish Government Consultation Analysis**

**June 2020**



**Scottish Government**  
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# **Youth Justice Standards: Scottish Government Consultation Analysis**

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**April 2020**

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## 1. Introduction

Youth Justice Standards were first introduced in 2002, following a comprehensive review of Scotland's Youth Justice system (Audit Scotland, 2002) and the subsequent 10-point action plan in which the then Scottish Executive committed to establishing a set of core National Standards. The original framework of six objectives and their underpinning standards were developed by the Improving the Effectiveness of the Youth Justice System Group (2002) and were established with the specific aim of reducing the number of 'persistent offenders'<sup>1</sup> in Scotland by 10% by 2006. These standards included the appointment of a Youth Justice Coordinator and operational youth justice team in each local authority area, as well as the establishment of a local multi-agency Youth Justice Strategic Group. Key standards were focused on timeous processes and timescales, such as the timeframe for referral of children to the Children's Reporter by the Police; the provision of risk assessments and reports from social work teams; and the scheduling of hearings and decision-making within the Children's Hearings System.

The standards remained in place throughout a number of changes to Scotland's Youth Justice System, including policy developments such as GIRFEC, a new national Youth Justice Strategy (Preventing Offending Getting it Right for Children and Young People) and the roll out of the Whole System Approach (WSA). Amid a sustained fall in the number of children and young people charged with offences (Vaswani, Dyer & Lightowler, 2018) and the subsequent reorganisation or disbandment of several local authority youth justice teams, in 2012 the standards were substantially revised. Core principles and practices were incorporated into the Guide to Youth Justice in Scotland (CYCJ, 2019)

In 2018, the National Youth Justice Advisory Group (NYJAG) highlighted the need for updated standards to provide a framework for the audit of services which support children involved in offending behaviour. It was identified that the standards should include core principles and data sets which support local and national data collection to help monitor progress, service improvement and evidence improved outcomes for children (Scottish Government, 2019).

## 2. The Proposed Standards

It is intended that the draft standards developed will apply to all children (defined as those aged under 18) resident in Scotland. They are also designed to complement the recently published Health and Social Care Standards and the National Performance Framework. The standards outline the minimum expectations for all strategic and operational services delivering youth justice in the community, secure care and young offender's institutions (YOI). There are eight proposed standards, the full details of which are in Appendix A, but are summarised here as follows:

### **Standard 1: Prevention and Early Intervention**

Prevention and Early Intervention is available to every child in Scotland who is involved in or at risk of offending. This includes the availability of Early and Effective

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<sup>1</sup> Children who had five offending 'episodes' over six months

Intervention (EEI) in every area, with appropriate multi-agency partnerships to make decisions and provide voluntary supports at the earliest possible opportunity.

### **Standard 2: Children's Hearing System**

Children referred to the Children's Reporter receive support at the earliest opportunity and those who are subject to a Compulsory Supervision Order (CSO) have a Child's Plan in place which is reviewed at regular intervals and supported by appropriate risk assessment tools. This standard includes provisions for assessment of a child's needs and outlines the presumptions that children who are jointly reported will be dealt with by the Children's Reporter and that non-engagement is not a valid reason for termination of an order.

### **Standard 3: Alternatives to Prosecutorial Action**

Where appropriate, children should be dealt with out with formal systems. Where that is not possible consideration must be given to the use of alternatives to prosecutorial action, which includes diversion. The provisions under this standard include that reports submitted by Police Scotland to the Crown Office and Procurator Fiscal Service (COPFS) must include all relevant information available to support the Procurator Fiscal to mark the case and make a decision and that decisions made regarding children referred to COPFS should be made timeously.

### **Standard 4: Court**

All children must have access to supports when going through the Court process. To support the delivery of child-centred justice all cases for a child accused should be accelerated through the court process. This standard outlines expectations for supporting all under 18s going through the court process, such as swift processing, as well as the support for children made subject to a Court order.

### **Standard 5: Secure Care and Young Offenders Institution (YOI)**

The arrest, detention or imprisonment of a child shall be in conformity with the law and used only as a measure of last resort and for the shortest appropriate period of time (UNCRC), this includes Secure Care and Young Offenders Institutions (YOI). This includes exploring all community alternatives and only using YOI as a last resort as well as support and transition arrangements for children in secure care or custody.

### **Standard 6: Risk Assessment and Care and Risk Management**

Risk assessment is a crucial step in Care and Risk Management (CARM) to identify which children require services, the type and intensity of service provision required and in guiding appropriate care planning. Undertaking different depths of assessment in response to different levels of risk presented by children is essential. This standard outlines the protocols and assessments to be followed when children display harmful sexual behaviour and/or behaviour involving violence.

## **Standard 7: Transitions**

Transitions can be stressful and challenging. It is essential that children are supported with their transition between placements, support services and systems to help them prepare and understand the transition. This standard includes information sharing as well as the identification of a named professional contact when children are transitioning to adult services.

## **Standard 8: Improving Outcomes**

To support improving outcomes it is expected that the quality of service provision for children involved in or at risk of offending will be measured using the standards outlined in this document. This standard emphasises mechanisms to measure the impact of supports to children involved in or at risk of offending.

## **3. Method**

The online consultation was launched by the Scottish Government on October 31, 2019, via the consultation hub Citizen Space. The consultation officially ran until January 23, 2020, although remained open until mid-February 2020 after a small number of extensions had been requested. The Centre for Youth & Criminal Justice (CYCJ) was requested by the Scottish Government to analyse and provide a comprehensive report of the consultation findings. Data was shared with CYCJ on March 19, 2020.

A further seven written responses were also submitted which did not answer the specific questions in the consultation (as well as one short covering letter which was not analysed). The data from these seven responses was applied as far as possible to each of the six questions, although there was no attempt to complete any of the quantitative questions asked as the level of interpretation required was too significant. All quantitative responses were downloaded and analysed using SPSS Version 25. All open-ended qualitative responses were downloaded and coded using NVivo 11. Qualitative responses were analysed thematically, question by question, and then cross-cutting themes were highlighted in a short summary section.

Two face-to-face meetings were also hosted by the Scottish Government in January 2020. These two meetings were attended by representatives from nine organisations. There was significant overlap between the two methods, with all but one organisation also contributing to the online consultation (either directly or indirectly). As a result, a full formal analysis has not been undertaken of these face-to-face sessions, although key themes that emerged from these sessions that were not raised in the online consultation are reported in Section 5.

### **3.1. Participants**

Although 31 responses were received, one was a short covering letter from a National Public Body (or similar organisation) that had already responded in full to the consultation. This letter was not included in the analysis. The consultation analysis is therefore drawn from the following 30 responses.

Respondent Type	Number	%
National Public Bodies (or similar organisations)	9	30.0%
Local Authority / Health & Social Care Partnership (LA/HSCP)	8	26.7%
Third Sector	7	23.3%
Other organisation	3	10.0%
Individual	2	6.7%
Unknown	1	3.3%
<b>Total</b>	<b>30</b>	<b>100%</b>

## 4. Question by Question Analysis

The first stage of analysis involved a frequency count of the responses to each of the quantitative questions, and then a further cross-tabulation by respondent type was produced where sample size permitted. The qualitative response to each individual question was then analysed thematically. Cross-cutting and overarching themes are reported in Section 6.

### 4.1. Question One - Priorities

The national youth justice key priority themes are: Advancing the Whole System Approach, Improving Life Chances, and Developing Capacity and Improvement. Do the proposed Youth Justice Standards reflect these national youth justice priorities?

This question received 22 responses, and one respondent did not answer the question. Frequency tables present the overall response rate, as well as the response choices only for those who answered the question. Cells may not always add up to 100% due to rounding.

Response	Number	%	Number	%
Yes	21	91.3%	21	95.5%
No	1	4.3%	1	4.5%
Not Answered	1	4.3%	-	-
<b>Total</b>	<b>23</b>	<b>99.9%</b>	<b>22</b>	<b>100%</b>

Cross-tabulations present the overall response rate, including where the question was not answered.

Respondent Type	Yes		No		Don't Know		Not Answered	
Local Authority / HSCP (n=7)	7	100%	0	0%	0	0%	0	0%
Third Sector (n=6)	6	100%	0	0%	0	0%	0	0%
National Public Bodies (n=6)	5	83.3%	0	0%	0	0%	1	16.7%
Individual (n=2)	1	50.0%	1	50%	0	0%	0	0%
Other (n=1)	1	100%	0	0%	0	0%	0	0%

n=22

Twenty-six respondents provided a written response to this question, with the most common themes arising from these qualitative responses presented below in order of frequency. For the analysis of all qualitative questions, information provided in written responses may contribute to more than one theme, therefore the numbers presented in the findings may add up to more than the total number of respondents.

Overall the standards were welcomed and believed to adopt the correct tone and align well with national youth justice priorities. However, the most common theme (14 responses) was that the standards should be further clarified or expanded.

“[We have] no objection to the content of the Standards as set out at present. We do however feel that there is room for expansion” (Third Sector organisation)

“[We welcome] the commitment by the Scottish Government to update the Youth Justice Standards and agree that, on the whole, they reflect the national youth justice priorities around advancing the Whole System Approach, Improving Life Chances and Developing Capacity and Improvement. However, reflecting the thoughts and feelings of our young people and frontline staff we have some specific questions and concerns” (Third Sector organisation)

The most common suggestions related to Participation (five responses) and Corporate Parenting (four responses) with participants generally requesting a specific standard, or a strengthening of this across the proposed standards.

“We have made a number of recommendations which will serve to strengthen the standards with particular regards to children and young people’s participation rights in relation to a few areas which includes children and families’ voice in decision making and the planning and evaluation of service” (Third Sector organisation)

“Participation is a key element of youth rights and there is perhaps merit for creating a new standard on participation throughout the youth justice process. This will emphasise the voice of young people and make them aware of their rights more clearly” (National Public Body)

“While Corporate Parenting isn't in itself a justice priority, the knowledge and actions of corporate parents will play a role in achieving these standards. There is little in the standards at present which stresses the importance of Corporate Parents being aware of their responsibilities” (Third Sector organisation)

“In light of the disproportionate impact of the criminal justice system on children with care experience, and to implement the recommendations of [the] Scottish Care Leavers Covenant, we would recommend a more thorough incorporation of corporate parenting duties into the Youth Justice Standards through the inclusion of a separate standard for corporate parenting duties” (National Public Body)

Specific suggestions with three responses each included: prevention; a clearer link with UNCRC incorporation; and alignment with the Care Review.

“Prevention is alluded to in this standard, but there are no explicit standards which then describe what Prevention should look like and how it might be measured. Prevention is not the same as EEI, and should identify the agencies responsible for minimising the number of young people entering any form of youth justice service” (Other organisation).

“Scotland's challenge is to become UNCRC compliant. One area where this is most exposed is our approaches to managing children who offend, with an array of differences in approach based on age and/or previous involvement with statutory agencies. This is no longer acceptable and a streamlined, coherent approach to this issue is overdue” (Other organisation)

“The Independent Care Review reports have been published just as the Consultation on these standards have closed and, continuing in the spirit of Kilbrandon, YJ Services have a wave to catch. The standards have an opportunity to allude to some intersections between the way young people's holistic needs relate to their needs within YJ services” (National Public Body)

Explicitly including or strengthening the standards in relation to: Disclosure; Speech Language and Communication Needs (SLCN); and workforce development were raised by two respondents each. Other gaps or areas for further clarity that were highlighted (one response each) included: additional support needs; desistance; exploitation; family work; mental health and trauma; timescales for processing under 18s in court and that the need for different levels of support and personalised approaches should be reflected in the standards.

Eight respondents felt that the standards reflected the national youth justice priorities appropriately and made no suggestion for amendments or additions.

“We are of the view that the standards not only capture the priorities for youth justice work in Scotland as we go forward but that they capture these priorities within the context of the child's whole experience and in the context of holistic support around the child as set out in the getting it right for every child (GIRFEC) practice framework” (National Public Body)

“It is positive and reassuring that these standards are embedded within our WSA and EEI work, the rights-based approach throughout the framework ensures priorities and standards reflect each other, and that when [doing] EEI-offence based work - the rights of the YP and victim are upheld” (Unknown organisation).

“As an overview, the standards are generally welcomed and in context with the current Legal and Policy Frameworks we are aligned to [and] the overarching principals, duties and responsibilities set out within these” (LA/HSCP)

Three respondents raised questions about how the standards would support data collection; outcome monitoring; and resource allocation:

“These standards positively reflect and provide a format to measure multi-agency partnership progress against the key national priorities. However further elaboration would be welcomed in terms of data e.g. 1.6 refers to impact measures in respect of individual children. Will this be a standard measurement across all local areas or will the current practice for local areas to measure against their own specific priorities continue?” (LA/HSCP)

“Members would like to see the standards informing the allocation of resources and the development and delivery of services across sector. To enable this to happen, there needs to be a clearer link which shows that data collection needs to improve and be used to help to inform where outcomes are and are not being addressed across the whole life span of the young person” (Third Sector organisation).

One respondent felt that the standards did not reflect youth justice priorities as they did not go far enough to ensure that young people took justice seriously, or enable police to deal effectively with young people involved in offending.

## 4.2. Question Two - Flexibility

The proposed Youth Justice Standards focus on the functions of youth justice, and are intended to influence service design and delivery to allow for flexibility to meet local needs. Do the proposed Youth Justice Standards allow for flexibility to meet local needs?

This question received 22 responses, and one respondent did not answer the question.

Response	Number	%	Number	%
Yes	20	87.0%	20	90.9%
No	1	4.3%	1	4.5%
Don't Know	1	4.3%	1	4.5%
Not Answered	1	4.3%	-	-
<b>Total</b>	<b>23</b>	<b>99.9%</b>	<b>22</b>	<b>99.9%</b>

Respondent Type	Yes		No		Don't Know		Not Answered	
Local Authority / HSCP (n=7)	7	100%	0	0%	0	0%	0	0%
Third Sector (n=6)	4	66.7%	1	16.7%	1	16.7%	0	0%
National Public Bodies (n=6)	5	83.3%	0	0%	0	0%	1	16.7%
Individual (n=2)	2	100%	0	0%	0	0%	0	0%
Other (n=1)	1	100%	0	0%	0	0%	0	0%

n=22

Twenty-three respondents provided written clarification for this question. The majority (20) felt that the standards were flexible as they were not prescriptive, instead offering a framework or set of principles for reference. This was perceived as a benefit, to allow organisations to tailor provision to local needs, processes and resources, while at the same time encouraging a level of national consistency.

“...the standards provide clear rationale and reference to strategy, policy and legislation. The standards provide a framework which can be adapted to meet local need. This is important as different local authorities and communities will have different needs and resources available” (Third Sector organisation)

“It is evident that the standards are a framework to refer to...Not specifying the use of required assessments allows local authorities to use their own approach, but ensuring Local Discretion meets National Consistency” (Unknown organisation)

“The court is the master of procedure. It can exercise a degree of discretion in the procedural arrangements which can be made to secure a fair trial and in taking account of the interests of the welfare of the child accused. However, a statutory framework could strengthen the duties involved and the requirement of standards” (Other organisation)

This flexibility, while welcomed, was also observed by a small number of respondents to pose potential problems. Both respondents who replied ‘no’ and ‘don’t know’ to this question acknowledged that the standards were flexible but cited the potential ambiguity of the standards as the main reason for their response.

“Members felt that some of the Standards are quite ambiguous and open to interpretation. Whilst this allows for greater flexibility, it was suggested that having more direct wording would be helpful for when it comes to holding partners to account” (Third Sector organisation)

Five participants, including those who responded ‘yes’ to this question, also highlighted potential challenges created by a flexible approach that need to be considered, such as flexibility making data collection, or establishing an evidence base for youth justice, more complicated.

“in relation to trying to establish a national performance framework that sets expectations around data to be captured, analysed and reported on there are still gaps. The Standards seek to address some of this but in a global open manner seeking "systems to be in place" (see Standards 1.7, 6.4 & 8) rather than seeking to establish expectations around a dataset against which authority areas can compare and contrast youth justice interventions and successes and challenges” (LA/HSCP)

“It will, however, make it more difficult to report on the delivery of the standards in a meaningful and consistent way and may make it difficult to compare performance across local authorities or public services if it is not possible to match like with like” (National Public Body)

Five respondents also raised issues around ownership, governance and accountability:

“...to achieve the standards it is imperative that all stakeholders take ownership. We believe it is essential that the finalised standards are not merely viewed as Scottish Government standards but as Scotland's Youth Justice Standards, with ownership and responsibility sitting with the wider public sector and relevant external partners” (Third Sector Organisation)

“It is important for these Standards to have a level of flexibility to meet local needs, but at the same time ensure there is coherent and consistent application across Scotland. An important element of local flexibility is accountability. The proposed standards would benefit from further clarification on how a local and national evaluation of services will serve this accountability” (National Public Body)

One respondent felt that, due to the potential for different models of working, facilitating the sharing of best practice would be helpful.

“We support this approach, although while we note that local whole systems leads are offered the opportunity to meet and share local practice, [we] believe it may be useful to have some means of doing the same around the Standards and their leads. Sharing examples of best practice in different areas/standards could help localities that are developing or refreshing their services” (Third Sector organisation)

Other responses included that the standards could have a clearer purpose; that the Standards would be limited by the challenges in creating system-wide change or even change in certain large organisations and that an opportunity had been missed to enhance EEI at a local level.

### 4.3. Question Three – Most Helpful

As outlined, the Scottish Government wants to make sure that the proposed Youth Justice Standards are as helpful as possible to strengthening the delivery of services for children and young people. What aspects stood out as being the most helpful? Please provide a reason (or reasons) for your answer

Question three was a free-text question and 26 participants provided a written response. The most frequent response (eight responses) made reference to the recognition of the importance of prevention and early intervention and the emphasis placed on keeping children out of formal systems.

“For my service it's the recognition that proportionate, early intervention is imperative to avoid escalation” (Individual)

“We consider that throughout the standards, the requirement for diversion from prosecution, keeping children and young people away from adult systems and focussing on wellbeing needs is positive and well reflected.” (National Public Body).

“Having a standard that aims to where appropriate, let children be dealt outwith the formal justice system is good news. It should result in support being put in place to hopefully ensure further offending is reduced and or stopped.” (Third Sector organisation)

However, one Third Sector organisation, while strongly supportive of prevention and early intervention sounded “...a note of caution relating to prevention and early intervention, in Standard 1 there needs to be provision concerning the de-criminalisation of young people where appropriate.” This organisation cited evidence from the Edinburgh Study of Youth Transitions and Crime and anecdotal evidence from the use of ‘Campus Cops’ in schools to highlight the potential unintended consequences of prevention and early intervention, in which children and young people were ‘up-tariffed’ and caught up in the justice system by well-meaning interventions.

The emphasis on UNCRC and GIRFEC and the recognition of all children under 18 as children running throughout the standards also received eight responses. This was felt to be especially important when it came to the promotion and use of age-appropriate assessment tools. However, one respondent highlighted the challenge of recognising all children as children, in particular 16 and 17 year olds, in the current system and legislative provisions.

“... consistency with GIRFEC and the processes around children’s plans: this is important to ensure that young people involved with youth justice services are seen as children first and foremost” (LA/HSCP)

“A strong confirmation of the importance of UNCRC. More detail of how to move to under 16-17 year olds who offend being entirely the domain of the Children’s Hearing System is welcomed” (Other organisation)

“In our view, Standard 6, specifically providing expectations for suitable risk assessment using appropriate risk instruments, is helpful” (National Public Body)

“Current legislation does not allow a child aged 16+ who does not have an open referral with SCRA to be referred to SCRA. Whilst Scotland continues to review and raise the age of criminal responsibility, an interim act that could be of benefit is to deal with this anomaly and allow 16-17 year olds who offend to be referred to SCRA” (Other organisation)

In a similar vein, seven respondents believed the most helpful aspect of the standards was that they were very child-focused, with the child’s needs and wellbeing a priority.

“The standards clearly place children and young people at the centre and focus on their needs, as opposed to focussing on actions to reduce offending” (LA/HSCP)

“The standards put the child at the heart of decisions and offer a relatable timeline for the youth justice process” (National Public Body)

Seven respondents also felt that one of the most helpful aspects was the reference to, or alignment with, other standards, policies and legislation, in particular the Secure Care Standards and the Health and Social Care Standards.

“The clear reference to acts and guidelines relating to the fulfilment of each standard” (LA/HSCP)

“There is also clear policy and legislation which supports the standards and services to ensure they are evidence based and accountable” (Third Sector organisation)

However, two respondents highlighted gaps where connections to existing policies and reviews could be strengthened, or from where learning could be applied. These included: the Child Poverty Review; the Mental Health Children’s review; Restorative Justice Guidance; the Children (Scotland) Bill; the Review on Additional Support Needs in Education and the findings from the Care Review.

Six respondents commented on the way the standards were constructed and presented as being particularly helpful, with many feeling that they struck the right balance between broad statements and a sufficient level of detail regarding expectations.

“The standards themselves are clear and easy to understand from a practitioner’s perspective. They cover key functions and are logical” (Third Sector organisation)

“We consider that the standards are focussed, manageable in number and realistic in scope” (National Public Body)

“We believe that the level of detail around exactly what is expected under each standard was also helpful. Having the overall standard but then principles laid out underneath should help shape and design services responding to children and young people involved in offending” (Third Sector organisation)

The fact that the standards emphasised timely and efficient responses to children and young people, without undue delays while waiting for formal decisions, was mentioned by four respondents.

“The focus on speed end to end very helpful - any help around this is useful because it is not really in our control at the local level” (LA/HSCP)

Four respondents also mentioned the fact that the standards are universal and apply to all agencies was a positive and would also help support and negotiate the partnerships that are essential to effective youth justice.

“The standards are fairly comprehensive and very welcome in an arena that requires many partners to play specific roles to achieve the best outcomes for young people” (National Public Body)

Supporting transitions was a theme mentioned by four respondents as a particularly helpful provision within the standards.

“...there is a great need in this area to be strengthened and standardised. We know children and young people can find this a daunting stage for them to navigate. Having the right transitions support can make all the difference in helping people divert from their previous negative behaviour” (Third Sector organisation)

Three respondents mentioned that the standards would begin to help gather and collate data and evidence about outcomes, although this was also recognised as a challenge by some.

“The standards are a good starting point to develop a meaningful and outcomes led performance Framework to ensure equity of service across Scotland” (LA/HSCP)

Other responses that were mentioned by two or fewer respondents included: providing information to victims (two); the need for an accessible version of the standards (one) and that the standards provide a means for individual or communities to hold the system/organisations to account (one).

#### 4.4. Question Four – Least Helpful

As outlined, the Scottish Government wants to make sure that the proposed Youth Justice Standards are as helpful as possible to strengthening the delivery of services for children and young people. What aspects stood out as being the least helpful? Please provide a reason (or reasons) for your answer.

Twenty-nine respondents provided a written answer to this question. The most frequent type of response (16 responses) related to a perceived lack of clarity, either within specific standards, or across them all, leading to a level of ambiguity with the standards. This lack of clarity tended to be to do with: a) the language used; b) the level of flexibility in the standards and c) the level of detail provided.

“The standards assume a level of knowledge from the reader, in a number of areas. I am undecided as to whether this is reasonable or whether greater clarification might be advisable” (LA/HSCP)

“The language is, at times, inconsistent. For example there are many instances of [where] the word “must” is used such as Standards 1.2, 3.1, etc. (which, in a standards document is OK). There are other instances where “should” is used (e.g. 2.2, 2.5, etc.) and introduces an element of discretion that may compromise the standards. As an example, this is problematic in Standard 4.2” (National Public Body)

“We wonder whether, where the sentencing court has such discretion and given that sentencing decisions are solely a matter for the individual judge (or judges) in each case, the intention is indeed to place an expectation on sentencers as the current wording suggests. Similarly, we assume standards 2.2 and 5.2 are not intended to apply to judicial decisions. Some clarification, particularly in relation to standard 5.4, may be helpful” (National Public Body)

“There are numerous mentions of dealing with issues ‘as soon as possible’ or at ‘the earliest opportunity’. More direct timeframes should be implemented if we want to see better outcomes, which can aid measurability” (National Public Body)

Within this set of responses, a common sub-response was also the lack of clarity about the definition of a child. While the standards officially adopted the UNCRC definition that all people under 18 are classed as children, many respondents acknowledged that the current policy and legislative framework did not always reflect this stance. Similarly, the lack of clarity around timeframes and the use of the phrase “earliest possible opportunity” was also mentioned by two respondents within this section.

“It is hoped that consideration is also given to resolving the disparity of the definition of a child across all national partners and stakeholders” (National Public Body)

“The document could be more prescriptive in terms of timescales, e.g. Standard 1.2 and the use of “earliest opportunity”...The standards would benefit from clearly defined time-bound processes in a number of areas” (National Public Body)

One respondent also raised concerns about the use of language from the time of Kilbrandon:

“We believe there is a dialogue which can potentially be interpreted as counter to Scotland’s vision as a human rights respecting nation ... This stems from the language of ‘failure in upbringing’ taken from Kilbrandon’s 1964 report. For us this phrasing leans towards demonising parents who are not viewed to meet the moral standards of society. This can and will include parents who have learning disabilities” (Third Sector organisation)

Another common theme (13 responses) was that there was a need for additional standards to capture the full extent of youth justice provision. These varied but included: trauma-informed practice (mentioned on three occasions either as an indicator or as a standard in its own right); emphasising parents and carers (two responses); participation; prevention; corporate parenting; mental health, well-being and speech, language and communication needs; additional support needs; gender-specific practice; child exploitation; experience of care and workforce competence.

“It may be appropriate to expect practice that is responsive to cultural and language differences; and explicitly reference a trauma-informed approach within the body of the standards” (National Public Body).

“Families Outside also believes that a specific Standard needs to be created to identify the role of parents/carers of a young person going through the youth justice process. We feel that parents and carers should expect to be able to access information and be involved in decision making at key stages such as in Standard 1 and Standard 7” (Third Sector organisation).

“...the standards lack guidance around prevention. Other than stating this in the title of Standard 1 the indicators refer exclusively to Early and Effective Intervention [which] aims to respond to children who come to the attention of the Police for offending, concerning or harmful behaviour”. This is arguably a response to behaviour which causes concern, not a preventative approach” (Third Sector organisation).

“The Standards could be strengthened by inclusion of the diverse care experiences of children and young people (including foster care, kinship care and children looked after at home, alongside residential care) and the impact this has in upholding their rights” (National Public Body).

The next most frequent response (eight responses) related to governance and accountability. There were questions about how adherence to the standards would be monitored, and how organisations would be supported to collect data and measure outcomes.

“Throughout the document there are various references to the collation of local and national data and the gathering of outcome-based data...many partnerships are currently struggling to systematically collate and use data effectively. We would suggest that providing further support and resources for partnerships may be necessary, given the expectation for them to prioritise data collection in respect of youth justice. The standards could be clearer on what data is required and for what purpose” (National Public Body)

“An aspect that needs to be considered is the accountability and support given to local authorities, for example what responsibility will be given to local authorities to report nationally on the standards? What support will be offered to ensure that all the standards are integrated, can the local authorities draw on national strength/pulling resources and reshaping services to deliver the standards?” (Third Sector organisation).

In relation to this, two respondents queried whether there was a role for the Care Inspectorate in monitoring the standards.

“How the Standards themselves will be reviewed and how learning from them will be captured and shared to help inform future practice. Will the Care Inspectorate use these Standards as good practice?” (Third Sector organisation)

Five respondents suggested that there needed to be more engagement with children and young people (as well as families) with a view to co-producing the standards, or that the standards should be made more accessible and be consulted on. It was felt that, in their current form, the standards would not be fully understood by children. The Secure Care Standards were referred to by two of these respondents as an example of good practice in terms of both tone and accessibility.

“We commend the Scottish Government’s work on the Secure Care Standards and believe that lessons should be learnt from this. The Secure Care Standards have been co-produced alongside young people with current

and past experience of the Secure Care estate. Within this, the standards themselves are multifunctional and accessible to children and practitioners alike but also serve to provide guidance and ensure there is accountability” (Third Sector organisation).

“As far as we are aware there has been no co-production or consultation with children and young people regarding these standards. In that regard it is important that the standards use as much plain English and as little jargon as possible so that are accessible to children and their families” (Other organisation)

Other aspects that were felt to be least helpful included: a lack of resources (three responses); the need for training and communication on the standards; the need for an even stronger alignment with human rights legislation; that the standards emphasised a soft approach to justice; the practicalities of implementing some of the standards and that the standards should reference the CYCJ practice guidance.

#### 4.5. Question Five - Evaluation

Evidence-based decision making is central to the work of the Scottish Government and we have designed the proposed Youth Justice Standards to support internal and external evaluation of services which support children involved in, or at risk of, offending. With reference to the core principles and data sets, will the proposed Youth Justice Standards allow for reliable local and national evaluation of services?

This question received 21 responses and two respondents did not answer the question.

Response	Number	%	Number	%
Yes	8	34.8%	8	38.1%
No	4	17.4%	4	19.0%
Don't Know	9	39.1%	9	42.9%
Not Answered	2	8.7%	-	-
<b>Total</b>	<b>23</b>	<b>100%</b>	<b>21</b>	<b>100%</b>

Respondent Type	Yes		No		Don't Know		Not Answered	
Local Authority / HSCP (n=7)	2	28.6%	1	14.3%	3	42.9%	1	14.3%
Third Sector (n=6)	2	33.3%	3	50.0%	1	16.7%	0	0%
National Public Bodies (n=6)	3	50.0%	0	0%	2	33.3%	1	16.7%
Individual (n=2)	1	50.0%	0	0%	1	50.0%	0	0%
Other (n=1)	0	0%	0	0%	1	100%	0	0%

The utility of the Youth Justice Standards for evaluation activities was the function that respondents were least convinced about, with around one-third of participants

(eight) responding that the standards would be helpful in evaluation activities. However, analysis of the 22 written justifications to this question indicated that four out of the eight positive responses also expressed reservations within their response. Those who responded 'no', 'don't know' or who had cautiously responded 'yes' commonly referred to practicalities such as the feasibility and logistics of reliable data collection, often linked to resources and skills, or information-sharing (eight responses).

“There are significant asks of local responsibility, in terms of data collection, information sharing, partnership working and different ways of working within the system. Greater clarity is needed on the practical aspects of these asks and what support is available for local services to provide these asks. There are significant asks for practitioners and partners across youth justice, which will include greater partnership working, communication and resources. Without adequate funding to support these asks they will be unachievable and this will impact on the outcomes for children and young people and the communities in which they reside as well as other parts of the system. This must be fully addressed before the implementation of these standards” (National Public Body)

“Local data collected to evaluate local outcomes is undertaken within the present milieu of resource constraints. In our local area, we have no current capacity within to undertake independent analysis to profile area need. Additional expertise and resource would require to be funded to support equity in terms of evaluation” (LA/HSCP)

“Data collection is a complex issue as so many agencies are involved. Gathering a good mixture of qualitative and quantitative data is key, however local authority data systems differ nationally, and other key agencies systems may be developed to undertake core business which does not necessarily include providing data sets that help evaluate services and practice” (Other organisation).

“There are existing challenges around information sharing currently, with practice around information sharing varying across the country. GDPR, for example, is sometimes being wrongly cited as a barrier which then prevents effective information sharing or timely referrals to the third sector for support and intervention” (Third Sector organisation)

Six respondents echoed these views about a lack of clarity or specificity about the datasets to be collected, and there was a desire for the standards to be more prescriptive in relation to data collection and monitoring.

“The data sets are not defined in the document - as a result neither is there any reference to what meaningful data will be collated and the purpose of this data, how this data will feed into local arrangements, why it is being collated for national purposes, etc. It may be that adjustments to presentation may address this issue” (National Public Body)

“The informing core principles around WSA and Youth Justice practice contained in the standards are good and clear but the ask regarding data within the standards paper remains too open to local interpretation/application and global in character to give confidence of moving to a "reliable local and national evaluation of services" (LA/HSCP)

“We would welcome clarity on the implementation of the Youth Justice Standards, including timelines and guidance for delivery, as well as for monitoring and evaluation activities required” (National Public Body)

Four respondents suggested that a national solution to data collection and analysis (a national audit; performance framework etc.) would be useful to help with these issues.

“...there is merit in considering a national audit via Audit Scotland into the implementation on the National Youth Justice Standards” (Third Sector organisation)

“A national performance framework would be required to ensure all standards and sub actions can be measured with an outcomes focused approach...” (LA/HSCP)

Other responses from those who did not feel that the standards would assist with evaluation, or who were uncertain, included: that there was not a clear link to outcomes (two responses); the need to incorporate more third sector data; and the need for a testing out of the process.

Three respondents felt that the standards would support evaluation by providing a clear set of expectations for partners.

“In our view, having specific standards for youth justice should make it easier to provide quality assurance and evaluation of services, supporting children involved in or at risk of offending. The standards should support agencies to reach clarity on respective roles and responsibilities. The standards will also inform performance management frameworks, enabling agencies to monitor and measure progress towards achieving targets” (National Public Body)

#### 4.6. Question Six - Scrutiny

The Scottish Government is committed to ensuring that services delivered to children involved in offending are scrutinised appropriately. Having read the background information above, do you think the current key questions are sufficient to ensure appropriate scrutiny of services provided to children involved in or at risk of offending? If not then please provide further reasoning and suggested alternatives below.

This question received 21 responses and two respondents did not answer the question. Please see Appendix B for the full wording of the question, including the background information.

Response	Number	%	Number	%
Yes	12	52.2%	12	57.1%
No	7	30.4%	7	33.3%
Don't Know	2	8.7%	2	9.5%
Not Answered	2	8.7%	-	-
<b>Total</b>	23	100%	21	99.9%

Respondent Type	Yes		No		Don't Know		Not Answered	
Local Authority / HSCP (n=7)	6	85.7%	1	14.3%	0	0%	0	0%
Third Sector (n=6)	2	33.3%	2	33.3%	1	16.7%	1	16.7%
National Public Bodies (n=6)	2	33.3%	2	33.3%	1	16.7%	1	16.7%
Individual (n=2)	2	100%	0	0%	0	0%	0	0%
Other (n=1)	0	0%	1	100%	0	0%	0	0%

Seventeen respondents provided a written response to this question. The most frequently occurring theme (seven respondents) was that the questions were too specific to care experienced young people, and did not directly focus on, or refer to, children involved in offending behaviours.

“Whilst the above quality indicators are important, they do not provide a specific focus on young people who offend. Whilst all children who commit deeds have needs, a specific focus or section of inspection analysing partnership responses to the National Standards and outcomes for young people who offend would be beneficial...” (Other organisation)

“By definition the quality framework is broad and generic and we support that approach. However we believe there is scope to drill down further into local partnership areas to specifically address the effectiveness of arrangements for children and young people who are involved in offending - and the delivery of these standards” (National Public Body)

“The above measures from 1 to 4 apply to all children (which we fully support) but would benefit from being somewhat more focused in terms of the justice aspect and what young people experience within the justice system...” (National Public Body)

However, one respondent held the opposing view that a generic approach was more useful for comparison across services, rather than a specific approach to offending.

“Having the same set of questions ensures that all services for children and young people have a standardised approach to scrutiny” (LA/HSCP)

The next most common theme (with three responses) was that there could be more emphasis on the quality and scrutiny of partnerships.

“In order for proper scrutiny, it is questioned whether the definition of ‘partnership’ [is] sufficiently clear and comprehensive in the youth justice context to ensure that all the key agencies are held to account” (Other organisation)

“Question 5, about collaborative leadership, either needs to be more specific in terms of looking beyond leadership per se (i.e. looking at the quality and efficacy of the partnership as a wider local model) or being incorporated in the previous four questions as the partnership will only function effectively if there is collaborative leadership. As an alternative suggestion, the Care Inspectorate might want to focus us on the quality and efficacy of scrutiny of the partnership both in terms of internal processes (e.g. supported and validated self-evaluation) and how local governance and scrutiny is applied (e.g. quality and impact)” (National Public Body)

Two respondents felt that the standards were helpful for scrutiny and audit, although two respondents queried the reliability of the data or the mechanism for scrutiny and accountability.

“We support the current framework and think that the focus on risk, recovery and wellbeing is the focus we should take. For children involved in the Children’s Hearing, who are often victims as well as presenting concern about their own behaviour this is the balance that works to assess the services in place to offer them effective holistic support” (National Public Body)

“Clear indication is needed on how the standards will be inspected, and what body would conduct this. Greater clarity is needed on the local and national scrutiny for these measures. If these standards are not being met, for whatever reason, it must be understood what mechanisms are in place to address and rectify this, and what, if any, action would be taken” (National Public Body)

Other comments (all with one response each) included: ensuring that youth justice services that cross over into adult justice are scrutinised; applying the learning from the Care Review; including the voice of young people; the importance of establishing a baseline from which progress can be monitored; and the need for a national audit.

## **5. Face to Face consultation sessions**

Two face-to-face consultation sessions were held with nine organisations represented. There was significant overlap, with all bar one organisation either contributing directly or indirectly to the online consultation. A preliminary analysis of the findings also revealed significant synergy with the findings from the formal online consultation, and it was not possible to isolate the individual’s feedback who did not go on to participate in the online consultation. As such, a full analysis has not been conducted for the face-to-face sessions.

Key points that arose in the informal discussions which did not feature prominently in the online consultation include: the inclusion of case studies in the standards; the role of the Scottish Courts and Tribunals Service (SCTS) in the standards; a stronger

emphasis on the role of families and family work; incorporation of equalities; and stronger links to education policy and independent advocacy developments.

## **6. Cross-Cutting Themes**

Although the development of new Youth Justice Standards was welcomed by all respondents, a number of recurring themes emerged throughout the analysis of the individual questions. These themes tended to relate to ways in which the standards could be clarified or strengthened. A short recap of these themes is provided in this section.

The first recurring theme was related to data collection, which occurred in all six questions. Questions were raised as to the practicalities and challenges of collecting and publishing the data (who, when, how etc.) and also issues relating to GDPR and information-sharing. Respondents also queried the utility and reliability of the data if local areas adopted very different responses to the standards.

Related to this latter point was that the standards were potentially too ambiguous and open to interpretation either due to the wording of the standards or the flexibility afforded to local areas. The flexibility was broadly welcomed, but recognised as a potentially complicating factor in how the standards could be used to build a national picture of youth justice provision and outcomes.

A number of participants suggested that the standards could be expanded, and highlighted potential areas for linkage and inclusion. There was not a clear common consensus on what the gaps and missing standards were, although linking in to the findings of the Care Review/Corporate parenting; emphasising rights and UNCRC; the participation and engagement of children, young people and families; and prevention were frequently referred to in one form or another.

## 7. References

Audit Scotland. (2002). *Dealing with Offending by young people*. <https://www.audit-scotland.gov.uk/report/dealing-with-offending-by-young-people>

CYCJ. (2019). *A Guide to Youth Justice in Scotland: policy, practice and legislation*

Improving the Effectiveness of the Youth Justice System Group. (2002). *National Standards for Scotland's Youth Justice Services*.

<https://www2.gov.scot/Publications/2002/12/16030/15870>

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Vaswani, N., Dyer, F., & Lightowler, C. (2018). *What is Youth Justice? Reflections on the 1968 Act*. <https://socialworkscotland.org/wp-content/uploads/2018/12/SWS-Youth-Justice-.pdf>

## 8. Appendix A – The Standards

### National Performance Framework

Scotland's National Performance Framework aims to create a more successful country, give opportunities to all people living in Scotland, increase wellbeing, create sustainable and inclusive growth, reduce inequalities and give equal importance to economic, environmental and social progress. This is underpinned by core values - to treat all our people with kindness, dignity and compassion, respect the rule of the law and act in an open and transparent way. The framework sets out national outcomes with progress being measured against 81 national indicators. The outcomes which are specifically relevant to youth justice are:

- We grow up loved, safe and respected so that we realise our full potential
- We live in communities that are inclusive, empowered, resilient and safe
- We are well educated, skilled and able to contribute to society
- We are healthy and active
- We respect, protect and fulfil human rights and live free from discrimination

The standards outlined in this document are aimed to complement the National Performance Framework.

### Core Principles

Scotland's unique approach to youth justice builds on Lord Kilbrandon's report (1964) by responding to deeds in the context of needs. The view of Lord Kilbrandon, which led to the creation of the Children's Hearings System, was that it was not useful to categorise children based on their offending alone, but to look behind the presenting problems to find the underlying causes in the life of the individual child. He concluded that children who offend and children in need of care and protection all shared a common experience - a failure in upbringing.

We want to make Scotland the best place in the world for a child to grow up. Recognising, respecting and promoting the rights of children is essential to achieving this. The UNCRC sets out the fundamental rights of children. Article 12 clearly outlines that children who are capable of forming their own views have the right to express their views freely in all matters affecting them. It follows that children must be supported to be heard at all stages within the youth and criminal justice system.

Work with children involved in offending behaviour must consider their overall wellbeing and be underpinned by GIRFEC principles. Approaches with children who present with offending behaviour may need to be in partnership with child protection. Many children who display offending behaviours are also highly vulnerable and may have experienced crime and trauma in their own lives. An assessment of their vulnerability as well as the risk of harm they may present to others needs to be taken into account. Work with children who display harmful behaviour needs to consider and prioritise their protection as well as tackling behaviours that can have an impact on others. Whilst this can be complex and challenging, it is critical in terms of the wellbeing of the child, the people they have (or may potentially have) harmed and

the confidence the community has in relation to the support, welfare and protection of children.

All children should be included, engaged and involved in education. Exclusion should only be used as a last resort. There is an expectation that education authorities and schools use the [Included, Engaged and Involved](#) guidance when developing policies and procedures on exclusion.

Promoting children's positive mental health and wellbeing is crucial to supporting them to realise their potential. Children and their families must be supported to enable them to have good mental health and wellbeing and have access to help which is local, responsive and evidence based.

Research relating to brain development highlights that it is not until the mid-20s, and possibly later, that the brain is fully developed. Given this, it is crucial that children are supported to understand and retain important information. As stated above children's voices must be heard in relation to matters that affect them and they must be supported to be heard at all stages within the youth and criminal justice system. Supporting children with speech, language and communication needs at an early stage is essential to ensure that they are treated fairly, are clear what is expected of them and that they are included in decision making.

The Children and Young People (Scotland) Act 2014 ("the 2014 Act") outlines the duties for corporate parents across Scotland. These duties aim to ensure that collectively we focus on the task of safeguarding and promoting wellbeing, to ensure children do not face additional barriers because of care experiences. Organisations who are listed as "corporate parents" for the purposes of Part 9 of the 2014, and their practitioners who support children who engage in offending behaviour, must be clear on their corporate parenting responsibilities.

We are committed to a safer, stronger Scotland by supporting everyone's right to feel safe in their home and community. Victims, including children and adults, must have access to information, supports and opportunities to access restorative justice.

## **Standards**

These standards outline the minimum expectations for all strategic and operational services delivering youth justice in the community, secure care and young offender's institutions (YOI). The standards will influence how services are designed and delivered and will focus on the functions of youth justice rather than processes, thus offering the opportunity for flexibility to meet local needs. These standards are recognised by the Scottish Government, National Youth Justice Advisory Group (NYJAG), Youth Justice Improvement Board (YJIB) and Justice Board and they are to be followed by those to whom they relate.

Integration and sustainability of the WSA to offending behaviour is part of the strategic planning landscape including Community Planning, Children's Service Planning and Community Justice. Local and national partners have a key role to play and will be supported by the Youth Justice Improvement Board (YJIB).

- Standard 1 - Prevention and Early Intervention
- Standard 2 - Children's Hearing System
- Standard 3 - Alternatives to Prosecutorial Action
- Standard 4 - Court
- Standard 5 - Secure Care and Young Offenders Institution (YOI)
- Standard 6 - Risk Assessment and Care and Risk Management
- Standard 7 - Transitions
- Standard 8 - Improving Outcomes

**Standard 1** Prevention and Early Intervention is available to every child in Scotland who is involved in or at risk of offending.

Early and Effective Intervention (EEI) aims to respond to children who come to the attention of the Police for offending, concerning or harmful behaviour. The overall aim is to improve the outcomes of children by ensuring proportionate responses and ensuring the right response is provided for a child, at the right time. EEI is underpinned by the principles of GIRFEC and UNCRC. EEI provides options to deal with and support children who engage in low level offending, concerning or harmful behaviours. Interventions must be timely and proportionate whilst ensuring communities see unacceptable behaviour is being challenged. Children should not have increased contact with the police as a result of being cared for within a residential placement. The EEI Framework of Core Elements sets out best practice for the effective delivery of EEI, providing a shared language and where possible a commonality of processes.

1.1 Local multi-agency partnership arrangements are in place to support lawful and proportionate information sharing, planning, decision making and review mechanisms to reduce risk and meet needs.

1.2 Children must have access to supports on a voluntary basis and not require a referral to a formal system to receive the support they need. Initial denial of the crime or behaviour should not prevent the child being considered for EEI. A child who is not already subject to a compulsory supervision order in the Children's Hearings System should only be referred to the Children's Reporter if it is considered that they may require compulsory measures.

1.3 Support and interventions with children who are referred to the Children's Reporter are offered at the earliest opportunity and not delayed awaiting the outcome of a referral. Supports must be holistic and consider the whole family.

1.4 Prevention and early intervention supports are underpinned by UNCRC, GIRFEC, Child Protection and/or Care and Risk Management (CaRM) processes with agreed pathways for escalation where required.

1.5 Where appropriate, victims are informed of the outcome of early and effective intervention processes.

1.6 Systems are in place locally to identify outcomes for individual children to support the measurement of effectiveness of supports and interventions.

1.7 Systems are in place to collate data at a local and national level on the number of children charged with an offence, those dealt with via voluntary measures and those referred to the children's reporter and/or the Crown Office and Procurator Fiscal Services. This will provide a clear overview of the scale of offending by children and support effective targeting of resources.

**Standard 2** Children referred to the Children's Reporter receive support at the earliest opportunity and those who are subject to a Compulsory Supervision Order (CSO) have a child's plan in place which is reviewed at regular intervals and supported by appropriate risk assessment tools.

2.1 [Guidance on referral to the Reporter - Information for Partners](#) must be followed when referring a child, taking into consideration all of the wellbeing indicators.

2.2 When a child continues to be in need of care and protection a CSO should not be terminated due to their non-engagement alone, or due to there being an outstanding matter or order via the Criminal Justice System in place (or pending).

2.3 All children in the Children's Hearings System, as a result of offending behaviour, have their needs and risks assessed using the [GIRFEC national practice model](#) and appropriate structured professional judgment risk assessment tools for high risk behaviours utilising the evidence base in the [Risk Management Authority](#) (RMA) Risk Assessment Tools Evaluation Directory (RATED).

2.4 High risk behaviour is assessed, managed and reviewed following the [Framework for Risk Assessment Management and Evaluation](#) (FRAME) for local authorities and partners - for children and young people under 18, which includes guidance on the CaRM process.

2.5 It is important that only cases that fall within the [Lord Advocate's Guidelines](#) are jointly reported, to prevent children who should be dealt with in the Children's Hearings System entering the criminal justice system. Guidance on [Decision Making in Cases of Children Jointly Reported to the Procurator Fiscal and Children's Reporter](#) must be considered. The presumption for all children who are jointly reported is that they will be dealt with by the Children's Reporter.

**Standard 3** Where appropriate, children should be dealt with out with formal systems. Where that is not possible consideration must be given to the use of alternatives to prosecutorial action, which includes diversion.

3.1 Reports submitted by Police Scotland to the Crown Office and Procurator Fiscal Service (COPFS) must include all relevant information available to support the Procurator Fiscal to mark the case and make a decision.

3.2 Decisions made regarding children referred to COPFS should be made timeously. Any delay in criminal proceedings involving child accused should be minimised and cases dealt with as efficiently and effectively as possible.

3.3 Local services must be available to ensure person centred approaches so that, where referral to the Children's Reporter is not an option, children can be effectively diverted from prosecutorial action.

3.4 COPFS must advise children on the final outcome of the case.

3.5 National guidance on diversion must be followed.

**Standard 4** All children must have access to supports when going through the Court process. To support the delivery of child centred justice all cases for a child accused should be accelerated through the court process.

4.1 Effective partnership working arrangements are in place between Scottish Courts, Crown Office and Procurator Fiscal Service, Children's Reporter, Police Scotland, third sector and local authorities to enable timely information sharing to ensure children involved in the court process are supported at the earliest opportunity.

4.2 Where a child is at risk of entering custody (either by virtue of being remanded or sentenced) their case should be heard as early as possible in the court day to support their transition into custody.

4.3 Criminal Justice Social Work Reports (CJSWR) prepared for children must follow the [National Outcomes and Standards](#) practice guidance whilst also considering each of the wellbeing indicators. Reports must be supported by relevant risk assessment tools. Reports must comment on the option of advice/remittal to a children's hearing, restriction of liberty orders and of the responsibility of Scottish Ministers if sentenced via section 205 or 208 of the Criminal Procedure (Scotland) Act 1995.

4.4 The support provided to all under 18's in the court process should provide a holistic individualised response. This includes practical supports to address identified needs, process and procedural guidance, links with justice system professionals and support until completion of the court process. Once concluded additional support should be available for the child in relation to any court disposal.

4.5 Children made subject to Court orders must be supported to understand any specific requirements and the potential consequences of not complying with these. National practice guidance on [Community Payback Orders](#) should be followed.

4.6 All Scottish Courts must have in place arrangements for children appearing from custody to minimise the use of cells, handcuffs or facilities where adult accused are being held. Courts must have access to information about the child including wellbeing needs, risks and vulnerabilities to assist with decision making.

4.7 Children held in secure care, YOI or appearing from police custody must be transported to and from Court using transport which is appropriate for children, minimises delays and does not put them in contact with adult prisoners or accused. The Scottish Government are responsible for transporting children sentenced via section 205 or 208 of the Criminal Procedure (Scotland) Act 1995.

**Standard 5** The arrest, detention or imprisonment of a child shall be in conformity with the law and used only as a measure of last resort and for the shortest appropriate period of time (*UNCRC*), this includes *Secure Care and Young Offenders Institutions (YOI)*.

5.1 The Secure Care Pathway and Standards must be adhered to.

5.2 Community alternatives must be explored and the potential suitability for this shared with key decision makers. Where these options are not pursued, the reasons should be clearly recorded.

5.3 Before a Children's Hearing makes a child subject to a Movement Restriction Condition (MRC), the hearing members should satisfied themselves that the child meets the statutory criteria for secure care and that all other community alternatives have been considered / exhausted.

5.4 Wherever practicable, appropriate and permitted by the terms of the sentencing warrant, children under 18 who are subject to a Compulsory Supervision Order (CSO) who require to be deprived of their liberty by the criminal court are to be cared for within the secure estate. Placement in a YOI is a last resort and should only be used by the court when all other alternatives are unavailable.

5.5 All children who enter secure care or custody via court will be supported at the earliest opportunity to start planning for their transition back to the community. All relevant information must be sent to the secure care provider or YOI the day the child enters. The first stage in this will be an [initial custody review](#) or a review via the [Looked After Children \(Scotland\) Regulations 2009](#).

5.6 Guidance and legislative requirements on contact with children throughout their stay in secure care or custody must be followed.

5.7 Children must have access to supports when transitioning back to the community. This includes support with accommodation, finances, education, training and employment, health and substance use and family support and should be detailed in a Transition Plan.

**Standard 6** Risk assessment is a crucial step in Care and Risk Management (CaRM) to identify which children require services, the type and intensity of service provision required and in guiding appropriate care planning. Undertaking different depths of assessment in response to different levels of risk presented by children is essential.

6.1 The selection of appropriate risk instruments, which support a professional judgement approach, is the responsibility of the practitioner and the agency. The assessment tool must be appropriate for the age and developmental level of the child and guided by the evidence base outlined by the Risk Management Authority (RMA) in the Risk Assessment Tools Evaluation Directory (RATED). Tools designed to be used with adults must not be used with children.

6.2 The [Framework for Risk Assessment Management and Evaluation](#) (FRAME) for children and young people under 18 must underpin practice when assessing, managing, reducing and evaluating the risks presented by offending and/or harmful behaviour.

6.3 Local partnerships must have clear protocols in place to ensure Care and Risk Management (CaRM) processes are followed when children display harmful sexual behaviour and/or behaviour involving violence or where a pattern of significant escalation of lesser behaviours suggests that an incident of a serious nature may be imminent (irrespective of the legal status of the incident).

6.4 Systems are in place to collate data at a local and national level on all children supported through CaRM based protocols. This must include referrals, nature of concerning behaviour, legal status and age, decision making as to whether CaRM meeting is necessary, review meetings and number exiting the CaRM process and reasons for this. This will provide a clear overview of the effectiveness of processes to reduce the risk of harm and will support effective targeting of resources.

**Standard 7** Transitions can be stressful and challenging. It is essential that children are supported with their transition between placements, support services and systems to help them prepare and understand the transition.

7.1 Local partnerships have arrangements in place to support partnership working to ensure delivery of smooth and gradual transitions which are person centred, planned and appropriately paced, and consider needs and risks.

7.2 Local systems are in place to ensure continuity of assessment, planning and intervention for children transitioning.

7.3 Children transitioning to adult services must have an identified professional contact to take over from the lead professional.

7.4 All relevant information, including risk assessments, formulations and risk reduction plans must be shared as part of the transition planning.

**Standard 8** To support improving outcomes it is expected that the quality of service provision for children involved in or at risk of offending will be measured using the standards outlined in this document.

8.1 Scottish Government will analyse and publish data from a range of sources including SCRA, Scottish Courts, Police Scotland, Crown Office and Procurator Fiscal Service and Local Authority, annually to support local and national evaluation of youth justice.

8.2 Local partnerships have arrangements in place to ensure support for victims of crime regardless of the age of the person responsible, this may include Restorative Justice.

8.3 Local partnerships have mechanisms in place to measure the impact of supports to children involved in or at risk of offending.

## 9. Appendix B – The Consultation Questions

The Scottish Government is consulting on these proposed Youth Justice Standards to ensure that they are as accessible and user-friendly as possible. We want these standards to improve the practice for those working with children and young people involved in offending and harmful behaviour in Scotland, which in turn improves the experience of those vulnerable children and young people. As such, we are particularly interested in your views on the standards, and in particular how we could improve these standards in any way.

The youth justice strategy 'Preventing Offending Getting it Right for Children and Young People', the Whole System Approach (WSA) and Getting it Right for Every Child (GIRFEC) provide the overarching policy frameworks for youth justice practice in Scotland and underpin the proposed Youth Justice Standards. GIRFEC provides a consistent way for people to work with children and their families. It supports families by making sure children receive the right help, at the right time, from the right people. The aim is to help children grow up feeling loved, safe and respected so that they can realise their full potential.

The national youth justice key priority themes are: Advancing the Whole System Approach, Improving Life Chances, and Developing Capacity and Improvement

### **1. Do the proposed Youth Justice Standards reflect these national youth justice priorities?**

**Yes**

**No**

**Don't know**

**Please provide a reason (or reasons) for your answer**

The proposed Youth Justice Standards focus on the functions of youth justice, and are intended to influence service design and delivery to allow for flexibility to meet local needs.

### **2. Do the proposed Youth Justice Standards allow for flexibility to meet local needs?**

**Yes**

**No**

**Don't know**

**Please provide a reason (or reasons) for your answer**

As outlined, the Scottish Government wants to make sure that the proposed Youth Justice Standards are as helpful as possible to strengthening the delivery of services for children and young people.

**3. What aspects stood out as being the most helpful?**

**Please provide a reason (or reasons) for your answer**

**4. What aspects stood out as being the least helpful?**

**Please provide a reason (or reasons) for your answer**

Evidence-based decision making is central to the work of the Scottish Government and we have designed the proposed Youth Justice Standards to support internal and external evaluation of services which support children involved in, or at risk of, offending.

**5. With reference to the core principles and data sets, will the proposed Youth Justice Standards allow for reliable local and national evaluation of services?**

**Yes**

**No**

**Don't know**

**Please provide a reason (or reasons) for your answer**

The Scottish Government is committed to ensuring that services delivered to children involved in offending are scrutinised appropriately.

**Background**

The Care Inspectorate is Scotland's regulatory body for health and social care, early learning and childcare, social work, children's services, and community justice.

Services that support children involved in offending are mainly included in inspections of services for children and young people in need of care and protection. This includes services for children under the age of 18 years and/or young people up to 26 years if they have ever been looked after. In addition, these services could overlap with criminal justice social work services for those children involved in the criminal justice system.

The [quality framework for children and young people in need of care and protection](#) outlines the Care Inspectorate's expectation of the quality of service provision for children in need of care and protection across community planning partnerships. The framework is arranged under six high-level overarching domains. These are:

1. Key outcomes
2. Stakeholder's needs

3. Delivery of services
4. Management
5. Leadership
6. Capacity for improvement

Care Inspectorate scrutiny activity addresses key questions in relation to these six domains by gathering information against a number of quality indicators arranged in 10 areas within the framework, with one or more of these being linked to each domain. The key questions include:

1. How good is the partnership at recognising and responding when children and young people need protection?

2. How good is the partnership at helping children and young people who have experienced abuse and neglect stay safe, healthy and recover from their experiences?

3. How good is the partnership at maximising the wellbeing of children and young people who are looked after?

4. How good is the partnership at enabling care experienced young people to succeed in their transition to adulthood?

5. How good is collaborative leadership?

**6. Having read the background information above, do you think the current key questions are sufficient to ensure appropriate scrutiny of services provided to children involved in or at risk of offending, if no then please provide further reasoning and suggested alternatives below?**

**Yes**

**No**

**Don't know**

**Please provide a reason (or reasons) for your answer**

## 10. Appendix C – Consultation Respondents

The organisations and individuals who responded to this consultation are listed below, according to the categorisation of their organisation. Nine organisations or individuals did not wish to be named, although eight were happy for their response to be published. One respondent did not specify the name of their organisation.

### Local Authority / Health & Social Care Partnership (HSCP)

Argyll & Bute HSCP

Stirling Council

Aberdeen City Council

West Lothian HSCP

Glasgow City HSCP

### Third Sector

Families Outside

Staf Scottish Throughcare Aftercare Forum

Action for Children Scotland

Scottish Commission for People with Learning Disabilities (SCLD)

### National Public Body (or similar)

Convention of Scottish Local Authorities (COSLA)

Community Justice Scotland

Police Scotland

The Scottish Children's Reporter Administration (SCRA)

The Scottish Sentencing Council

The Care Inspectorate

CELCIS

Scottish Courts and Tribunals Service

### Other

National Youth Justice Advisory Group (NYJAG)

Senators of the College of Justice

The Edinburgh Offender Management Committee



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Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-83960-773-8 (web only)

Published by The Scottish Government, June 2020

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS736166 (06/20)

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