Age of Criminal Responsibility (Scotland) Act 2019:

Child Interview Rights Practitioners (ChIRPs) question and answer guide

August 2023

Scottish Government
Riaghaltas na h-Alba

Age of Criminal Responsibility (Scotland) Act 2019

Child Interview Rights Practitioners (ChIRPs)

Questions and Answers Guide

This guide is for Child Interview Rights Practitioners (ChIRPs) and aims to provide clarity on practical and procedural matters that have been raised through feedback. This will be subject to regular review.

The information is offered as an additional guide and should there be any conflict, inconsistency or ambiguity, the Age of Criminal Responsibility (Scotland) Act 2019 (the 2019 Act) and Statutory Guidance on Investigative Interviews take precedence.

The Statutory Guidance on Investigative Interviews aims to support police, local authorities and others with functions related to investigative interviews under the 2019 Act, ensuring that these are carried out in a child-centred way in keeping with the ethos of removing young children from criminal justice processes, whilst also ensuring serious harm is properly investigated in the interests of the victim.

The Code of Practice sets out the national standards of practice that apply to all ChIRPs, in accordance with the Age of Criminal Responsibility (Scotland) Act 2019 (Register of Child Interview Rights Practitioners) Regulations 2021.

Initial contact and arrangements

How and when will I be contacted to be allocated a role as a ChIRP in a specific case?

A member of the Scottish Government Age of Criminal Responsibility (ACR) Review Team will phone you as soon as they become aware of a request for a ChIRP within the local authority area in which you have agreed to provide cover.

When you confirm you are able to support the child, the Scottish Government official will provide you with the Police Scotland contact details and Police Scotland with your contact details.

How will the Scottish Government manage out of hours requests for a ChIRP?

Police Scotland will make immediate contact with the Scottish Government in line with the procedure for all incidents requiring the assistance of a ChIRP. Police Scotland should initiate contact with the Scottish Government's ChIRP Duty Officer by sending an email to ChIRPDuty1@OnPage.com. Duty cover is provided by the Scottish Government from 08:00 to 18:00 every day.

The Scottish Government official will assess the urgency for contacting a ChIRP and contact a member on the register of ChIRPs for the relevant local authority area. The

Scottish Government invites you to make them aware of periods of unavailability, for example, annual leave as this allows the Scottish Government to plan coverage and prioritise contact with those who are known to be available.

If there is an incident involving more than one child, who will tell me which child, I am allocated?

Subject to data protection legislation, the Scottish Government official will provide you with as much relevant information as they can when they initially get in touch; including contact details for the lead police contact who will be able to confirm the details of the child and incident.

Who will provide me with the details to contact the child and incident information?

Police Scotland will provide you with relevant information about the child and the incident, subject to data protection requirements. This will likely constitute relevant information held on police systems and from records held by other agencies, for example, the relevant local authority and health board. In most circumstances relevant information will also be obtained from education providers.

Does a child have any choice in choosing the ChIRP (such as gender of the ChIRP)?

In keeping with the UN Convention on the Rights of the Child (UNCRC), as far as possible, a child's views should be taken into consideration. Police Scotland should make Scottish Government aware of any preferences indicated by the child. The Scottish Government will do what it can to meet these preferences, however, choice of gender of the ChIRP cannot always be guaranteed.

How long will the whole process take to conclude?

The time between initial contact by the Scottish Government and you being appointed as a ChIRP to a child following an incident, to conclusion of the investigative interview can be time consuming. The planning process between Police Scotland and social work should be thorough, so the urgency and time required for your involvement will vary on a case-by-case basis. If the interview is under a child interview order, then it must be conducted within the period as specified on the Order, which could be up to 7 days (beginning with the day after the day on which the order is made or such later day as is specified in the child interview order)[1].

[1] section 44(7) of the 2019 Act

Decision to hold an interview and planning

Can a ChIRP be included in the Age of Criminal Responsibility (ACR) Inter Agency Referral Discussion (IRD)?

No, you should not be included in the IRD. The decision to hold an investigative interview is made at the IRD[2]. The Scottish Government will contact you after the IRD has taken place and once an investigative interview has been authorised (either by agreement or by child interview order). You will not be responsible for seeking agreement from the child and parent to an investigative interview. This should be sought by police and/or social work only.

When will I (the ChIRP) become involved in the planning for the interview?

The need for an investigative interview is determined at the Inter Agency Referral Discussion (IRD). Once an investigative interview is authorised (either by agreement or by child interview order[3]) the police will be in touch with you to invite you to join the police and social work interviewers to plan the interview[4]. You will also be given the police contact details to be able to get in touch with them.

Planning for the investigative interview should include agreeing the best approach to ensure that the child and parent(s) or supporter are informed, supported and the child's rights are upheld.

The extent to which you will be involved in the interview planning will vary and depend on the amount of time available to you to work with the child and the interviews prior to the date of the interview. You must always treat the need to safeguard and promote the best interests of the child as a paramount consideration while discharging your professional ChIRP duties to a child. This should be in a manner that safeguards and promotes the wellbeing of the child as a primary consideration.

Where can I find more information on the role of social work and police in relation to investigative interviews?

The Age of Criminal Responsibility (Scotland) Act 2019 Operational Guidance for Social Work and Police published on the Social Work Scotland website outlines the different roles and responsibilities of police and social work.

---

[2] Note however, that sections 54 and 55 of the 2019 Act provide that the child may be questioned in urgent cases, in which event an IRD should take place as soon as practicable thereafter – page 12 of Age of Criminal Responsibility (Scotland) Act 2019 Part 4 – Police Investigatory and Other Powers - Statutory Guidance on Investigative Interviews

[3] Section 51 of the 2019 Act

[4] Section 51(2) of the 2019 Act says that the child has the right in connection with and during the investigative interview, to receive advice, support and assistance from the ChIRP. Section 51(7) says that this includes supporting the child in communicating with the person conducting the interview. The ChIRPs role in planning the interview can be found within the Age of Criminal Responsibility Operational Guidance for Social Work and Police on the Social Work Scotland website.

What information will I receive about the criteria and the necessity to have the interview?

Police Scotland will provide you with this information. Police Scotland have a duty to thoroughly investigate the circumstances and ensure that the incident meets the criteria for an investigative interview.

Investigative interviews under the 2019 Act are only for the most serious cases involving concerns about certain behaviour of a child whilst under the age of 12 and, only when it is considered necessary, in order to properly investigate that behaviour and the circumstances surrounding it including whether a person other than the child has committed an offence. Where an investigative interview is required, the 2019 Act provides a distinct process for this to occur for the purpose of seeking information from a child in relation to an incident which is the subject of a police investigation[5].

Who will ask the child and parent if they agree to the interview?

The Inter Agency Referral Discussion (IRD) will consider the best approach for seeking agreement from the child and parent. The process for seeking agreement to an investigative interview being conducted will be decided on a case-by-case basis depending on the child's circumstances, legal status and consideration of existing relationships with the child and parent.

It is the responsibility of the police to seek agreement from the child and parent to the holding of an investigative interview. In practice, social work are likely to support the police when speaking to the child and parent. As soon as reasonably practicable after agreement to an investigative interview has been given the police have a duty to provide a written notice to the parent who has given agreement and to the child. The police should explain the information given in the notice (and explain to the child in a way that is appropriate to the child's age and maturity). The information in the notice must include: confirmation that the investigative interview is authorised by agreement given by the child and a parent of the child; that either the child or parent who has given agreement can withdraw agreement at any time (before or after the start of an interview); about other circumstances in which agreement is withdrawn; that agreement being withdrawn will end the investigative interview; and about what else may happen following withdrawal of agreement for example, agreement from another parent of the child or by application for a child interview order.

You should also be given a copy of this notice as soon as reasonably practicable after you have been identified as acting as the ChIRP[6].

As a ChIRP you should help the child understand their rights in relation to the interview, including where the interview is by agreement, their right to withdraw this agreement at any time, and their right to refuse to answer questions.

[5] Section 39 of the 2019 Act
[6] Section 41 of the 2019 Act

Child Interview Orders

The police may apply to the sheriff for a child interview order[7]. Where a child interview order has been made, the police must, as soon as reasonably practicable after the order is made, provide the child and (so far as practicable) a parent of the child, with a copy of the order and explain the order to the child, ensuring that the explanation is appropriate to their age and maturity[8]. This is to ensure their understanding of the information and their rights in relation to the order, in particular their right to seek the court's permission to appeal. The police should do this in collaboration with the local authority. You should also be given a copy of the order as soon as reasonably practicable after you have been identified as acting as the ChIRP[9].

A child who wishes to appeal an order is entitled to legal representation and children's legal aid to help them to do this[10]. This will be dependent on their capacity to instruct a solicitor and their wish to do so.

As a ChIRP you should help the child understand their rights in relation to the interview, including their right to refuse to answer questions.

Whose role is it to communicate with the family?

Specific responsibilities for communicating with the family should be discussed and agreed in the interview planning discussions. You will, wherever practicable, be involved in the planning discussions for the investigative interview.

As soon as reasonably practicable after the plan(s) for the investigative interview are drawn up, the plan(s) must be shared with the child and parent/supporter by the police and social work. So far as practicable, this must involve an explanation of the interview plan(s) to the child in a way that is appropriate to the child's age and maturity. You will also receive a copy of the interview plan(s).

You should arrange to meet with the child, at least once in advance of (and if possible, not immediately prior to) the interview, to build some rapport with the child and to explain your role as a ChIRP in the interview, the purpose of the interview, and the potential consequences. This is the first opportunity to ascertain the views of the child and this should be done so far as is reasonably practicable and in an age-appropriate manner[11].

Prior to you meeting with the child and family/supporter, the police should have informed the child and family of the details of the incident that is to be investigated and obtained authorisation to the interview taking place.

---

[7] Section 44 of the 2019 Act
[8] Section 45 of the 2019 Act
[9] Section 45 of the 2019 Act. A copy of the order should also be given to the person who will act as supporter
[10] Section 28C of the Legal Aid (Scotland) Act 1986
[11] Paragraph 11 of the Code of Practice

The investigative interview may not take place without the child being given a copy of the interview plan(s) in advance, and the interview must proceed in accordance with the plan(s) and any directions contained in the child interview order[12]. Interviewers should ensure that the child and parent/supporter are fully aware of the interview process and that they understand the roles of everyone who is present at the interview.

What information should the ChIRP share with the child prior to investigative interview?

The plan(s) for the investigative interview will be written by police and social work interviewers with input from you, wherever practicable. The police will share the written plan(s) for conducting the interview with the child and their parent(s)/supporter(s) prior to the interview[13]. This will include details of the purpose of the interview and when and where it will take place. Where the investigative interview is authorised by agreement, the police should also give the child and the parent who gave agreement a written notice about their right to withdraw agreement to the interview at any time (whether before or after the start of the investigative interview)[14].

This information will also be shared with you, to ensure you are able to provide support and advice to the child. You should arrange to meet with the child, at least once in advance of (and if possible, not immediately prior to) the interview, to build some rapport with the child and to explain your role as a ChIRP in the interview, the purpose of the interview, and the potential consequences. This is the first opportunity to ascertain the views of the child and this should be done so far as is reasonably practicable and in an age-appropriate manner[15].

You have a responsibility to ensure the child is aware of their rights in relation to the interview, including the child's right to refuse to answer questions[16].

What if I am concerned about the interview plan(s)?

Your role is to provide advice, support and assistance to the child, and wherever practicable, you will have an active role in the planning for the interview. You can ask questions about the interview with the interviewers or their managers prior to the interview taking place.

Any concerns you have in relation to the interview plan(s) should be raised prior to the interview. Explain your concerns and discuss solutions and suggested changes with the police and social work. A key part of your role is to present the child's views, so it is important that this is fully considered.

[12] Section 44 of the 2019 Act
[13] Section 47 of the 2019 Act
[14] Section 41 of the 2019 Act
[15] Paragraph 11 of the Code of Practice
[16] Section 51 of the 2019 Act

All your actions must take account of the child's needs and uphold their rights. You must treat the need to safeguard and promote the best interests of the child as a paramount consideration[17].

What should I do if I am concerned about the questioning in the investigative interview?

If you have concerns during the interview, consider the best approach for raising them. For example, you may wish to check with the child how they are feeling and suggest a break to enable you to speak with the interviewers and/or the child. The child has the right to a private consultation with you before, or at any time during, the interview[18]. You must be allowed to be present in the interview if the child wants you to be there. The interview may be conducted only if both the child's supporter and you are in attendance at the location where the interview is being conducted. Furthermore, at least you or the supporter must be present in the room during the interview[19].

It is important to remember the purpose of an investigative interview under the 2019 Act. Working collaboratively with police and social work to safeguard and promote the wellbeing of the child is a primary consideration for all[20].

Will there be a protocol for the investigative interview?

Yes, Police Scotland and Social Work Scotland have worked on a Protocol and this is contained within the The Age of Criminal Responsibility (Scotland) Act 2019 Operational Guidance for Social Work and Police which can be found on Social Work Scotland website.

The Protocol for Age of Criminal Responsibility investigative interviews is closely aligned to the Scottish Child Interview Model (SCIM) for Joint Investigative Interviews (JIIs). It includes the specific information to be given to the child to ensure their legal rights are upheld in relation to the interview.

Will the investigative interview be recorded?

Yes. Investigative interviews will be visually recorded unless there are specific reasons why this may be inappropriate for the individual child, or it is not possible for practical reasons. The use of Visually Recorded Interview (VRI) equipment and the identification of a suitable interviewing facility will be dependent upon local arrangements. This will be discussed (in so far as possible) and planned at the Inter Agency Referral Discussion (IRD). For further information please refer to the operational guidance which can found on the Social Work Scotland website.

Will there be a debrief with police and social work after the interview?

[17] Paragraph 23 of the Code of Practice
[18] Section 51 of the 2019 Act
[19] Section 52 of the 2019 Act
[20] Section 72 of the 2019 Act

The operation guidance on the Social Work Scotland website states that 'consideration should also be given to holding a debrief session with all practitioners, at the conclusion of the Age of Criminal Responsibility investigative interview, to ascertain any learning from the process that can inform future training and improvements. This can involve a debriefing of all professionals, including the ChIRP, to provide support and identify learning and development'.

Prior to the interview it would be good practice to discuss and agree holding a debrief with police and social work after the interview.

After the interview

How does a ChIRP end their contact with the child following completion of the investigative interview?

This is a critical aspect of the process. It is important that all contact with a child including the ending, is considered carefully and well planned.

Children involved in the processes under the 2019 Act may have experienced childhood trauma (such as abuse or neglect) and you must take this into account in your interaction with them.

All aspects of the contact with the child must be sensitive to the child's needs and rights.

You should consider the following when ending your relationship with the child:

- The nature of your contact with the child and how the relationship was established
- Issues that have emerged during the investigative interview
- Relevant background information
- Following a trauma informed approach (ensuring choice, collaboration, trust, empowerment and safety)
- How best to communicate with the child (such as written communication, face to face etc)
- Ensure communication is effective and supportive
- Consider what would be a positive ending with the child
- Ensure the child is aware of the role and function of the ChIRP and explain why this relationship is ending
- Ensure there are clear professional boundaries

The care arrangements for children will vary on a case-by-case basis. Whatever the circumstances, it is important to be mindful that your role is to support the child, however, the child's family/carers may also be impacted by the issues surrounding the incident that led to the investigative interview processes being followed. Ensuring clarity of your specific purpose of your role as the ChIRP from the start of the contact with the child and the family will be helpful to explain the ending of this relationship. Your role of a ChIRP is new and different from the role as a solicitor and must be explained clearly.

The ending of the relationship with the child should not take place immediately after the investigative interview has completed; you should arrange a further contact to explain the end of your role.

You may offer information on next steps (if known) such as:

- Support that may be offered (e.g. from social work)
- Other processes, such as referral to the Children's Reporter or child protection
- Engaging with a solicitor if required
- Explaining the complaints process (police /social work)

Will a ChIRP be involved in any other processes under the 2019 Act?

No. You will only be involved in processes relevant to the investigative interview. The child and family may be involved in other processes such as support from social work, child protection, referral to the Children's Reporter, all of which are dependent on the individual circumstances. In the role of ChIRP, you will not be involved in any of these processes.

What do I do if a child I have acted as ChIRP for contacts me?

Once the investigative interview process has completed, and formal contact with the child has ended, any further contact from the child must be handled sensitively.

Be supportive and communicate clearly about what you can/cannot do and explain the ChIRP role has ended.

Listen and respond to the child in a trauma informed manner. Ask if they need further support and assistance and consider how this can be accessed.

The child may have spoken to you about difficult issues and the child may feel they can trust you, so be honest, helpful and compassionate.

Can the ChIRP remain involved with a child after the interview? For example, can a child ask you to represent them as a solicitor if they go to a Children's Hearing or at a later date?

The role of the ChIRP is specific to supporting a child at the investigative interview. It is not possible to remain involved with a child as a ChIRP once the investigative interview is complete.

However, there may be occasions where the child asks you to represent them in another role, for example, as a legal representative at a Children's Hearing. Children can speak with a number of different professionals involved in their lives and continuity may be important. If the child feels you can support them in future, this may be positive for them.

Subject to you satisfying yourself as to your professional obligations (e.g. in relation to capacity and conflict of interest) you may represent the child as a solicitor in

subsequent matters. However, there needs to be effective clear communication about roles and responsibilities, and it may be easier to avoid a potential conflict of interest by having someone else within your own practice to represent the child. Professional judgement should be applied.

You must be clear that this would be a separate role and you would not be acting as a ChIRP. As such this representation would be separate to any instruction to a ChIRP from the Scottish Government.

Learning and support

Do I need to notify Scottish Government once my involvement in an investigative interview concludes?

Yes, please contact the Scottish Government team by email ACRChIRPs@gov.scot to let the team know that the investigative interview process is complete, to arrange a follow up conversation to debrief, and to arrange for payment of fees and expenses.

Is there an opportunity to learn from this process?

The Scottish Government will collect data in relation to processes under the 2019 Act to support reflective practice by the Scottish Government, police and social work.

The Scottish Government will request a debrief from each ChIRP following involvement in the investigative interview process to further support any learning points identified. Please contact the Scottish Government team after the investigative interview is completed to arrange a debrief about your experience (you will not be required to share confidential information) using this email address: ACRChIRPs@gov.scot. Personal information will be processed in line with data protection legislation.

What support is available for ChIRPs?

The Scottish Government will offer ongoing training on an annual basis. This will allow you to meet and share experiences with other ChIRPs.

In addition, the Scottish Government will continue to review this Question and Answer resource in order to ensure a consistent approach and build on best practice.

Should you require any additional support at any point you can contact Scottish Government mailbox on ACRChIRPs@gov.scot.

How do I claim my fees and expenses for my work as a ChIRP?

Please contact the Scottish Government as soon as your involvement in an investigative interview has concluded by email to ACRChIRPs@gov.scot

The fee structure is in the Code of Practice. The Scottish Government will require information from you in order to set you up on the Scottish Government finance system. Once this has happened, the Scottish Government will need your invoice / receipts in order to process your claim for expenses. Please note that you will need to keep your receipts for audit purposes.

Do I need to apply to the ChIRPs register annually?

No, you are appointed to the Register as a ChIRP for an initial period of three years. There is also the possibility of registration for a subsequent period of between 1 and 3 years, as can be determined by the Scottish Ministers.

If I no longer wish to be on the ChIRP register, what should I do?

If you no longer wish to be on the ChIRP register, you must notify Scottish Government as soon as possible. If there are any changes to your registration as a ChIRP, please contact us within 20 working days.

You must, as soon as practicable, notify Scottish Ministers in writing if you are no longer entitled to provide children's legal assistance, if you are barred from regulated work with children[21], or become a member of or are employed by the Scottish Children's Reporters Administration or Children's Hearings Scotland[22].

You may contact the Scottish Government Age of Criminal Responsibility Review Team using this email address: ACRChIRPs@gov.scot

[21] By virtue of the Protection of Vulnerable Groups (Scotland) Act 2007
[22] Regulation 3(7) of The Age of Criminal Responsibility (Scotland) Act 2019 (Register of Child Interview Rights Practitioners) Regulations 2021

Scottish Government
Riaghaltas na h-Alba

© Crown copyright 2023

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit **nationalarchives.gov.uk/doc/open-government-licence/version/3** or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: **psi@nationalarchives.gsi.gov.uk**.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at **www.gov.scot**

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83521-311-7 (web only)

Published by The Scottish Government, August 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1349982 (08/23)

w w w . g o v . s c o t