

# Children's Care and Justice Bill



## What is this consultation about?

.....

The Scottish Government is thinking about making changes to the law about how we protect and support children in Scotland, especially those children who get into trouble with the police. A child means anyone aged under 18.

Before the Scottish Government can change the law, it has to ask the people of Scotland what they think. This is called a consultation.



## Who took part?

.....

The consultation received 106 responses. This included responses from individual adults, organisations and young people. Some responses shared the views of more than one person, such as from a group of young people, so more than 106 people took part in the consultation.

The consultation asked people about six different topics. This report explains what people said in the consultation about the planned changes to the law.

# 1. The children's hearings system



At the moment only some 16 and 17 year olds can be referred to the children's hearings system. Almost all people who responded thought children aged up to 18 should have the option to be referred to the children's hearings system rather than the court. Many people thought children should always be referred to the children's hearings system. Others thought that there might be occasions where a child had to go to court, but that it would be good for the children's hearings system to decide what support the child could get, rather than the child being sentenced at court.

People did not always agree whether the children's hearings system needed more ways that it could protect those harmed and support children, or if the options that it had already were enough. One of those options was the use of Movement Restrictions conditions (MRC) which is where a child has to be at home (or another place) at certain times of day and wears a tag on their ankle that monitors if they are in the right place when they should be.

Some people felt that MRCs should be available to more children, to keep them safe or out of secure care. Other people thought that this was not fair as it could mean that children were treated more strictly than adults, or that it was against their rights. Some people were concerned that it might increase the chance of children getting deeper in to trouble if they broke the rules of their tag.



People believed that anyone harmed by a child had a right to more information about what happens if that child is referred to the children's hearings system, especially if the child had to follow rules such as not being able to contact the other person. People also thought that people harmed should be able to get more support if they needed it.

At the same time, people also thought that the child who had caused harm also had a right to privacy, especially about things that might be sensitive or personal, such as where they went to school or what was happening in their life. There would need to be a careful balance between sharing information, but not too much information.

## 2. Courts and Young Offender Institutions



Many people believed that children should not have to go to court, but some people felt that if a child had caused serious harm then they should go to court. Most people thought that if a child had to go to court it should be changed to be less stressful for children, by making it more child-friendly. This might mean everyone wearing more casual clothes, listening to what the child had to say or using words that are understood by everyone. Many people thought that if a child broke the law they should have a right to remain anonymous (meaning that they cannot be named by the court or the media) until they were an adult, and some people thought this should be up to age 26.

If a child had to have their freedom taken away, most people felt that this should be in a secure care centre rather than a YOI (which is like a prison, but for young people aged 16-21). Secure care is different because it is more like a children's home, although children are not able to leave whenever they want. This was because many people thought that sending a child to a YOI caused them more harm than good, and that secure care should be better able to support children's needs, especially if they have experienced difficult or sad things in their lives.

Some people thought that if a child had committed a very serious offence, or if they posed a big risk to other people, then a YOI might be more suitable to manage that risk. A few people thought that a YOI sent a stronger message to the child that what they had done was wrong, and a few people worried about mixing children with different needs and levels of risk in secure care. Most people thought that children who had been sent to secure care or YOI needed better support to help them get ready to move back to the community.

### 3. Secure care



Many people thought that the secure care rules about who could be placed in secure care, the reasons why they could be sent there, and who paid for secure care were too complicated. If a child was placed in secure care by a court most people thought that the Scottish Government should pay for it.

Just like the children's hearings system, some 16 and 17 years olds are not able to be placed in secure care at the moment. Most people felt that this should be changed so that everyone under 18 could go to secure care if they needed to, and even stay there after the age of 18 if they needed to.

Some people thought that secure care might need to have more money, staff or training to be able to safely look after children up to the age of 18, especially if the child had very risky behaviours. Other people thought that, while this was a good idea, secure care should only be used when it was really needed, and that there should be more supports in the community so children did not end up in secure in the first place.

Most people thought that the care offered should be of a similar type and quality across all secure centres, as at the moment children's experiences are different depending on which secure centre they were placed in.

Children can be taken to and from secure care in many different ways. This could be by their social worker, staff from secure care, the police, or secure transport from private organisations.

Children, especially those who lived far away from towns and cities, sometimes had to wait a long time for transport. Many people thought that there should be safe and secure transport that was quickly available when needed.

Many young people found the transport to secure care an upsetting experience, and felt that this should be done in ordinary cars and with a family member or member of staff who they know and trust.



# 4. Residential care



Most people thought there should be a set of rules and standards for residential care, to make sure that the care that children get is consistent. Many people thought that children and young people should get a say in what these rules and standards are.

Many people thought that children from other parts of the UK should not be placed in residential care in Scotland, unless it was the best choice for them. This was because people thought that children should remain closer to their families. If a child had to be placed in Scotland then most people agreed that they should have someone who worked in the local area who could stand up for their rights.

Sometimes in residential care a child is restrained for their own safety. This is when trained staff hold a child in ways which mean it is difficult for a child to harm themselves or other people. Most people agreed that this should be used as little as possible, and that there should be very clear rules about when restraint could be used and how children could be restrained.



## 5. Age a child can be charged with a crime



Recently a new law came into place that says that children aged under 12 cannot be charged with a crime. When the law was passed by parliament it was agreed to look at this law again after three years, as many people thought the age should be older than 12. Most people still thought that three years was the right time to look at it again, but some people felt that it need to be looked at much sooner than that, because international guidance (such as the [UNCRC](#) which sets out the rights that every child in the world should have) suggests that 12 is still too young. Scotland wants to make sure its laws follow what the UNCRC says wherever possible.

## 6. Impact on children



People thought that it would be really important to fully understand the impact of any changes on children before the law was changed, especially in relation to children's privacy, and the sharing of a child's information.

# What happens next?



The Scottish Government have prepared a report with all of the information from people who took part in the consultation. You can read the long report [here](#).

Ministers will consider what everyone has told them and will develop a draft set of changes to the law or new laws (this is called a 'Bill'). This Bill will be discussed in the Scottish Parliament, which makes the laws in Scotland. If Parliament agrees with the changes it will become the law.

Sometimes people in the parliament don't agree with all of the changes and so there is often lots of debate and small changes made to the plans before they are agreed.

You can read more about Bills and law in the Scottish Parliament [here](#).

THANK YOU

to everyone who took part