

Children's Care and Justice Bill

Consultation Analysis

Independent report commissioned
by Scottish Government

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1. Background

The Scottish Government's Programme for Government 2021/2022 outlined a commitment to "...safeguard young people within the youth justice system, supporting a presumption against under 18s in the Criminal Justice System, keeping them out of young offenders' institutes where possible and appropriate, while ensuring that victims receive the support they need." This commitment forms part of the Scottish Government's aim to 'Keep the Promise' for care experienced children and young people, and also aims to continue to embed both GIRFEC and UNCRC for all children in Scotland.

In March 2022, the Scottish Government launched a formal public consultation which outlined the policy and legislative proposals that have, to date, been developed to achieve this aim. All proposals draw upon the evidence base that exists in Scotland: from children and young people with lived experience of the care and justice systems, from practitioners, stakeholders and academics. In respect of certain elements of these proposals, prior consultation was undertaken and specific proposals were developed. In respect of other matters, the consultation document outlined issues and objectives and then set out options as to potential solutions. By launching a formal consultation, the Scottish Government aimed to gather and explore civil society and individual views and perspectives on these proposals, or alternatives, and how they could best be implemented and delivered.

The Scottish Government will consider the balance of views and perspectives gathered within this consultation to inform the development of the Children's Care and Justice Bill, which will be introduced to the Scottish Parliament in due course. In order to facilitate this process, the Scottish Government commissioned the Children and Young People's Centre for Justice (CYCJ) to analyse and present the findings from the formal public consultation. The Scottish Government has also undertaken a range of additional engagement activities across key partners and stakeholders about the proposals, although this report is limited to those responses received in the formal consultation.

2. Consultation Process and Method

The consultation was launched on 31st March 2022, and ran for 12 weeks until 22nd June. A small number of organisations requested an extension to this deadline, and late responses received by 1st July 2022 were included in this analysis.

The main consultation was hosted on the Scottish Government's consultation hub, Citizen Space, and contained 30 questions on six separate pillars of care and justice:

- Raising the Maximum Age of Referral to the Principal Reporter
- Children and the Criminal Justice System
- Secure Care
- Residential Care and Cross-Border Placements
- Age of Criminal Responsibility
- Assessing Impact

An Easy Read version was also available which contained 20 questions on the same topics, and a Conversation Guide was designed with children and young people to support workers to have discussions about the consultation topics. This Conversation Guide contained prompts and resources around the children's hearings system, the criminal justice system, secure care and residential care. Some organisations used this guide to host focus groups with children and young people and to complete the Easy Read questions. The consultation and a full list of the consultation questions can be access [here](#). The Scottish Government also accepted written responses, that often shared a narrative outlining perspectives on the topic(s) but did not formally respond to the individual questions.

Responses

Responses were carefully checked for any duplicate or blank entries, leaving 106 responses for analysis. Where written submissions followed the consultation format, these were entered on to Citizen Space. This included 96 'standard' responses that had answered some or all of the main consultation questions. Ten non-standard responses were also included, comprised of seven narrative responses and three Easy Read submissions. Many responses represented a 'group' response e.g. an organisational response or a focus group response, although these have only been counted as a single response in the analysis.

Organisations were classified according to their 'sector' and also to their 'purpose'. Where organisations spanned different sectors, they have been classified by their predominant sector. In relation to 'purpose', organisations were classified as to whether their main activities were direct service delivery organisations (public or private); influencers (e.g. advocacy or campaigners for children's rights or justice reform) and organisations that were a hybrid of both. A final category included membership/representative organisations that were typically, but not exclusively, representative bodies for delivery organisations. A small number of individual responses came from an organisational email account with reference to their organisation within the response. These have been given a sector 'classification' in order to accurately represent their professional position and perspectives. The breakdown of responses received is outlined in Table 1.

Table 1: characteristics of responses received (total n=106, organisational n=78)

Response Type	Number	%
Individual	28	26.4%
Organisation	78	73.6%
Adult	92	88.5%
Child / Young person	14	11.5%
Local Government / Social Work	22	28.2%
Third Sector Organisation	18	23.1%
Secure Care Centre	5	6.4%
Police and related	3	3.8%
Legal and related	8	10.3%
Young Person's Organisation	5	5.6%
Children's Hearings System related	3	6.4%
Other	14	17.9%
Delivery	34	43.6%
Hybrid	18	23.1%
Influencer	14	17.9%
Representative	12	15.4%

Analytical Approach

The purpose of the analysis was to synthesise and present the findings from the consultation, providing a detailed overview of the key themes as well as drawing out and reflecting upon the depth and breadth of opinion across different categories of respondents.

Quantitative Analysis

Frequencies for the closed questions were produced in Excel 2020 by one researcher, and a sample were spot-checked by a separate researcher. Given the breadth of the consultation, respondents often did not answer all questions, or even all pillars, instead responding within their spheres of knowledge or expertise. Thus in this consultation analysis report the closed questions are reported as a 'valid percentage' of the total number of responses to each question. Comparisons were made across respondent, sector and organisational classification; however, to ensure that the consultation analysis report remained both comprehensive and useful, only similarities or differences of note were highlighted. Ten non-standard responses were not included in the quantitative analysis as they did not complete these specific questions. The full breakdown of responses, including 'Not Answered' is included in Appendix B.

Qualitative Analysis

The open ended responses were analysed thematically using NVivo 2020. Initial coding was undertaken question by question, with non-standard responses aligned to each question where appropriate. During the first coding cycle, most questions were fully coded by two researchers independently of each other. Some questions were fully coded by three researchers, and for a small number of questions only a sample of responses were double-coded. Following the first level coding, the researchers reviewed the codes and identified any points of divergence and convergence. Some codes were added or refined during this process, but there was a high level of congruence between researchers and no substantive amendments were required. The purpose of this approach was to ensure robust analysis by minimising researcher subjectivities as much as possible and by encouraging a process of discussion and debate that incorporated multiple perspectives into the coding process.

One researcher then undertook a second level of coding, where the initial codes were organised into higher level themes within each question, and themes were sense-checked across all researchers. These themes are reported in the main findings section of the report. The quotes provided are selected to highlight the

themes identified, or where there are complexities or nuances between closed and open responses (for example, many respondents caveated their closed response in the open-ended questions). Quotes have only been drawn from responses where the respondent has given permission for their response to be published. While a comparison of themes was undertaken for each of the different respondent/sector/organisational types, for reasons of space the themes from this analysis are only reported when there are notable divergences from the overall themes identified in the full dataset, or where there are important differences between groups.

Children and Young People's Responses

While analysis of young people's responses and the production of an accessible analytical report was commissioned separately, it was ultimately decided to incorporate the findings from children and young people into the main consultation analysis, in order that their views are considered in the same way as other respondents, and not seen as separate or additional. Children and young people's responses are included in both the quantitative analysis (where these questions were completed) as well as the overall themes reported for each question. However, to ensure that children and young people's voices are given due prominence in this report, their views and direct quotes related to each question are additionally presented in their own sub-section. Children's views tended to be gathered via focus group or organisational activity, and thus their responses often reflect the voice of groups of children, with five 'group' responses and nine individual responses from children and young people. It has been assumed that all direct responses by individuals on to Citizen Space were from an adult respondent, although it is not possible to ascertain the age of individuals and so this may not have been the case. It should also be noted that several respondents, both individual and organisational, drew upon their knowledge of the views and experiences of children and young people to shape their professional/adult responses. In addition, the Scottish Youth Parliament conducted a survey of its members on a number of topics, one of which was care and justice, and received 243 responses. Unfortunately this was received too late for inclusion in the main analysis but was analysed by the SYP and is presented in Appendix A.

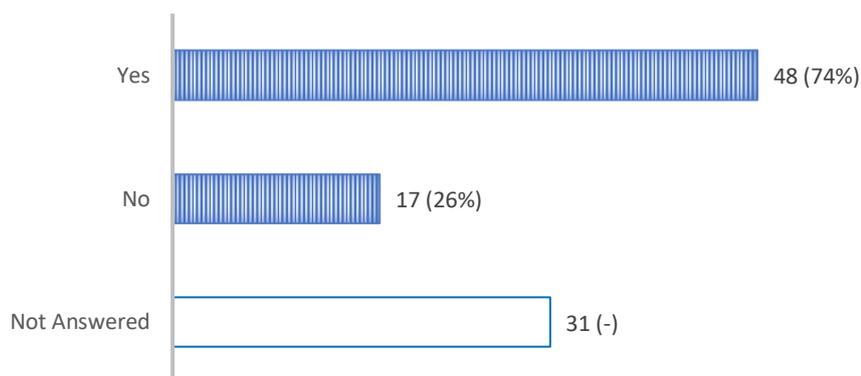
3. Pillar One: Raising the Maximum Age of Referral to the Principal Reporter

Question 1

Where a person has been harmed by a child whose case is likely to proceed to the children’s hearings system, should further information be made available to a person who has been harmed (and their parents if they are a child) beyond what is currently available?
Yes / No

If yes: what further information should be made available?

If yes: are there specific circumstances when further information should be provided and what would those circumstances be? Please give reasons for your answer



Statistical Overview

- Of those who responded (herein, all statistics will be of those who responded), 74% agreed with this proposal and 26% disagreed
- Organisations were more likely to support this proposal than individuals, at 83% compared to 57% respectively
- Across ‘purpose groupings’, all *Hybrid Organisations* and *Representative Groups* supported this proposal, as did 79% of *Delivery Organisations*. *Influencer Organisations* were least likely to agree, at 60%.
- Across all ‘sector groupings’ this proposal received a high percentage of support, with the exception of Secure Care Centres where only 33% of respondents agreed

Main themes

Many respondents believed that further information should be made available to a person who has been harmed. This was often caveated, however, with a view that the sharing of any further information should be balanced and proportionate - respecting both the need for a person harmed to receive further information, whilst also respecting the wellbeing of the child who has caused the harm (particularly as regards their right to privacy and data-protection). Relatedly, it was emphasised that any amendments made

to current practices must continue to ensure that the rights of all those involved are safeguarded and upheld.

“Any changes to the existing system must be rights-based, with the aim of upholding the rights of both the child who is alleged to have engaged in harmful behaviour and the victim (who is often a child themselves).”

[Case 73, Together]

“It is our opinion that information sharing must remain proportionate and in accordance with existing legal protections in relation to how information on all children is used and shared. Any approach to the sharing of information needs to respect and respond to the rights of all children in equal measure and must continue to reflect the fundamental principles of the Children Hearings System (CHS) as child centred and concerned with the best interests of all children who come into contact with it.”

[Case 74, Aberlour]

Regarding the type of information that should be shared, although there was no single view on what this should be, there did appear to be a broad split between respondents who felt the person harmed should only receive generalised information about the children’s hearings system and processes, and those who felt more detailed, case-specific information should be shared. The latter was particularly stressed as important by organisations that support victims, but was reflected across most sector groupings and in individuals’ responses. Several of these respondents proposed that information shared to victims should be equal to what is provided to victims within the criminal justice system, and could include: information regarding any measures which may directly impact upon a person harmed (e.g., as relating to a CSO/ICSO); that a person harmed (and their parents if they are a child) should be notified that a referral to the Reporter had taken place; along with information around outcomes (e.g., the outcome and the reasons behind arriving at the outcome). These responses emphasised that informing victims of how the harm has been addressed can be crucial to their recovery and sense of safety.

“There are risks associated with children and young people and information not being shared. We have supported survivors who attend the same school as the person who has harmed them, and the survivor is given no information re: what has happened, and part of our role is to look at risk and safety. We feel there should be more opportunities for child survivors to feel their voice has been heard and should be at the Centre of the decision-making process to avoid further trauma and risks.”

[Case 87, Women’s Rape and Sexual Abuse Centre Dundee and Angus]

Other respondents felt it would be more appropriate to only share general information, including how the children’s hearings system operates, what support is available to them, the approach that Scotland takes to children who have harmed as well as explanation around the reasons for certain information being restricted. This was proposed by several Children’s Rights organisations who felt this level of information would strike a balance between supporting the person who has been harmed to understand what is going to happen, whilst protecting the rights and safety of the child who has harmed.

In respect of the specific circumstances in which further information should be shared, respondents highlighted several key areas. These included instances where the person causing harm has a measure imposed upon them - such as a movement or no-contact - which has a direct impact on a person harmed. Additionally, other respondents highlighted the safety and protection of a person being harmed as a particular instance where further information should be shared. Attention was also drawn to further information being shared for the purpose of facilitating restorative justice (RJ), with appropriate information being supplied in order to facilitate this practice effectively.

“...on the substantive issue of the Bill proposals in allowing further information being made available to a person who has been harmed. Action for Children believe that stringent guidelines and accountability must be put in place if this were to happen. Any information should only be shared in those strict circumstances such as where there are protective measures directly involving the person.”

[Case 103, Action for Children]

“The provision of additional information should be a risk-based decision and should be provided in circumstances where the decisions made by the panel are relevant to, and could have an impact on, the individual harmed (or their parents / family if it relates to another child). In particular, should the child pose a risk of serious harm to the individual then relevant information should be provided in order to mitigate that risk wherever possible. If panel members impose a condition whereby the child is restricted from going to a specific location or from making contact with a specific person, then the individuals concerned should be informed.”

[Case 28, HM Inspectorate of Constabulary]

A number of respondents did also emphasise that any information shared needed to be considered on a case-by-case or individual basis, with others stating - reflecting a child’s right to privacy - that any information shared should not contain personal details concerning the person who has caused harm (e.g., relating to their place of dwelling, family or social life, medical circumstances, etc.)

Young People

Eight young people or young people organisations (herein ‘young people’) agreed that more information should be available and two disagreed. Within these responses, young people highlighted that there was a need to balance the needs of those who had harmed and those who had been harmed, providing support for both groups and information to victims in a way that does not infringe on the privacy of the person who has harmed.

“There might not be as much support for the person who has been harmed. The person who’s committed the crime will be getting support and the victim should too. In terms of information about the sentence passed, that depends on the crime. Some crimes are more serious than others. There’s a person behind the crime and they should be protected.”

[Case 93, Individual Young Person]

Furthermore, young people noted that more information should be available to people who had been harmed on the outcome of hearings. The reasoning for this was to ensure that the person who had been harmed is reassured that this won’t happen again and that they are safe, with two responses from young people highlighting the negative impact to mental health not receiving this information could cause. Related to this, it was noted that people who had been harmed needed more information on what support was available to them.

Interestingly, three young people responses highlighted that people who have been harmed should be made aware if the person who has harmed them has any previous convictions. This was not a point that was raised by any adult respondents.

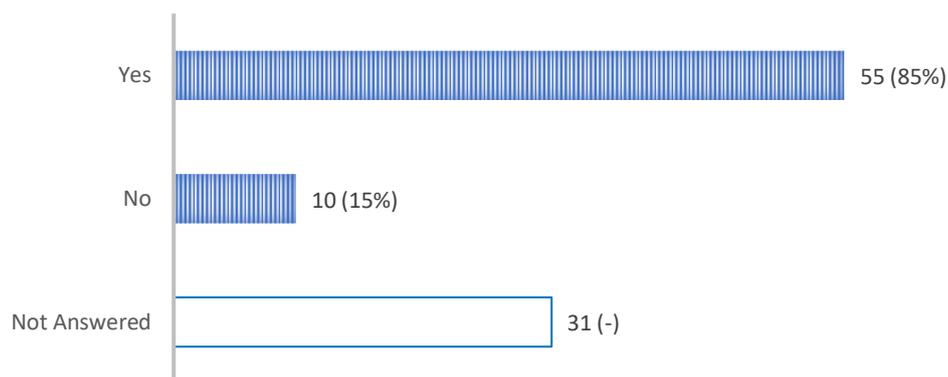
“If I was hurt by a child or teenager I would want to know if they’ve offended previously.”

[Case 96, Individual Young Person]

Question 2

Where a person has been harmed by a child who has been referred to a children’s hearing, should SCRA be empowered to share further information with a person who has been harmed (and their parents if they are a child) if the child is subject to measures that relate to that person?
Yes / No

Please give reasons for your answer



Statistical overview

- Eighty-five percent of respondents felt that SCRA should be empowered to share further information to a person who has been harmed regarding measures that relate to them. 15% of respondents disagreed with this proposal.
- Support for this was higher amongst organisations, at 90% compared to 74% of individuals
- All *Hybrid Organisations* and *Representative Groups* supported this proposal, as did 88% of *Delivery Organisations* and 80% of *Influencer Organisations*
- Most sector groupings agreed with this at 100%, including Children’s Hearings Systems-related organisations. The only exceptions were Local Government/Social Work organisations (89% responded yes) and Secure Care Centres (50% responded yes).

Main themes

There was widespread agreement that SCRA should be empowered to share further information with a person who has been harmed (and their parents, if they are a child) if the child is subject to measures that relate to that person. Reasons for this largely reflected responses from question one, with respondents expressing that sharing further information in these instances can provide a person harmed with a sense of safety, reassuring them that the harm had been acknowledged and action was being taken to ensure it did not occur again. Victim organisations stressed that this was particularly important for high-level harms, including sexual and domestic abuse which are likely to be dealt with more frequently by the children’s hearings system should the maximum age of referral to the Principal Reporter be increased.

It is the case however, that particular attention was also afforded to the importance of implementing a case-by-case approach to the sharing of any further information, as well as the need for robust safeguards to be applied relating to the scope and nature of any further information to be divulged - to ensure no infringement on the rights of the person causing harm. This was particularly stressed by Children's Rights organisations, Children's Hearings Systems-related organisations and some Local Government/Social Work respondents. The importance of further information being shared with the child (and their parents if they are a child) in an accessible and easily understood format was also highlighted within certain responses.

"It makes sense for someone harmed by a crime to be told that the person responsible for harming them has measures included in their compulsory supervision order which may include staying away from a certain area where a victim resides, or from approaching the person they harmed or other witnesses. The victim needs to understand this and to know where to report any issues of compliance. There must be a rationale for sharing limited information and this should aim to strike the correct balance between the welfare of child/young person and the interests of the victim."

[Case 85, Perth and Kinross Council, Education and Children's Services]

Young People

Nine young people agreed that further information should be shared where a measure is in place that relates to the person who has been harmed, and one disagreed. The reasons given for this reflect many of the adult responses, in emphasising that this should be in place for the protection of the person who has been harmed and allow them to report any cases of non-compliance to these measures. Respondents balanced this with an acknowledgement of privacy and confidentiality issues for the person who caused harm, and the need for any information to be shared carefully and avoid sharing information re. measures that relate to private or sensitive aspects of the child's life, i.e., their home circumstances, irrelevant background information, any substance misuse or mental health orders. One respondent also highlighted that any information shared should be in accessible language that the victim can understand.

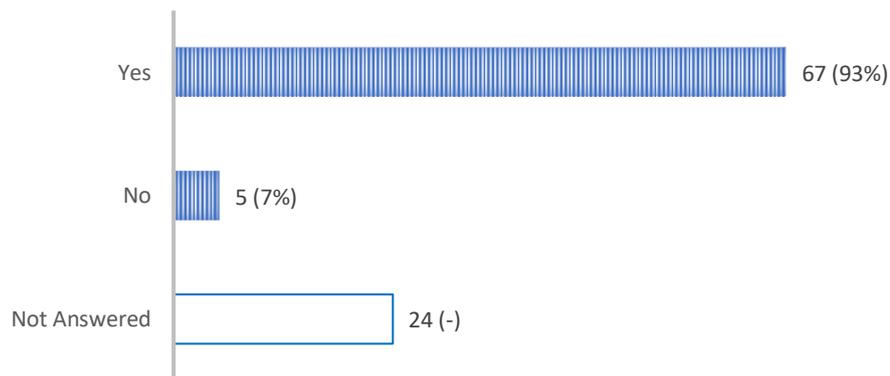
Question 3

Where a person has been harmed by a child who has been referred to the Principal Reporter, should additional support be made available to the person who has been harmed?

Yes / No

If yes, what additional supports do you feel are necessary?

If yes, should this apply to all people who have been harmed or only in certain circumstances? (Please specify)



Statistical overview

- This proposal received widespread support, with 93% agreeing that additional support be made available to the person who has been harmed
- Only five respondents disagreed with this proposal, including two individuals and three organisations
- All *Influencer Organisations* and *Representative Groups* supported this proposal, as did 93% of *Delivery Organisations* and 88% of *Hybrid Organisations*
- In relation to sector groupings, disagreement came from one Children's Hearings Systems-related organisation, on Local Government/Social Work organisation and one organisation that had been classified as 'Other'.

Main themes

There was broad consensus amongst the respondents that support should be tailored to the specific needs of the person harmed - benefiting from a multi-agency approach - consisting of a mix of counselling, trauma recovery services, psychological, emotional wellbeing and physical health supports.

Responses from *Delivery* and *Hybrid Organisations* - including Victim organisations - stressed however that current support provision was not currently meeting needs. Specifically, Victim organisations said that support was felt to be disjointed, difficult to access, with two responses believing that there was too much emphasis placed on risk-based interventions, rather than holistic and therapeutic supports. Eligibility criteria creating barriers to individuals accessing support, stretched services and inconsistency in approach across Scotland were also acknowledged as key factors.

“Access to support through Child and Adolescent Mental Health Services (CAMHS) is inconsistent across Scotland, and across many areas children must demonstrate an extremely acute need to meet service thresholds to access services, and/or be placed on long waiting lists. These services were stretched before the COVID-19 pandemic, but the impact of the pandemic across health services, as well as a rise in need due to lack of preventative support and interventions, has resulted in further strains on service provision.”

[Case 71, CELCIS]

Several respondents did acknowledge the potential role of Barnahus/Bairns’ Hoose as an important therapeutically and child-centred informed setting, where appropriate forms of support can be accessed by children who have witnessed or been exposed to harm or are below the age of criminal responsibility and have caused significant harm. Although, as was also identified, this is a model that is yet to be fully implemented in Scotland, it was suggested that thinking around supports should be informed by the work already being undertaken in this area.

“The Scottish Government’s intention is clear that “all children in Scotland who have been victims or witnesses of abuse or violence, as well as children under the minimum age of criminal responsibility whose behaviour has caused significant harm, will have access to a “Bairns’ Hoose” by 2025.” It is therefore important that these proposals are clearly aligned with the development of Bairns Hooses across Scotland so that all children who require support to recover from traumatic experiences can access it.”

[Case 52, Children 1st]

Importance was also afforded by respondents to the role of RJ practice - where appropriate - in meeting the needs of persons who have been harmed. Several responses from Local Government/Social Work highlighted this as significant and emphasised that there was a need for RJ to be consistently available across Scotland. The need for those facilitating and delivering RJ to be sufficiently trained was also identified.

“NYJAG regard Restorative Justice as a key mechanism for meeting some of the needs of persons harmed. This is a significantly more inclusive means of intervention which should enable a person harmed to feel meaningfully involved in the process of rehabilitation and achieving a sense of resolution for the harm caused. It is essential that all services involved are adequately trained and trauma informed, so that the person harmed is properly supported and kept at the centre of the RJ process.”

[Case 43, National Youth Justice Advisory Group]

One response highlighted that the ‘skill set’ of any supporting organisation involved should include neurodevelopmental, trauma, adverse childhood experience (ACE) awareness and understanding. Other respondents felt that supports should be offered akin to those afforded to victims engaged within the criminal justice system. In respect of the breadth of support to be offered, most respondents felt that supports should be offered to all people who have been harmed, however, concerns were raised regarding the resourcing and capacity required for this to be effective. This point came out particularly strongly in *Delivery Organisations* responses - including Local Government/Social Work, Third Sector and Police responses - who felt that more clarity was needed on who would provide this support, and how it would be funded, with services already stretched across Scotland.

Young people

Eleven young people agreed that additional support should be provided, with no young people that answered this question disagreeing. Responses expressed the need for support to be tailored to individual needs, and include appropriate and effective mental health supports, including support to recover from trauma, with some young people saying that this could be provided by social workers and other saying this support should be provided by therapists and mental health professionals. One young person highlighted that whilst additional support should be available to victims, they felt the focus should be on supporting the child who has harmed.

Three young people's responses also argued that a key means to support (child) victims is to ensure that the school is involved and aware of the situation, particularly where the person who has harmed attends the same school as the victim.

"It depends case to case. The victim's school should know about it. What if it's a classmate? It could happen again and school should be aware that there's a risk. Counselling could be offered if the victim needs it. Mental health support should definitely be offered, and so should trauma recovery. Social workers roles shouldn't really be about that though."

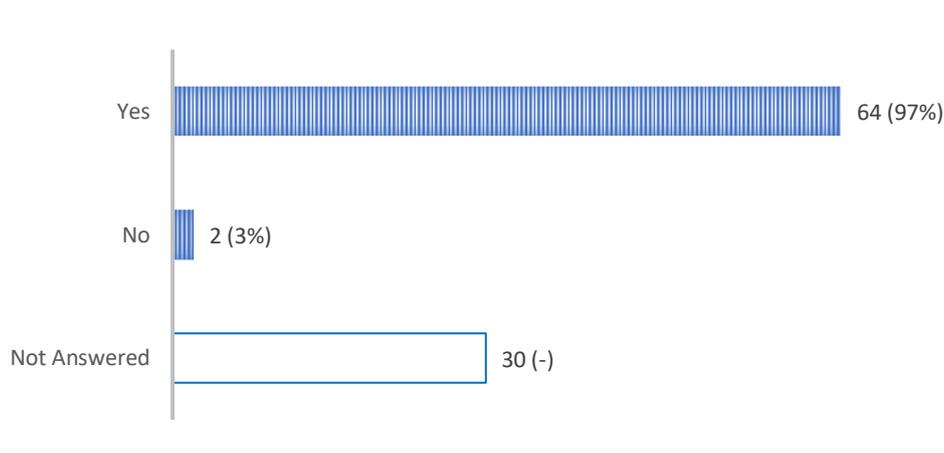
[Case 92, Individual Young Person]

Question 4

Should a single point of contact to offer such support be introduced for a person who has been harmed?
Yes / No

If yes, should this be available to all people who have been harmed or only in certain circumstances? (Please specify)

If yes, who should be responsible for providing the single point of contact? Please give reasons for your answers



Statistical overview

- The proposal to offer a single point of contact to a person who has been harmed received one of the highest levels of support across the consultation, at 97%
- Only two respondents did not support this proposal, both of whom were individual young people

Main themes

Of those who agreed that a single point of contact should be introduced, a majority felt that this should be available for 'all' people harmed. A key rationale given for why a single point of contact should be introduced for a person who has been harmed was that it would reduce the number of times they would need to repeat and re-live often-traumatic experiences to various agencies. It was seen as being preferable therefore by many respondents, for a person who has been harmed to receive information and support from a single source, through which trust and rapport can be established.

However, a key concern raised by Children's Rights organisations, along with many *Delivery Organisations*, related to the potential barriers to implementing a single point of contact in the current information sharing landscape, whilst it was also noted that robust information sharing agreements that respected data protection laws would need to be in place for whichever agency was appointed as a single point of contact. Victim organisations also stressed the need for more consultation and development regarding a single point of contact. Here, whilst this proposal was supported by Victim organisations, to limit the re-traumatisation

of victims and coordinate information, there was concern that this proposal was being steered by efficiency needs, rather than the best interests of persons who have been harmed.

“We are undecided on this question, as we believe the proposal needs further discussion and development [...] we are not convinced that a single point of contact in itself is a crucial difference to improving the support offered to children and young people. Rather, the support and information that is offered whether that is through one person, or several should be relationship based person centred, and trauma informed, rather than built out of the efficacy needs of a system.”

[Case 57, Scottish Women's Aid]

A number of respondents stated that further detail relating to the proposal was needed. Concerning who should be responsible for providing the single point of contact, there were various agencies suggested. Most popular amongst these was a Victim organisation or SCRA/SCRA Victim Information Services. Other options, included:

- Whichever agency/worker had an existing, positive relationship with the child
- Barnahus/Bairns' Hoose
- Police Scotland
- Local Authorities
- Crown Office and Procurator Fiscal Service
- A Restorative Justice Co-ordinator
- An MSP Minister

Young People

Seven young people agreed and two disagreed with the proposal. Reasons for supporting this proposal were similar to that of adult responses, with young people highlighting that retelling experiences to multiple agencies can be retraumatising and that one contact can help build up trust. Furthermore, a single point of contact was seen to be a useful 'communication bridge', as someone who could gather information and updates from a range of organisations and relate these to the person who has been harmed. Some young people felt this should be available to all victims, whilst others felt this should be based on the needs of the person who has been harmed or on the severity of the harm. Importantly, young people highlighted that the decision on whether they receive a single point of contact or the opportunity to engage with multiple agencies should rest with the person who has been harmed, as preferences might differ and there is the possibility of relationship breakdown where the person assigned is not well suited to the role:

“It depends on the person. They should be given the choice. Some people might want to talk about what's happened and would want to speak to lots of different people about it. Also what if the person they're given isn't very good? Other people might not want to talk and it'd be easier for them just to have one person. They should be asked what they want to have.”

[Case 91, Individual Young Person]

There were differing views across young people responses about who should be a point of contact, with some saying this should be an assigned social worker, whilst others argued that it was better for this to be carried out by someone whose sole responsibility was as a single point of contact, rather than a responsibility added on to social workers.

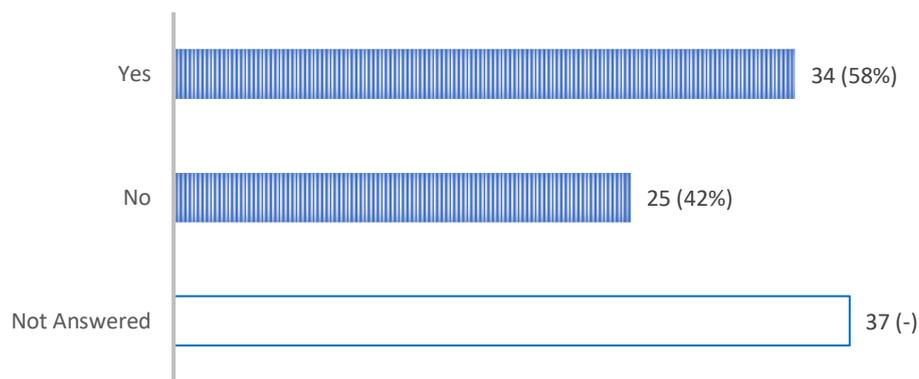
Question 5

Should existing measures available through the children's hearings system be amended or enhanced for the protection of people who have been harmed?

Yes / No

Please give reasons for your answer

If yes, please provide details of how they should be amended or enhanced



Statistical overview

- A high proportion of respondents did not answer this question. Of those that did, this question received one of the more polarised responses of the consultation, with 58% agreeing and 42% disagreeing.
- Individuals were more likely to support this proposal, at 63% compared to 55% of organisations
- *Delivery Organisations* and *Representative Groups* supported this at 63% and 60% respectively, compared to only 43% of *Hybrid Organisations* and 25% of *Influencer Organisations*
- Importantly, both Children's Hearings Systems-related organisations that answered this question disagreed with it. Conversely, all Police related organisations and all Secure Care Centres that answered this question agreed.

Main themes

A range of reasons were offered for why existing measures should be amended or enhanced. A key justification was that since the children's hearings system would be receiving (if the proposals were to be implemented) referrals for higher-level harms and older children, measures need to be amended or enhanced to allow the children's hearings system to adequately deal with these harms and maintain public confidence in the system's ability to do so. This reasoning was particularly prominent in responses from Victim organisations and Police-related organisations. Related to this, Victim organisations, Local Government/Social Work organisations and Third Sector respondents who supported this proposal, underlined that enhanced measures were essential for the safety and protection of victims and the public and that criteria for protective measures should be expanded to also include non-physical and evolving methods of harm.

“It is acknowledged that the scope of this Bill means that the CHS will ultimately manage more harmful behaviours and greater case referrals with the introduction of older children to the system. Providing the CHS with additional provisions that supports victims will ultimately provide the public reassurance that victim welfare is still a significant consideration, whilst responding to the needs of children who have caused harm.”

[Case 22, Police Scotland]

In considering how existing measures could be amended or enhanced, many respondents suggested that there should be greater scope for the use of Movement Restriction Conditions (MRCs) and that there should be enforced consequences for non-compliance with these and other measures. Issues surrounding MRCs will be discussed further under *Question 6*. A small number of respondents from Victim organisations and Police-related organisations argued that measures available through the children’s hearings system should mirror what is available through the criminal justice system. However, responses from Local Government/Social Work, Third Sector and Children Rights organisations, as well as Children’s Hearings Systems-related organisations, cautioned that the children’s hearings system is grounded in welfare-based principles and that the introduction or enhancement of more punitive measures could work to undermine this philosophy.

“The fundamental purpose of the Children’s Hearing System is to consider orders to support the needs of the child who has been referred. This core focus is the system’s strength, and was given clear support by The Promise. Children’s hearings may already require that the child comply with any other specified condition under section 83(h) of the Children’s Hearing Act (2011), or that the local authority carry out any specified duties in relation to the child under section 83(i). The addition of any new measures which do not benefit the child, but another individual will need considerable thought to ensure they align with the ethos of the system.”

[Case 58, Children's Hearings Scotland]

Other reasons for disagreeing with the proposal to enhance measures available through the children’s hearings system was that the present measures are sufficient and that the focus should instead be on resourcing and raising awareness of the support and protective mechanisms already available. This theme came up across sectors - and by both those who had answered yes and no to the proposal - including in Local Government/Social Work responses, Secure Care Centre responses, Police-related responses and Children’s Rights organisations. Specifically, it was referenced that Framework for Risk Assessment, Management and Evaluation (FRAME) and Care and Risk Management (CARM) approaches are already appropriate.

“CYJ does not believe that existing measures available within the children’s hearings system require to be altered in any way, and hold a view that the existing suite of options are adequate in delivering the desired level of care and protection [...] Moreover, FRAME provides good practice guidance with regards to risk practice and CARM offers those supporting the child with a framework for risk management oversight and scrutiny that could be put in place to reduce heightened risk of harm whilst promoting strengths and developmental opportunities.”

[Case 68, Children and Young People’s Centre for Justice]

Young people

Five young people supported this proposal and two did not. One respondent felt more information was needed before making a decision and cautioned that further restrictions might make people who have harmed feel more isolated and have negative consequences for their relationships and mental health. There was also concern from one respondent regarding who should decide what measures are put in place, and a belief that this should not be solely down to one agency:

“Any decision to limit the freedom of a child should be a multi-agency decision based on the mental health of the child, and the potential for serious harm caused to the child or other people.”

[Case 92, Individual Young Person]

There were differing views amongst young people in relation to electronic monitoring. One young person argued that this can be useful for people who are a risk to others or who repeatedly abscond, whilst another young person argued that tags:

“...are dehumanising, like microchipping a dog.”

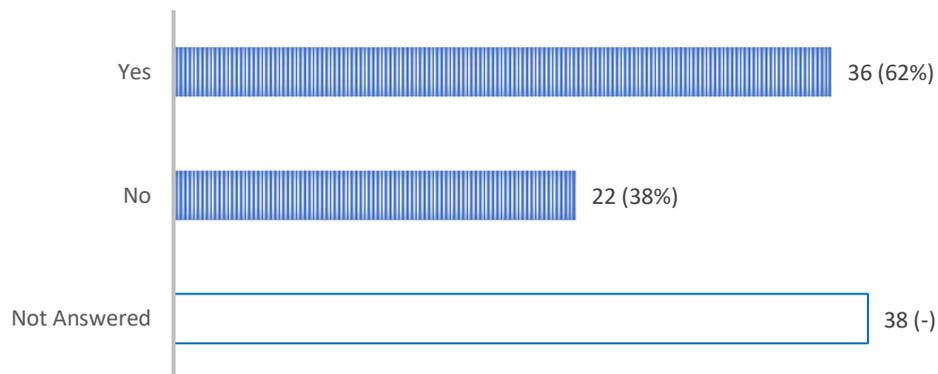
[Case 93, Individual Young Person]

Question 6

Should MRCs be made available to children who do not meet the current criteria for secure care?
Yes / No

Please give reasons for your answer

If yes, what should the new criteria for MRCs be?



Statistical overview

- A high proportion of respondents did not respond to this question. Of those that did 62% agreed and 38% disagreed
- Interestingly, and in contrast to *Question 5*, individuals supported this less than organisations, at 53% compared to 67%
- *Delivery Organisations* had the highest level of support at 72%, compared to 60% of *Hybrid Organisations* and *Representative Groups* and only 50% of *Influencer Organisations*
- In relation to sector groupings, all Police-related organisations and Secure Care Centres supported this proposal at 100%. Conversely, only a third of Children’s Hearings System-related organisations responded ‘yes’.

Main themes

Respondents provided a range of reasons as to why current criteria for Movement Restriction Conditions (MRCs) should be lowered, but which differed in their emphasis. Some responses that supported a lowering of the criteria for MRCs emphasised the benefits of the MRC to individuals other than the child referred (however, see points previously raised in *Question 5* that concern this potential shift in focus from the ‘best interests of the child’). Victim organisations and Police-related responses stressed that lowering the criteria of MRCs was crucial for victim and public protection - especially in instances of domestic or sexual abuse - where there is a risk of ongoing harm to the victim. There was also a view expressed that the criteria should be extended beyond physical harm, to also incorporate emotional and psychological harm. The need for victims to be aware of MRCs, to enable them to report any instances of non-compliance was also highlighted.

“The conditions for a hearing to consider imposing a MRC are rightly, based on stringent standards. Under current provision, when a hearing is considering a MRC, the referred child must meet the criteria for secure accommodation. However, in some circumstances there may be benefits and additional protection afforded to the person who has been harmed as a result of imposing this restriction. For example, this may be beneficial where a person may experience emotional or psychological harm as a result of contact or may be subject to potential harassment or intimidation from the child concerned.”

[Case 28, HM Inspectorate of Constabulary]

Responses from *Delivery Organisations* including Local Government/Social Work and Police-related organisations highlighted that lowering the criteria for MRCs could be seen as being in the best interest of the child who has caused harm, where it allows them to remain supported in the community. This was particularly emphasised by Secure Care Centre respondents, who highlighted that by the point at which a child is placed in secure care, their welfare and protection needs are too high to be effectively dealt with in the community by an MRC. Lowering the criteria for MRCs therefore was seen as providing an earlier intervention that can halt trajectory into secure care. Responses from Local Government/Social Work stressed that for this to be effective, MRCs cannot operate in isolation, but as part of a wider support package and robust wraparound services.

“Given the severity of placing a child in secure care, the thresholds and criteria for this need to be clear. If a child meets this high tariff, then in practice there is often not realistically another option as placing a child in secure care is the only way to keep them and others safe. For this reason, the stipulation that MRCs only be available when a child meets the current criteria for secure care needs reconsidered. In considering whether the use of MRCs is appropriate the focus needs to be on the care package around the child and how the MRC would contribute to this...”

[Case 32, East Lothian Council]

However, other respondents felt that the current criteria for secure care was appropriate. Many of these responses referenced existing international children’s and human rights standards around children’s liberty, in order to qualify the appropriateness of the current high threshold. Relatedly, it was also suggested that such measures can work against children’s best interests and extenuate feelings of stigma, stress and anxiety.

“In addition, electronic monitoring devices can have an adverse impact on children’s participation in society, including education and their rehabilitation. Children may be prevented from participating in activities due to concerns about the visibility of the devices, particularly in the summer months. Wearers report feeling stigmatised, scrutinised, and anxious about potentially breaking the conditions of their monitoring requirements and incurring further consequences. Families of a child or young person being monitored also experience this stress.”

[Case 39, Children and Young People’s Commissioner Scotland]

Concerns were also expressed that amending the existing criteria would be disproportionate and potentially lead to the over application of MRCs. This, several respondents argued, could lead to up-tariffing, with more persons subjected to MRCs leading to higher levels of non-compliance and subsequent entry into secure care. Moreover, a response from one Legal organisation highlighted that reducing the criteria for MRCs would be out of step with the stringent criteria for the restriction of movement through the criminal justice system, which is to be used only as an alternative to custody.

“If these orders were more widely applicable and more children were placed on them, this could also lead to greater numbers of children not complying with these orders and being drawn further into the system and experiencing the ramifications of this. Moreover, increasing their use does nothing to address the underlying welfare issues a child may be experiencing.”

[Case 27, Children in Scotland]

A restriction of movement should properly be seen as an infringement upon the liberty of the subject. The criminal courts only consider such a measure in the following circumstances: a. Where such a condition is necessary to secure the subject's compliance with the standard conditions of bail [...and] there was a significant possibility that the subject would otherwise require to be remanded in custody. b. By way of sentence, only in cases where the offence and circumstances of the offender are of sufficient gravity to warrant a custodial sentence. [...] A Restriction of Liberty Order can only be imposed following adjournment for a Criminal Justice Social Work Report. Such reports shed light on potential issues of vulnerability as well as the consequential risk to others within a household should the offender's liberty be restricted. The proposal to extend movement restrictions or Restriction of Liberty Orders to those who do not meet the criteria for secure care would not be consistent with the general approach currently adopted in relation to adult accused persons. Consequently, the SSSA view this proposal as a disproportionate measure

[Case 34, The Sheriffs' and Summary Sheriffs' Association]

Another key concern that was expressed by both those who support and disagreed with this proposal was the current lack of evidence surrounding their usage or effectiveness. This was particularly raised by Local Government/Social Work respondents, who stressed that MRCs can be difficult to enforce, and that enforcement could hinder the development of meaningful therapeutic relationships.

"MRCs are an important option to have at our disposal, however, our experience in Glasgow is that MRCs are ineffective in that there is limited compliance with these. There may be an unintended consequence that increased use of MRCs may escalate children through our systems where there is non compliance."

[Case 41, Glasgow Health and Social Care Partnership]

Given such reservations, it was highlighted that any expansion of MRCs should be subject to robust assessment and regular reviews.

Young people

Five young people disagreed with the reduction of criteria and two agreed. Of those who agreed, it was felt MRCs could play a positive role in allowing a young person to remain with their family and in their community and facilitate a balance between protecting victims whilst supporting the child who has harmed. Of those who disagreed, two highlighted as a key concern the (over)use of MRCs to manage children who are absconding, which was felt to be counterproductive and disproportionate:

"If the child isn't a risk to anyone then they shouldn't have their rights taken away. Even in cases where a child frequently absconds, some of the measures that are part of MRCs are over the top. Instead, they should be getting the right support to address what's causing the child to abscond rather than trying to control the behaviour."

[Case 90, Individual Young Person]

One young person also questioned what would happen to a child on an MRC once they turned 18, and whether the child would then enter the criminal justice system and remain under some form of supervision, or whether the MRC and associated support would cease.

Question 7

Should any of the above options be considered further?

Yes / No

1. Enabling all children under the age of 18 to be remitted to the Principal Reporter for advice and disposal in their case even where they had initially been prosecuted and have pled, or been found, guilty.

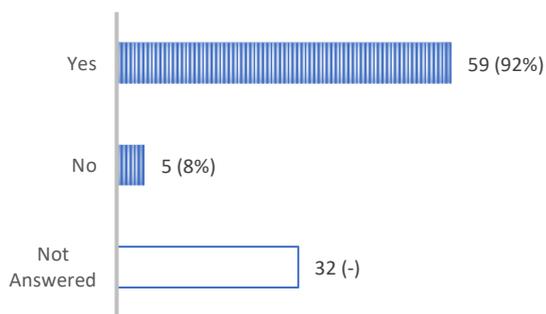
2. Promoting wider use of the existing ability for the children's hearings system to require support to be offered to a young person on a voluntary basis following the termination of any CSO by virtue of that individual turning 18. This could be strengthened to include the need for the children's hearing to provide a closure report at the end of a child's CSO where this is being discharged or ceasing only by virtue of the child turning 18.

3. Increasing the age to which children can remain subject to measures through the children's hearings system for a period beyond the child's 18th birthday.

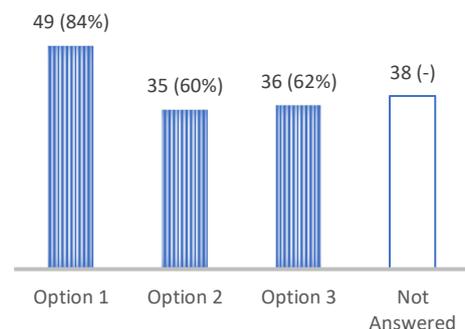
If yes, which option(s)?

Please give reasons for your answer, including any positive or negative implications of any of the proposals.

Should any of the above options be considered further?



If yes, which option?



Statistical overview

- This question had two aspects. Not all respondents who answered 'yes' to the first aspect of the question then specified which option(s) they supported in the second aspect of the question
- For the first part, 92% agreed that (some of) the above options should be considered further
- Five respondents disagreed, including three individuals, one Third Sector organisation and one Children's Hearings Systems-related organisation
- For the second aspect of this question, within which respondents were able to select multiple options, *Option 1* was the most popular, with 84% of those who answered this part supporting its further consideration.
- *Option 2* received 60% whilst *Option 3* received 62%
- Forty percent supported further consideration of all three options

Main themes

Option 1

Option 1 received the highest support across purpose and sector groupings. Various reasons were given for supporting this proposal. Several respondents argued this would lead to improved outcomes, with more children and young people able to be supported via the children's hearings system. This was expressed as particularly important given that many children in conflict with the law have experienced trauma, abuse and other adversities in childhood:

"[XXXXX] supports increasing the age of referral to the Principle Reporter up to 18 years of age for all cases. Many of the children, young people and parents we work with have experienced trauma, loss and abuse, often multiple and severe which can have significant lasting impacts upon their lives. This proposal will increase the window of opportunity to respond differently to the needs of many vulnerable 16/17 year olds through a rights based trauma informed approach to policy and practice."

[Case 24, Third Sector Organisation]

Relatedly, many respondents who supported this proposal argued that it would resolve the discrepancy for 16- and 17-year-olds, whereby only those who are subject to measures through the children's hearings system (and a small number of other exceptions) can be remitted to the Principal Reporter. It was felt this would bring about equity for this age group, treating all under 18s as children and allowing the rehabilitative potential of the children's hearings system to be maximised. This was deemed particularly important given that 16- and 17-year-olds can fall between services and systems and face a postcode lottery in terms of how they will be dealt with via criminal justice systems.

"NYJAG would fully support this extension to the legislation that enables all children to be remitted for advice and disposal. This will remove the legal anomaly that a child needs to be subject to a CSO before they can be considered for this. Children not on a CSO at the time of conviction are no less vulnerable, and indeed in some cases often have less support at the time they most need it."

[Case 43, National Youth Justice Advisory Group]

Several respondents, however, raised concerns over the impact this proposal would have on resources and capacity. This was particularly stressed by *Delivery Organisations*, including Local Government/Social Work and Children's Hearings Systems-related organisations. It was emphasised that raising the age of remittal could constitute a significant increase in the number of children who would need assessment and support through the children's hearings system and their associated agencies, including social work and third sector services.

"While keeping children out of the adult justice system is clearly a priority, addressing the underlying causes of the behaviour must remain the primary objective. It must be acknowledged again that a compulsory supervision order alone does not bring about the changes required to improve the outcomes for children and young people. It is the support, supervision, and monitoring which accompany the order which have the ability to bring about change. Significant new resources would likely be required to ensure there is sufficient capacity in children's and adults services to provide the intensive, relational support children and young people need and deserve."

[Case 58, Children's Hearings Scotland]

In addition to concerns over implementation, a small number of responses expressed that this proposal might not be in the best interest of the child. One respondent raised concerns that 16- and 17-year-olds could become targets for child exploitation and trafficking, where it is perceived that there will be less ramifications should they be identified and their case dealt with via the children's hearings system, rather than the criminal justice system. A separate respondent highlighted the options available to young people subject to the criminal justice system, where they might have individualised support from a justice social worker and access to (unpaid) work as part of a Community Payback Order (CPO). This respondent argued that these options can give 16- and 17-year-olds structure to their lives and be particularly effective in supporting desistance and proposed that similar options be made available through the children's hearings system.

Separately, some respondents, including individual responses and responses from organisations who support victims, expressed that this proposal would be detrimental to victims who have been harmed by 16- and 17-year-olds. This was seen as particularly problematic for serious harm and sexual offending, where it was felt that the children's hearings system was not an appropriate response for older children. Specifically, one respondent raised concern that protective measures, including bail conditions, would not be appropriately replicated in the children's hearings system which would threaten victim safety. Moreover, it was felt that transferring proceedings from a court to a children's hearing would hinder the victim's ability to be involved in proceedings and have their perspectives listened to:

"A victim would lose the ability to see and hear what is happening regarding the harm they have suffered but they would also lose the ability to tell a court by way of an victim statement as allowed under section 14 of the Criminal Justice (Scotland) Act 2003 (the 2003 Act) [...] A Children's Hearing system does not provide any means of a victim having their voice heard or being able to tell the person making a decision regarding the child who has harmed, what the effects have been on them of the child's behaviour."

[Case 19, Third Sector]

Option 2

Of those who selected an option(s), 60% chose *Option 2*. The key reason given for this was that the proposal would improve transitions for young people and offer a continuity of support for those whose Compulsory Supervision Orders (CSOs) are being terminated by virtue of them turning 18. This was particularly emphasised by Local Government/Social Work respondents. It was expressed that a closure report would facilitate multi-agency working, informing aftercare support of the needs and risks of the young person.

"A closure report, identifying the ongoing needs and supports, would seem to be a good way of capturing key information to inform next steps at this transitional point in the young person's life."

[Case 89, The Educational Institute of Scotland]

"Providing a report and summary of the children's hearing system involvement and identifying risks and needs that remain, would ensure that there is a continuity of support. As a young person turns 18, their risks and needs might remain, requiring further support and management into adult services. This report could provide adult services with a comprehensive understanding of what supports have been in place and what is still required. This information could also be used to tailor ongoing throughcare and aftercare services for care experienced young people."

[Case 30, British Psychological Society]

Relatedly, several respondents highlighted that this option would help alleviate the 'cliff edges' that young people can face, where they are no longer eligible for the support they need by virtue of turning 18. It was expressed that this proposal would allow for a young person's needs, risks and developmental stage to be taken into consideration when determining whether further support is required, rather than simply their

age:

“The importance of planned and supported transitions at key phases of life and development is crucial and there is a risk for young people when their support comes to an end that they potentially face a ‘cliff-edge’ where support falls away entirely. It is also our opinion that chronological age alone as a benchmark is unhelpful, overly simplistic and fails to allow recognition of the developmental needs of individual children and young people – as outlined previously – which require careful consideration, particularly where children have experienced trauma and other forms of adversity.”

[Case 74, Aberlour]

Conversely, several respondents raised key concerns related to this proposal, including that the proposal could complicate an already complex landscape, given that there are already aftercare requirements and duties that cover children whose CSOs have been terminated on or after age 16. However, several respondents also expressed concerns that this support was not being consistently provided:

“This may merely add a layer of confusion and complexity. We already have a significant statutory aftercare support system, strengthened by the reforms of the 2014 Act up to the age of 26 years old. Local authorities have clear statutory duties to support young people leaving care – including any young person who has been the subject of measures in the Hearing system age 16 plus. Young people can rely upon their section 29 rights to aftercare support.”

[Case 85, Perth and Kinross Council]

“What is largely unknown is whether this support is provided, what rights and options the child has if this support is not made available and whether the children’s hearing’s identification of ongoing needs makes any impact on the outcome for the child once supervision has ended. Before a closure report is seen as a viable option, further exploration of the efficacy of the existing provision is required. To ensure we are getting it right for children and young people, clear accountabilities and resources for providing ongoing support are essential along with a route for recourse if the support is not provided.”

[Case 58, Children’s Hearings Scotland]

Option 3

Of those who selected an option(s), 62% chose *Option 3*. The reasons given for this support closely reflected those given in support of *Option 2*, namely, that it would better support a young person’s transition into adulthood and ensure a continuity of support. It was also expressed that extending measures past a young person’s 18th birthday would mean more time for these measures to effect positive change.

“There should not be a cliff edge resulting in no access to services when a child reaches 18. This realisation for a 17 year old can be stressful and traumatic and therefore not in the child’s best interest. The current Pathways model for care experienced young people up until the age of 26 provides a framework for how young adults are supported.”

[Case 58, Children’s Hearings Scotland]

“This move would also be in line with legislation which enables eligible young people with care experience to have support from local authorities up until the age of 26.”

[Case 91, Individual]

“This is important because for support offered by the Children’s Hearings System to be effective, it must be able to continue for a sufficient amount of time to allow a care plan to be implemented that will meet a child’s individual needs. This is unlikely to happen if a child is referred to SCRA and brought to a hearing several months before their 18th birthday for example, as this would leave little time for meaningful change.”

[Case 71, CELCIS]

Despite supporting the ethos of this proposal, several respondents raised concerns over the legal implications. It was felt that whilst support should continue to be made available on a voluntary basis, it would not be appropriate or proportionate for the children’s hearings system to apply compulsory measures. Relatedly, several respondents raised concerns that this proposal could be disproportionate,

leading to young people remaining within the children’s hearings system unnecessarily or without a clear purpose.

“Option 3 may be very difficult as it may bring conflict with UNCRC and many other legislative standards that ensure those over 18 are fully and legally seen as adults able to make decisions for themselves apart from when they lack capacity or are assessed as being seriously mentally ill.”

[Case 40, Local Government/Social Work]

“The transition to adulthood may require some support, and for many this may involve input from statutory agencies. But in our submission it is not appropriate for the children’s hearing to retain a supervising role over those who are no longer children.”

[Case 34, The Sheriffs’ and Summary Sheriffs’ Association]

“The continuation of a CSO beyond the age of 18 years for purposes of prevention of potential future harm would not be compatible with rights issues and could be considered disproportionate.”

[Case 28, HM Inspectorate of Constabulary]

As with *Option 1* and *2*, several respondents also emphasised that this proposal would expand what is required of the children’s hearings system and would need to be adequately resourced for implementation to be effective.

Young people

Six young people responded ‘yes’, of whom four specified which options they supported: two supported all three options, one supported *Options 1* and *2*, and one supported only *Option 1*. Two young people responded ‘no’, that none of the options should be considered further - but did not provide a qualitative response explaining this position.

Qualitative responses to these questions from young people largely provided a general response to the proposal to maximise the use of the children’s hearings system, rather than comments on specific options. These responses often reflected themes apparent in the ‘adult’ responses, including emphasising that these proposals would support children’s transitions into adulthood, and offer a continuity of support rather than arbitrary cliff edges based on age rather than need, as well as diverting young people from criminal justice systems.

“STARR recommends the extension of the Children’s Hearing System to include young people over the age of 18. This would align with the Scottish Government’s youth justice strategy by working to keep children and young people out of formal justice systems. This would also help to minimise short sentences which often do not provide enough opportunity for any rehabilitative benefits whilst removing young people from their communities and can result in them losing tenancies and social security benefits.”

[Case 102, STARR]

Young people provided various proposals for the age to which the children’s hearings system should be extended to, including: up to 21, up to 26 or determined case-by-case based on the individuals’ developmental needs. A small number suggested this should end at 18. In considering the age of remittal to the Principal Reporter, it was suggested by several young people that this should be extended to 18 for all children but that for serious harms, cases should remain in the criminal justice system.

“I think this depends on the case. Children should be protected up to age of 18 and should have their cases remitted to the Principal Reporter, but for some extreme crimes like murder you should have to go to court.”

[Case 92, Individual Young Person]

Question 8

Please give details of any other ways in which the use of the children’s hearings system could be maximised, including how the interface between the children’s hearings system and court could change

Sixty-six respondents provided a response to this question. A number of respondents highlighted that the children’s hearings system should be maximised to ensure that more children stay within it, rather than appearing at courts, as this would correspond strongly with existing international children’s rights standards and a child-centred approach.

“There are significant limitations on the ability of courts to deliver this child-friendly approach. We therefore strongly support the use of the children’s hearing system (CHS) for offences by those under the age of 18 wherever this is possible.”

[Case 99, Third Sector]

Within several responses there was also reference to the need for those working within the children’s hearings system to feel confident in their ability to deal with a range of offence-based cases, using the measures at their disposal.

“Amongst the 373 incidences of a child aged 16 or 17 being referred to the Principal Reporter on offence based grounds in 2020-21, several episodes relate to acts of violence and sexual harm. Thus, it is critical the workforce are competent and confident in their understanding of the needs of this group, of what developmentally informed interventions that reflect and encourage their increasing agency and self-efficacy look like, in accordance with UNCRC, within a risk management context. This may require additional support and training for panel members, social workers, education and wider partner agencies and corporate parents in line with all of our responsibilities to deliver GIRFEC.”

[Case 68, Children and Young People’s Centre for Justice]

“We are of the view that there is no sound basis for the two-tier approach which exists in the system at present. However, we would caution that there are challenges with the children’s hearings system in general, including volunteer panel members who are not experienced in dealing with children accused of a crime, and potentially have not received the appropriate level of training (including trauma informed training) which is required to fulfil their role.”

[Case 47, Legal]

The potential impact of proposals concerning the children’s hearings system on the workings of the Court was also identified by one respondent.

“Whilst the proposals above are likely to reduce the volume of hearings involving child accused in the criminal courts, there may be a significant impact on other types of court procedure. For example, we anticipate an increase in:

- *appeals to the sheriff against the decisions from children’s hearings;*
- *an increase in applications for Interim Compulsory supervision orders; and*
- *applications for review of grounds determinations.”*

[Case 101, Scottish Courts and Tribunals Service]

Other responses highlighted the need for greater alignment between policy and legislation to ensure clarity around the definition of the child; greater communication and closer working relationships between the two systems; a more streamlined and efficient system when children are referred to the Sheriff; the adoption of a Youth Court for 18–21-year-olds; the use of a child advocate at court; as well as, making language, processes and formalised legal structures more simplified, to assist children’s participation.

Young people

Young people provided a range of responses to this question, with some arguing that all children should go through the children's hearings system, whilst others argued that court should be used for cases of extreme harm. Several responses argued the children's hearings system should be expanded to include young people past the age of 18, up to 21 or 26. Some caveated this extension on the basis that there were additional or developmental needs or to support a gradual transition into adult systems where this is necessary.

For those who felt court would still be necessary for some young people, various suggestions were made on how to make courts more child-friendly, some of which reflected those proposed in *Question 9*, including:

- Separate rooms/courts for young people
- Providing breaks
- Assigned advocates
- Specially trained judges
- Sit around a table rather than dock/bench
- Child friendly language
- Use of online platforms
- No adults present that do not need to be there

One young person however felt that the formal set-up of courts provided an important function, and should be maintained:

"I still think that in some cases a dock should be used, like in a court. If a person has committed a crime then they need to know that and know that they've done something wrong. Sitting round a table sends the wrong message."

[Case 92, Individual Young Person].

4. Pillar Two: Children in the Criminal Justice System

Question 9

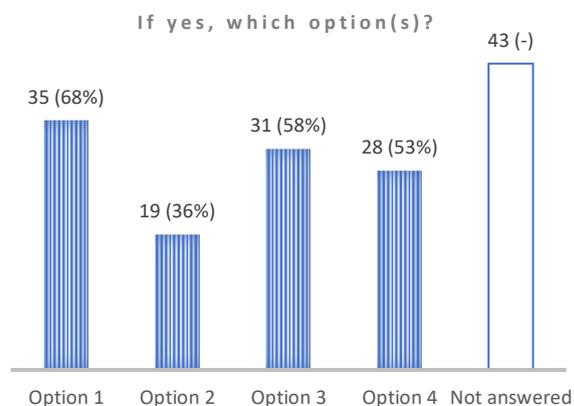
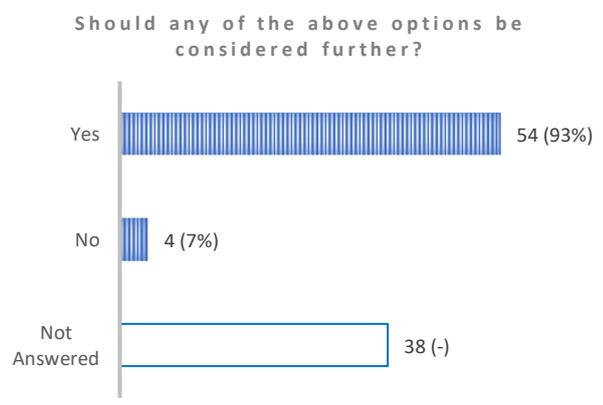
Should any of the above options be considered further?

Yes / No

1. A re-examination of the decision-making framework between which system should deal with a child's case and the consequent interfaces between the children's hearings system and the courts, as outlined currently in Section 4 above.
2. The continued use of traditional court settings, recognising the local innovations that are already underway across different areas of Scotland to improve children's experiences.
3. Making changes to practice, conduct in court and support for all children, whilst retaining children in court settings.
4. In light of the Promise we would welcome views on any other proposals beyond options 1-3 that should be considered.

If yes, which option(s)?

Please give reasons for your answer, including any positive or negative implications of any of the options. We are particularly interested in implications for people who have been harmed



Statistical Overview

- This question had two aspects. Not all respondents who answered 'yes' to the first aspect of the question then specified which option(s) they supported in the second aspect of the question.
- For the first part of this question 93% agreed that (some of) the above options should be considered further
- Four respondents disagreed, including three individuals and one Local Government/Social Work organisation
- For the second part of this question, within which respondents were able to select multiple options, *Option 1* was the most popular, with 68% supporting its further consideration
- *Option 2* received the least support, at 36%, whilst *Option 3* received 58% and *Option 4* received 53%.

Main Themes

Option 1

Option 1 received the most support, with 68% of those who responded to this part of the question supporting this proposal. Several respondents expressed that *Option 1* held the most potential for long term, radical change, should the decision-making framework be reviewed to allow all (or the vast majority) children to be removed from criminal justice systems and dealt with via the children's hearings system. It was added that this was an essential step should Scotland wish to be United Nations Convention on the Rights of the Child (UNCRC) compliant and 'Keep the Promise'. Furthermore, several respondents highlighted that this proposal offered scope for more balanced and multi-agency decision making that accounted for the views of all agencies and lead professionals involved with the child. In particular, it was felt that local authorities' perspectives should be accounted for in this process:

"The decision-making framework as mentioned in a previous answer should be considered. A more balanced approach where it is not simply for the court to decide could lead to greater consistency."

[Case 6, Local Government/Social Work]

"NYJAG would call for clearer guidance and an increased expectation that more offending behaviour is dealt with via the Children's Hearing for jointly reported cases. There should be a greater level of involvement of the local authority in this key point of decision making."

[Case 43, National Youth Justice Advisory Group]

Option 2

Only 36% of those who responded to this part of the question supported *Option 2*, with limited qualitative responses provided to support this position. One respondent highlighted the potential for learning from innovations already taking place:

"As mentioned in option 2, we need to continue to learn and share developments from innovations that are already underway. It will be particularly interesting to see the outcomes from the pilot youth court."

[Case 32, East Lothian Council]

In arguing against this proposal, several respondents highlighted that it felt disjointed from the ethos of the rest of the consultation. These respondents emphasised that traditional court settings are not appropriate spaces for children.

"Option 2 – We do not support the proposal for the continued use of traditional court settings whilst recognising local innovations and good practice. We believe that traditional court settings are not appropriate for children and we should be working to remove the need for children to appear in such spaces. We do not believe that we can rely on pockets of 'local innovation' alone and are concerned that however innovative they may be, they would still expose children to adult justice environments that we should be looking to steer children away from."

[Case 74, Aberlour]

Some respondents, did, however, highlight that whilst they did not feel traditional court settings were appropriate spaces for children, in extreme cases of serious harm a court was more appropriate than a hearing. These respondents highlighted the need to learn from local innovations, as *Option 2* proposes, whilst taking forward (some of) the suggestions in *Option 3*.

Option 3

Of those who responded to this part of the question, 58% supported *Option 3*. Several respondents stressed that whilst they supported the more long-term goals of *Option 1* and *4*, in the interim, *Option 3* should be pursued to make immediate improvements to the experiences of children and young people being dealt with in court. In addition, other respondents argued that children who have caused the most serious harms should still be dealt with in court, and that for these children the changes proposed in *Option 3* would help make their court experiences more child friendly. For these reasons, many respondents who supported this option felt that it should not be pursued in isolation, with only six respondents exclusively selecting *Option 3*.

“Whilst there is a need to support changes to decision-making and the implementation of these changes to minimise the number of children routed to the criminal justice system, we understand that some children will still be before this system. As such, we welcome the changes proposed by option 3 to make improvements to court settings to ensure they better meet the needs of children.”

[Case 71, CELCIS]

“Option 3 - We support these proposals to make changes to practice, conduct and support in court. However, we do not believe they should be seen as an alternative to extending use of referral to the CHS. All under 18s should be referred to the CHS, but where a crime has been committed where the sentence is set in law, or there requires a parallel response from the courts (e.g. driving ban), these arrangements would support child-centred management in safe, trauma-informed, rights-respecting spaces.”

[Case 74, Aberlour]

A very small number of respondents expressed concerns about *Option 3*. The Scottish Courts and Tribunal Service highlighted a range of concerns that could pose challenges to implementation:

“Whilst we fully appreciate the rationale behind these, there are likely to be a number of practical difficulties [...]. For example, smaller courts may only have one court room available and many of our buildings are historic and may not have facilities such as separate exits/entrances available within them. The consultation document notes that it would be beneficial to prioritise children’s cases so that they call first on a court day and are heard within a shorter timescale. Cases involving children already have a degree of prioritisation when hearing dates are assigned, however, the order of calling cases may be determined by other factors outwith the courts’ control, for example, witness availability. Other proposals suggested, such as changes to the pace of the court hearing, regular breaks and a shorter court day, will also have an impact on court programming. This has the potential to reduce the number of cases that can be dealt with during the court day.”

[Case 101, Scottish Courts and Tribunal Service]

The concern over the impracticality of separate entrances and waiting rooms was also flagged by The Sheriffs’ and Summary Sheriffs’ Association, who also expressed concern over the logistics of accommodating all those who are required to attend a trial (including the accused, the sheriff/judge, clerks, solicitors, prosecutors, court officers and potentially social workers, advocacy workers and relatives) around one table, as proposed by *Option 3*. It was highlighted that this would likely result in attendees sitting in close proximity with one another, posing both practical and safety implications especially where witnesses are required to be present. In addition, they highlighted unintended legal and rights implications that these proposals could have:

“Furthermore, it would appear that the rights of the accused could be significantly compromised by some of the proposals, if implemented. If the sheriff was at the same table as the child then any necessary interaction with or reassurance given by the child’s legal advisers (which at present can take place a suitable distance away from the sheriff) would become impossible without the sheriff overhearing, or without there becoming a need for frequent, unscheduled interruptions to proceedings. Any accused person’s lawyer (solicitor or counsel) is there to speak for the person, to give advice, to advocate

and lead evidence on their behalf, and to assist in ensuring that proceedings are fair. If the sheriff ignored the lawyer to speak directly to the young person about certain aspects of the case this could threaten their fair trial rights.”

[Case 34, The Sheriffs’ and Summary Sheriffs’ Association]

Option 4

Fifty-three percent of respondents who answered this part of the question supported *Option 4*, with respondents emphasising their support for The Promise and agreement that court settings are not suitable environments for children. Several also provided their views on proposals beyond *Option 1-3*. These included:

- The use of Evidence Suites, newly opened in Glasgow and Inverness, which provide a non-court venue for witnesses giving evidence by using a live TV link on the day of a court hearing; or by having their evidence taken by a commissioner and pre-recorded in advance of a trial.
- Increasing scope for participation in the children’s hearings system
- Guardians or advocates for every child referred to a hearing
- Training to ensure all those working with children in conflict with the law are trauma informed
- The statutory provision of the Barnahus model to improve victim’s experiences in the justice system

Young People

Two young people felt that none of these options should be pursued further, whilst four felt that (some of) the above options should be explored further. Of these, four felt that Option 1 should be explored further and two felt that Option 3 should be explored further. There were mixed views across young people, with some feeling that traditional court settings should never be used for children and others feeling that these are appropriate in some cases:

“I think traditional courts should be used in serious cases to send a message to the child about the severity of the case. They should still have support in court but the case should be in a court room rather than a children’s hearing.”

[Case 90, Individual Young Person]

“Stick to current system, including courts for some offences.”

[Case 94, Individual Young Person]

“No, traditional courts shouldn’t be used for children.”

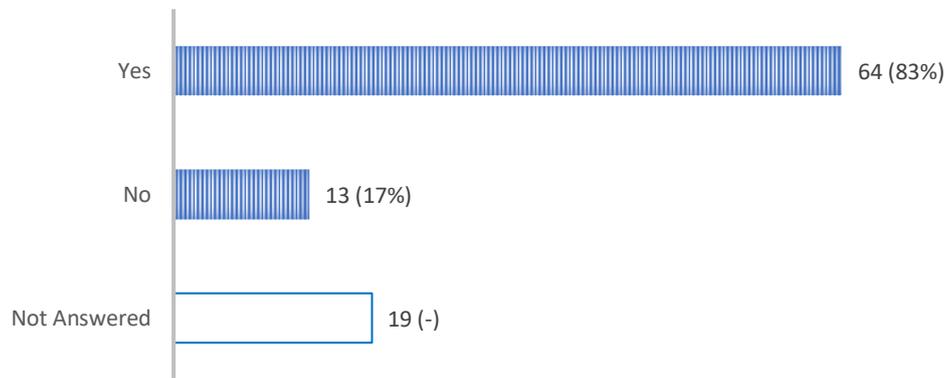
[Case 93, Individual Young Person]

Question 10

Where a child requires to be deprived of their liberty, should this be secure care rather than a YOI in all cases?

Yes / No

Please give reasons for your answer



Statistical overview

- Most respondents agreed with this question, at 83% compared to 17% who disagreed
- Organisations were more likely to agree than individuals, at 89% compared to 70%
- All *Influencer Organisations*, 91% of *Hybrid Organisations*, 87% of *Delivery Organisations* and 83% of *Representative Groups* agreeing with this question.
- Notably, all Secure Care Centre respondents agreed with this question, as did all Legal and 'Other' organisations. Police-related organisations and Children's Hearings System-related organisations had the lowest percentage of support across the sector groupings, at 67%.

Main themes

Many respondents emphasised that Young Offenders Institutions (YOIs) were fundamentally inappropriate settings for children. This was mentioned at least once across all but one of the sector groupings, and was particularly emphasised by Local Government/Social Work, Third Sector and Children's Rights organisations. Various reasons were given to argue that YOIs were inappropriate settings for children, due to the likelihood of trauma being exacerbated within that environment. This included the use of pain-inducing restraints; the detrimental aspects of the culture and environment; and the stigma and shame associated with a sentence. Across these responses, there was emphasis on the ways in which these aspects of being detained in YOIs can significantly impact upon children and young people's mental health and result in incidents of self-harm and suicide.

“Yes, we would support the view that Young Offenders Institutions are not an appropriate solution for children. In 2018, the Her Majesty’s Inspectorate of Prisons for Scotland reviewed mental health provision in HMYOI Polmont. This report highlighted the increased risk factors for self-harm and suicide and vulnerability of many of the young people in detention.”

[Case 83, Public Health Scotland]

“Recent research which found that 83% of children held in a YOI had been strip-searched - clearly breaching their human rights under the UNCRC - adds further weight to HLS’s belief that children should never be accommodated in a YOI under any circumstances.”

[Case 65, Howard League Scotland]

Further responses – particularly, but not exclusively, those from Children’s Rights organisations - highlighted the tension that currently exists between international children’s rights standards and the use of YOIs as settings for children.

“Where children are deprived of their liberty, the UNCRC is clear that they must be treated with humanity, respect and in a manner that takes into account their needs. Together’s position is that these standards are unlikely to be met in Young Offenders Institutions. By contrast, secure care offers relationship-based, therapeutic, trauma-informed support. As such, Together believes that where no alternatives are possible and deprivation of liberty is required as a last resort, that this should be in secure care.”

[Case 73, Together]

In addition to arguments against YOIs, respondents justified their support for this proposal by emphasising the benefits associated with a secure care environment. It was expressed that secure care can provide a superior trauma-informed and therapeutic setting, where children and young people’s needs can be responded to on an individual basis. It was suggested that secure care affords better access and opportunities for education, whilst allowing for family visits to be more regular, private and meaningful. It was stressed that this type of environment offered greater scope for effecting rehabilitative change - a point particularly emphasised in Local Government/Social Work and Secure Care Centre responses.

“Young people and I would go as far as saying up to the 21st birthday they need to be given an opportunity for therapeutic intervention and whilst YOI will try and replicate what is currently delivered in secure care the very environment enforces ‘prison’.”

[Case 77, Secure Care Centre]

“A secure unit is more conducive to implementing a trauma informed approach. As outlined in the consultation the physical environment is crucial to nurturing an approach that is rights based, value driven with rehabilitation at its heart.”

[Case 29, Falkirk Council]

A small proportion of responses argued that use of YOIs should be maintained in certain circumstances. This was more prominent in responses from individuals than organisations. These responses argued that YOIs must be retained for children who have committed the gravest of offences or where it has been assessed that secure would be unable to manage the risk posed to others. One Victim organisation also emphasised that YOIs might be more appropriate for some offences, to ensure that the child or young person is held accountable for the level of the harm they have caused.

“Other secure care settings may put more focus on the care needs of the person as opposed to the disposal being due to their actions/responsibilities. Regardless of secure care or YOI interventions if sexual offences should include looking at their behaviours and take responsibility including the impact on survivors, look at consent and healthy relationships etc.”

[Case 87, Women’s Rape and Sexual Abuse Centre Dundee and Angus]

More broadly, attention was given by a number of respondents to the resource implications that any increased usage of secure care would entail - particularly challenges relating to additional capacity, staffing

levels, workforce skills and guaranteeing the safety of 'all' children residing in these settings. This was seen as an issue across most sector groupings, although one organisation did flag that the very small number of young people typically held in YOIs would make the impact of this transition minimal. Children's Rights organisations did also emphasise that secure care is not immune to its own challenges - highlighting for example, instances of children's rights potentially being breached and a lack of communication to children about what is happening to them.

"We are concerned about continuing practices in secure care of restraint, placement in a dark cell (lights being turned off as punishment) and solitary confinement – disciplinary measures which violate Article 37 of the Convention (see p.16 of General Comment 24)."

[Case 64, Who Cares? Scotland]

Several responses also stressed the need for community alternatives to be fully resourced to avoid children being held in either YOIs or secure care. This was particularly emphasised by Children's Rights organisations who maintained that the proposed changes to legislation should not encourage an expansion of the secure estate across Scotland. It was stressed here that early intervention and whole family supports needed to be fully resourced to ensure as few children and young people as possible end up on a trajectory to secure care.

Young People

Six young people agreed that all children who need to be deprived of their liberty should be held in secure care rather than YOIs - and five disagreed. Of those who supported this proposal, the key reason given was that YOIs were trauma-producing institutions, inappropriate for children and seriously detrimental to their mental health, whilst secure care could offer a more supportive and nurturing environment that facilitated rehabilitation. Furthermore, several responses from young people emphasised that YOIs can expose children and young people to more harmful behaviour and older prisoners and obstruct opportunities for desistance.

"STARR wholeheartedly believes that YOI is inappropriate for children and poses a serious risk to safety and wellbeing. We have witnessed tragic losses of children in YOI, often connected to inappropriate placement due to a lack of secure accommodation. If Scotland wishes to meet the aims of The Promise we must end the practice of placing children in YOIs – one death in custody is too many, and it is vital that children's rights and wellbeing are prioritised to prevent further injustice and loss."

[Case 102, STARR]

This support was due to it being a more child friendly location, more access to supports and education, increased opportunities to have visits from family and a better opportunity to make amends for their actions."

[Case 59, Children and Young People's Centre for Justice (Young People)]

A key concern raised by young people who disagreed with this proposal was the risks posed by mixing children who are being held for welfare and offence grounds. There was concern that if secure care is to be used for all children and young people, including for those who have committed the gravest of crimes, then the safety and mental health of those held for lower-level offending or on welfare grounds would be threatened. For these reasons, and despite acknowledging benefits of secure, some young people felt YOIs should remain for the most serious offences, as they are better placed to keep the child and others safe. Responses from other young people, however, felt that secure care could still be used in these instances so long as the centre split children held on offence and welfare grounds into different areas:

"I don't believe YOIs should exist at all. If a young person has to go to secure care the secure care unit should separate residents based on why they're there."

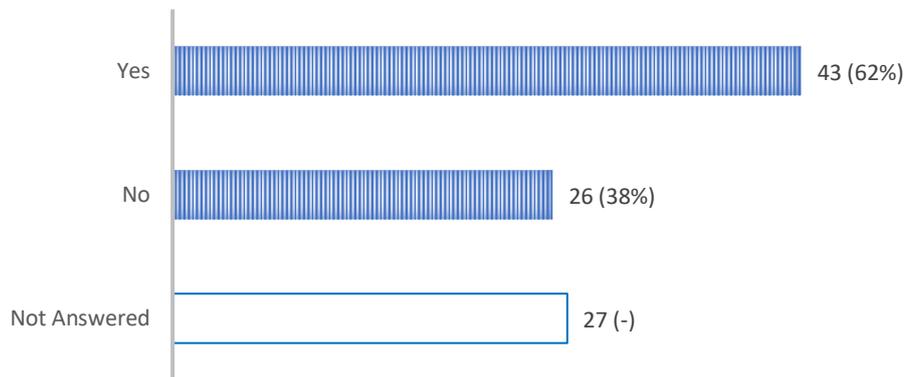
[Case 90, Individual Young Person]

Question 11

Should there be an explicit statutory prohibition on placing any child in a YOI, even in the gravest cases where a child faces a significant post-18 custodial sentence and/or where parts of a child's behaviour pose the greatest risk of serious harm?

Yes / No

If no, in what exceptional circumstances should use of a YOI be considered? Please give reasons for your answer



Statistical overview

- There was less support for this proposal, compared to *Question 10*. Still, 62% of respondents support an explicit statutory prohibition
- As with *Question 10*, there was more support from organisations than individuals, at 67% compared to 52%
- *Hybrid Organisations* had the highest percentage support, at 88%. *Influencer Organisations* supported this at 75%, *Delivery Organisations* at 65%, and *Representative Groups* supported this the least, at 40%.
- Support for this proposal was over 50% in all sector groupings except from in Police-related Organisations, where all three answered no
- Notably, all four Secure Care Centres who answered this question said yes, although their qualitative responses were caveated to emphasise that further work was needed before implementing an explicit statutory prohibition would be practically possible.

Main themes

Several respondents stressed the importance of introducing an explicit statutory prohibition - a point raised by Children's Rights organisations, along with Local Government/Social Work, Third Sector and Children's Hearings Systems-related organisations. All of whom emphasised that regardless of the severity of the offence committed by a child, the use of YOIs for children is fundamentally incompatible with the UNCRC, The Promise and Kilbrandon. Many raised similar concerns to those discussed in *Question 10* - including the inappropriateness of YOI settings for children, along with the therapeutic and rehabilitative potential of secure care.

“There should be an explicit statutory prohibition on placements that are incompatible with children’s rights. There is a significant body of evidence that placing children in custody deprives children of their rights, is traumatising and does not lead to positive outcomes. YOIs cannot uphold children’s rights and therefore should not continue to be used.”

[Case 58, Children’s Hearings Scotland]

“Yes, there should be an explicit statutory prohibition on placing any child in a YOI. We cannot allow Scotland to adopt a child-centred approach, but only for those children committing lesser offences. All children should be treated as children.”

[Case 32, East Lothian Council]

Relatedly, one Legal organisation also raised concern that if exceptions were made only for children who committed the gravest offences, this could lead to a single child being placed in a YOI alone, with adverse outcomes for their development.

“Given the acceptance that a YOI is not an appropriate setting for a child, it is important that no child is ever placed within this setting. If there were to be exceptions allowed for children who have committed the most serious offences then, given how rare it is for children to commit the most serious offences, it is likely that there would at times just be one child in a YOI at a time. Given the problems in having a child mixing with adults in prison, there would be significant difficulties in ensuring they were provided with appropriate social and development opportunities.”

[Case 56, Clan Childlaw]

Many respondents also echoed their responses to *Question 10*, reiterating that secure care centres would need to adapt, and benefit from increased resources and training, if they were to support greater numbers of higher risk children, detained on offence-based grounds. A few responses suggested that a separate secure-like estate might be advantageous. An appreciation of these types of challenges was apparent in the responses of both respondents who answered yes and no to this question - with some arguing that these issues should not impede implementing an explicit statutory prohibition, whilst others stressed that relevant resourcing and planning considerations should be addressed before any implementation of an explicit statutory prohibition takes place.

“Despite relatively small numbers of children currently held within HMPYOI Polmont, we nonetheless recognise that this statutory prohibition could put significant strain on an already stretched secure care estate and workforce and suggest that investment (both financial and leadership) is provided towards alternatives to secure care and custody.”

[Case 71, CELCIS]

“We therefore suggest that this step is delayed until related national work around secure provision is concluded, and we have in Scotland the provision able to provide for Scottish need. This includes availability of the level and nature of accommodation required (taking in to account the significant mental health related issues), the range and skill base of staff, and the protection of all those who require to be deprived of liberty.”

[Case 25, Social Work Scotland]

For those that did not support an explicit statutory provision, respondents echoed their concerns from *Question 10*, highlighting that YOIs should continue to be considered in exceptional circumstances; namely, where the offence committed was of a severe nature - for example, murder or serious sexual offences - and/or where public safety was a significant concern. This was particularly prominent in responses from individuals, and from Victim organisations, where YOIs were considered more appropriate in these circumstances for public safety and victim protection, and to ensure that those who had committed these offences were being held accountable.

“Where the public’s safety through crime or harm caused by the child is at risk, then they should be placed in the most appropriate setting to mitigate that risk. There should also be an element of public trust and confidence that they will be protected from those individuals who commit serious harm to others.”

[Case 19, Third Sector]

Young People

Most young people who answered this question did not support an explicit statutory prohibition - with six answering no and three answering yes. This was supplemented with two non-standard responses from young people organisations, which did not directly answer this question. One expressed a view that YOIs should never be used for under 18s, whilst the other suggested that some young people might still need to be held in YOIs. The justifications given for these responses reflected much of what was answered in the previous question. Some responses felt YOIs should be prohibited on the basis that they carry significant negative consequences for the child's mental health and rehabilitation. Others argued that in instances of serious crimes, such as murder and rape, YOIs should still be an option, or that older children who have committed these crimes should be placed in a separate secure unit.

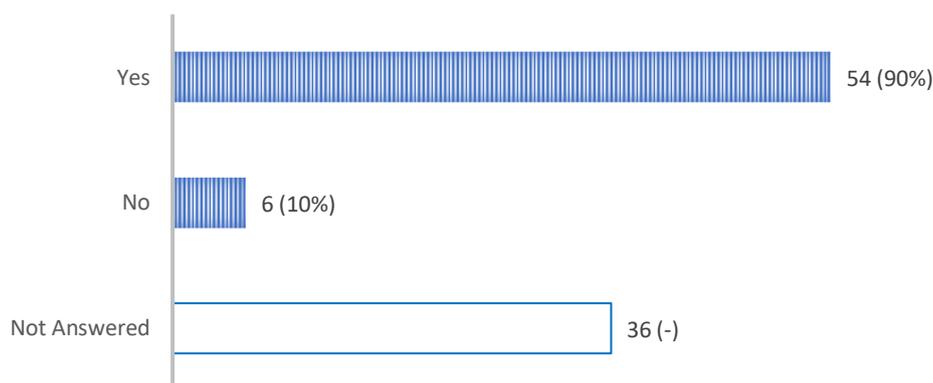
Question 12

Should existing duties on local authorities to assess and support children and care leavers who are remanded or sentenced be strengthened?

Yes / No

Please give reasons for your answer

If yes, please provide details of how could this be achieved



Statistical overview

- This proposal received widespread support, at 90% overall
- Support was higher in organisations than individuals, at 93% compared to 85%
- All *Hybrid Organisations* supported this proposal, as did 96% of *Delivery Organisations*, 80% of *Representative Groups* and 67% of *Influencer Organisations*
- Across sector groupings, this proposal received 100% support, except Local Government/ Social Work organisations, who supported this at 89%, and Third Sector organisations, who supported this at 83%.

Main themes

In supporting this proposal, respondents highlighted that children who are remanded or sentenced are currently missing out on the level of throughcare support they need. Local Government/Social Work respondents highlighted the inconsistencies in practice across Scotland, with current duties failing to make explicit that this population of children should be considered care leavers, and therefore entitled to the same support afforded to other care leavers. This was also expressed by two Secure Care Centre respondents who highlighted that children in secure care on offence grounds receive less and more inconsistent support for transition into the community, than those on welfare grounds. It was highlighted across responses that this population of children typically had a high level of need and required aftercare to support their desistance, rehabilitation and general wellbeing.

“A strengthening of rights to lifelong support for Care Experienced people would advance equality for Care Experienced people as a community of rights-holders, ensuring equal opportunity to access their human rights in areas such as housing, education, aftercare support, financial support and mental health support.”

[Case 64, Who Cares? Scotland]

Responses also, however, argued that existing duties were in principle sufficient to support this population, but that inconsistencies in implementation led to young people often falling through the gaps. This was felt to be driven by a lack of resources that impeded local authorities from complying with their duties. Resourcing was highlighted as a major issue by Local Government/Social Work, Third Sector and Police responses along with being raised by several individuals.

“... the commitment to see all children cared for and supported is already a shared vision and goal of all public bodies, including local authorities. The challenge comes in making available the necessary resources to make such aspirations, commitments, legislative duties or promises a reality.”

[Case 22, Police Scotland]

“Consideration of strengthening these duties needs to take into account the additional resources and time required of local authorities that are already under significant pressure. Clarity is required as to specifically what would be required of local authorities in strengthening these duties and what provisions would be made to ensure local authorities are able to do this.”

[Case 32, East Lothian Council]

Furthermore, some responses stressed that duties were differentially interpreted by local authorities and that more explicit guidance was needed. A small number of respondents thus stressed that the priority should be on increasing resources and guidance to local authorities to ensure they meet the current duties, rather than introducing new duties that they would struggle to meet.

“Existing provision through corporate parenting duties ought to address this inequality. Whilst strengthening the policy drivers relevant to this aspect of care would be welcome, it is the implementation gap of current policy that creates this precarious situation in the first place.”

[Case 68, Children and Young People’s Centre for Justice]

“...there are already duties in place, adding to these are unlikely to make any material difference if there are challenges to adhering to the current ones.”

[Case 29, Falkirk Council]

Young People

Five young people agreed with the proposal and two did not. Several young people noted that they needed further information about existing duties to answer. Young people stressed that there needed to be earlier interventions for children and young people, before they get to the point of being in custody, and that the education and work-based opportunities available in secure and YOI need to also be made available for those on remand. In addition, young people emphasised that more needs to be done to support young people’s mental health both before and during being placed in secure care or a YOI, with local authorities focusing on helping children and young people understand and recover from their trauma, and more opportunities to be referred to counselling services.

One response also highlighted that throughcare and aftercare support is not available to children and young people who are on remand. Without this support, when young people returned to their community, they would be without the resources they needed to rebuild their lives.

Question 13

Do you agree that the three above changes related to anonymity should be made?

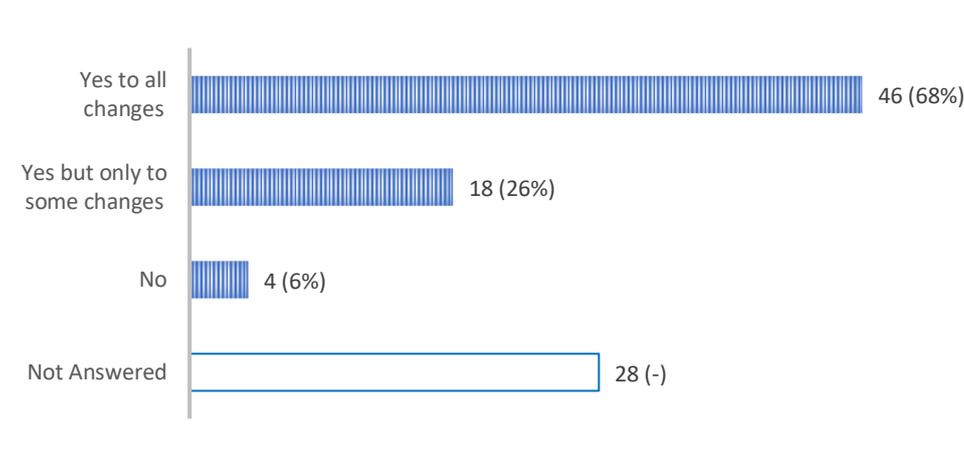
(the proposed changes were: 1) further limitations to the circumstances in which a judge can identify a child accused; 2) that anonymity applies from first contact with the justice system and 3) post-automatic 18 identification of children ceases – up until 26 years old.)

Yes to all changes

Yes but only to some changes (please identify which ones)

No

Please give reasons for your answer



Statistical overview

- Ninety-six percent agreed that there needed to be at least some change to anonymity for children, with 68% supporting all three proposals
- Only four respondents felt that none of the proposed changes should be made, including three individuals and one Children’s Hearings Systems-related organisation

Main themes

A majority of respondents agreed that all three changes related to anonymity should be implemented. These responses coalesced around several key themes, including the rights of children in this area (e.g., relating to their privacy); the safety of the child causing harm and their family; and the need to allow for their future rehabilitation.

“The changes suggested above would be in line with the United Nations Committee on the Rights of the Child and recommendations from UNICEF that “The Scottish Government should commit to ensuring the anonymity of all children under 18 years of age who come into contact with the law and appear at Scottish courts - regardless of the offence they have committed. This anonymity should not cease at 18 years of age but instead should last a lifetime.”

[Case 68, Children and Young People’s Centre for Justice]

“This would keep these children and their families safe, support their rehabilitation and reintegration, and uphold their rights. It would also be in line with the support from the UK’s four Children’s Commissioners.”

[Case 13, Clackmannanshire Council]

Other responses did however seek further clarification around terminology used within the Proposals; notably in respect of the wording *‘protecting the public from serious harm and/or the interests of justice’*.

“Social Work Scotland supports all the proposed changes but would underline the importance of clear definitions around ‘protecting the public from serious harm’ and ‘in the interests of justice’ as this terminology is open to differing interpretation.”

[Case 25, Social Work Scotland]

Not all respondents agreed with all three changes - within these responses, for example, in respect of *Proposal 3* there were different views expressed concerning how a child’s age factored into anonymity.

“One and two because of their young age. No to three, as by that age, the consequences of decisions made need to be faced up to.”

[Case 7, Individual]

“We urge caution against the third change proposed in the context of domestic abuse. Protecting the anonymity of an offender until 26 in the context of domestic abuse may serve to exclude future partners of the perpetrator from information that would be useful to them in assessing risk. This would work against the principles and functionality of established initiatives which seek to protect survivors, including the Disclosure Scheme for Domestic Abuse (Scotland). For this reason we do not support this proposal.”

[Case 57, Scottish Women’s Aid]

“Option 3 should be amended so that children in conflict with the law can have lifelong anonymity, and so that no decisions about the identification of children are based on arbitrary chronological age thresholds and/or public interest.”

[Case 71, CELCIS]

Young People

Five young people supported all changes, four supported some and only one supported none of the proposals in this question. The key reasons given for this were that extending anonymity for children and young people will protect themselves and their families from violence, harassment and being ostracised in their communities, whilst simultaneously supporting their rehabilitation and enhancing their job and educational opportunities.

There were differing views across young people regarding whether proposals should be caveated with concerns for public safety. One response highlighted that this struck a good balance, and where a child or young person reoffends or poses a serious risk then they should lose their right to anonymity. Another young person, however, argued that children should remain anonymous regardless of risk, as this is in their best interests for rehabilitation. A separate respondent also highlighted their concerns regarding who should make these decisions - suggesting that these should be made by juries or panels of experts, as leaving this to individual judges provides them with too much power.

5. Pillar Three: Secure Care

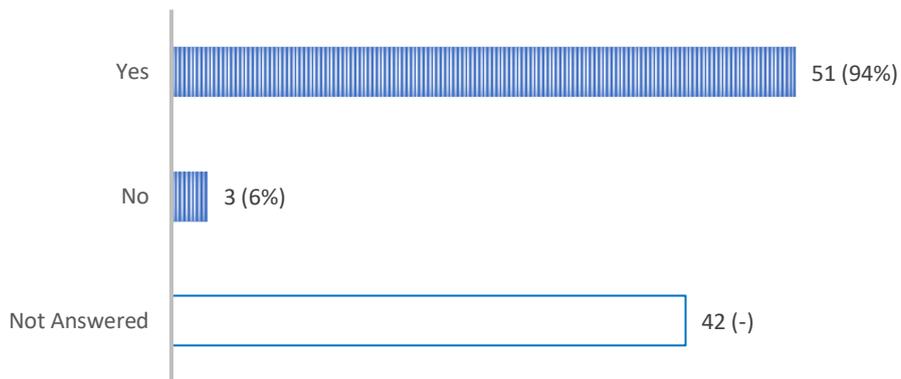
Question 14

Do you agree that the regulatory landscape relating to secure care needs to be simplified and clarified?

Yes / No

Please give reasons for your answers

If yes, please provide details of how this could be achieved



Statistical overview

- Ninety-four percent of respondents agreed that the regulatory landscape of secure care needs to be simplified and clarified
- Only three respondents disagreed with this question, including two individuals and one Secure Care Centre

Main themes

Many responses highlighted that the current regulatory landscape of secure care was highly complex and confusing. Local Government/Social Work and Third Sector respondents in particular noted that the legal complexities surrounding whether a child is able to access secure care (especially where they are 16 or 17 and not on a CSO) has led to differing interpretations across agencies and unequal access for children and young people. One Local Government/Social Work respondent highlighted that they often must seek independent legal advice to determine whether a child is able to be placed in secure. These respondents also stressed the funding of secure care exacerbated complexities, with secure places funded by local authorities with the exception of sentenced children, whose placements were funded by the Scottish Government. This was seen to create perverse incentives for decisions about where a child is to be placed based on resource demands rather than what is in the child's best interests. These respondents argued that a national strategy and funding model, with clear guidance, would be an important improvement - a suggestion that will be discussed in more detail under *Question 18*.

Furthermore, several respondents highlighted that the regulatory landscape makes it difficult for practitioners to explain to children, their families and victims the decisions being made, and limits their ability to participate in this process.

“The secure landscape is complex. It has complex regulation and complex decision-making routes into and out of secure care. We are of the view that changes could be made to the pathway into and out of secure care which would allow a social worker to describe what will happen more easily to a child and their family.”

[Case 82, Children’s Hearings Systems-related]

Other responses highlighted that the current complex regulatory landscape could lead to inconsistent practice and scrutiny, with the potential to impact the level of care provided.

“In addition to confusion over the routes that children can take into secure care there are complex mechanisms in place to inspect secure care and other forms of care which restrict a child’s liberty. For example, services that are not registered as a secure accommodation service do not receive the same level of scrutiny from the Care Inspectorate as secure care centres. This results in a tiered approach to the upholding of children’s rights, with children placed by authorities outwith Scotland into residential settings through Deprivation of Liberty orders, which restrict their freedoms and experiences of care within services that are not being inspected using the quality framework for secure accommodation services.”

[Case 68, Children and Young People’s Centre for Justice]

Young People

Three young people agreed that the regulatory landscape needs to be simplified and clarified, and one disagreed. Limited qualitative responses were given, with one emphasising that there needs to be more secure facilities in Scotland to manage need.

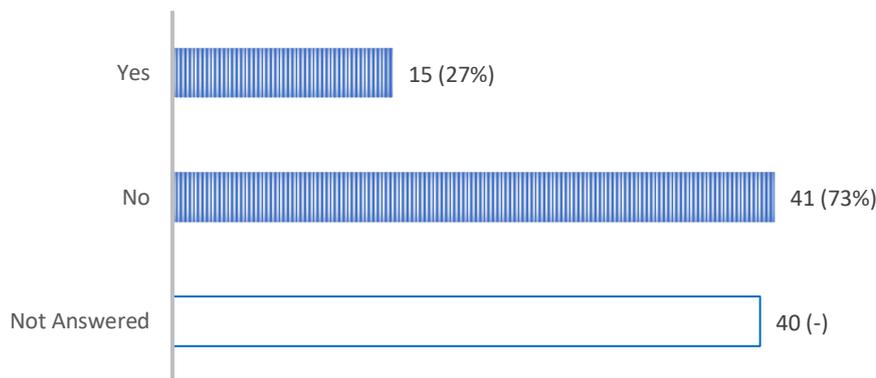
Question 15

Do you feel that the current definition of “secure accommodation” meets Scotland’s current and future needs?

Yes / No

Please give reasons for your answers

If no, please provide details of how this could be changed



Statistical overview

- A significant number of respondents did not answer this question, but of those who did, 73% did not think the definition of secure accommodation met Scotland’s current and future needs whilst 27% did
- Organisations were more likely to respond ‘no’ to this question than individuals (79% compared to 59%)
- All *Hybrid Organisations*, along with 80% of *Representative Groups* and 78% of *Delivery Organisations* responded no. Only two *Influencer Organisations* responded to this question, of which half responded no.
- All Police, Third Sector and Legal organisations answered no, as did 85% of Local Government/Social Work responses.
- Secure Care Centres were split 50-50 on whether they felt the definition met needs, however the qualitative responses of those who answered yes were supportive of a change in definition should it increase precision and any implementation of these changes be fully resourced.

Main themes

Respondents drew explicit attention to the language of the current definition being at odds with the vision for secure care outlined in *The Promise* - particularly, in respect of therapeutic, trauma-informed, rights focused and supportive elements of the provision. Similarly, other respondents believed that the current definition of secure accommodation adopted language which could be seen to be stigmatising.

“No. The legal definition should reflect the purpose of what secure care is and its intention. The current definition is grossly outdated, not rights respecting and not child centred.”

[Case 86, Good Shepherd Centre]

“There is currently a stigma around the use of ‘secure care’, which can be viewed as a punishment for children and young people.”

[Case 64, Who Cares? Scotland]

A smaller number of respondents did however feel that the definition in its current form was appropriate, whilst a very small number of respondents stated that the rationale for any definition change was unclear.

Young People

Three young people agreed that the current definition of secure accommodation is adequate, and two disagreed. Limited qualitative responses were given to this question, however a key concern expressed in three responses was that secure care should not be used for children who abscond. This reflected concerns outlined in *question 6* relating to the criteria for MRCs.

Question 16

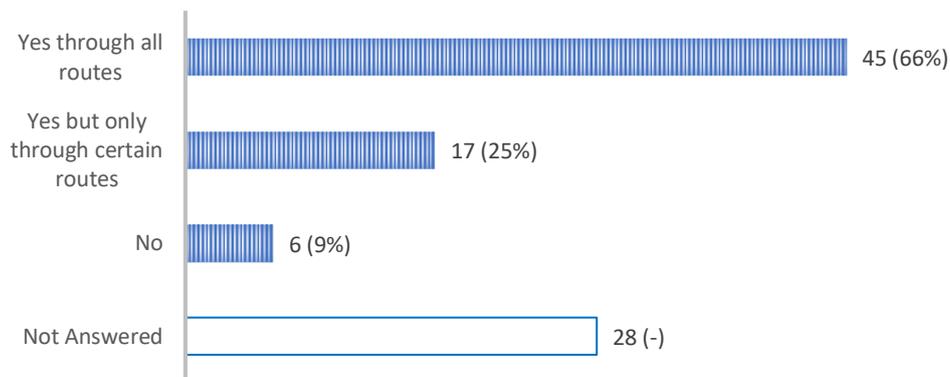
Do you agree that all children under the age of 18 should be able to be placed in secure care where this has been deemed necessary, proportionate and in their best interest?

Yes through all routes

Yes but only through certain routes

No

Please give reasons for your answer, including any positive or negative implications



Statistical overview

- Almost two-thirds of respondents felt that secure care should be available to all children under 18 through all routes, whilst 25% felt this should only be through certain routes.
- Organisations were much more likely than individuals to support this being available through all routes, at 81% compared to 30%.
- All *Representative Groups* felt this should be available through all routes, as did 80% of *Hybrid Organisations*, 78% of *Delivery Organisations* and 75% of *Influencer Organisations*
- Across sector groupings, all Secure Care Centres, Police organisations and Legal organisations felt this should be possible through all routes.
- Only six respondents answered 'no' to this question, including two individual and four organisations
- Of the organisations that responded 'no', three were *Delivery Organisations* (specifically, two Local Government/Social Work organisations and one Children's Hearings Systems-related organisation) and one *Hybrid Organisation* (specifically, one Third Sector organisation).

Main themes

While there was generally agreement with this proposal, a number of respondents highlighted the implications for capacity, resource and workforce skills that would follow on from any change to routes to accessing secure care that required careful consideration. This was raised as a concern by almost all organisational respondents.

“As already noted, there are significant funding and resourcing implications for such a significant shift in policy, that could a) potentially increase the possible number of referrals to secure care services and/or b) lead to potential unintended consequences where the available secure care settings are unable to meet specific needs unless there is attention paid to the types of setting and support which will require to be developed to meet the needs of young people with extreme mental distress and/or whose behaviours seriously challenge others and present significant risk of significant harm.”

[Case 86, Good Shepherd Centre]

Several respondents also emphasised that ‘other alternatives’ needed to be explored, before the threshold was reached for a child under the age of 18 years old to be placed within a secure care setting. This was particularly stressed by Local Government/Social Work respondents and Children’s Rights organisations, where it was emphasised that in line with the UNCRC, detention should only be used as a last resort.

“Secure care should be reserved for young people who pose an ongoing risk of harm to others. Alternative and suitable approaches, supports and accommodation should be developed for young people at risk due to CSE, self-harm etc. There are gaps in multi-agency safeguarding approaches for young people in the community and these could be strengthened as could the provision of emotional and mental health supports.”

[Case 12, Local Government/ Social Work]

“We urge a focus on early intervention and community-based alternatives which can prevent the need for secure care.”

[Case 71, CELCIS]

Likewise, other respondents emphasised that any decision to place a child in secure care should be subject to robust assessment and safeguards and always align with the best interests of the child.

“When a decision is made to place a child in secure care, their best interests must be the paramount consideration and this decision should be based on an individual human rights assessment for each child. Secure care should be an option where it is in a child’s best interests or necessary to prevent others from a significant risk of harm, but given the grave interference in human rights involved, the use of secure care as a disposal should be rare and carefully monitored.”

[Case 39, Children and Young People’s Commissioner for Scotland]

A very small number of respondents did feel that use of a YOI could still be an appropriate option in certain circumstances. One Victim organisation also argued that ‘public safety’ should be added to the criteria for determining whether secure is appropriate, where they should be placed in the best appropriate setting to limit risk to the public.

Young People

Eight young people who responded to this question supported it, with five agreeing this should only be for certain routes, three agreeing it should be for all routes, and none disagreeing. Several respondents emphasised that secure care deprived children of their liberty, and thus should only be used as a last resort when all other community alternatives have been exhausted. In this instance, where the child was at high

risk to themselves or others, several young people highlighted that secure should be available to all, as a more child-friendly space suited to their age and stage:

“Evidence tells us that brain development continues until the age of 26. Prior to full brain development this can result in increased impulsivity, lack of empathy, and an inability to consider consequences of behaviour. STARR also acknowledges that many young people face multiple traumatic events in their lives and this can manifest in different ways. Therefore, STARR believes that secure care should be an option for all children and young people where appropriate and once all community alternatives have been exhausted.”

[Case 102, STARR]

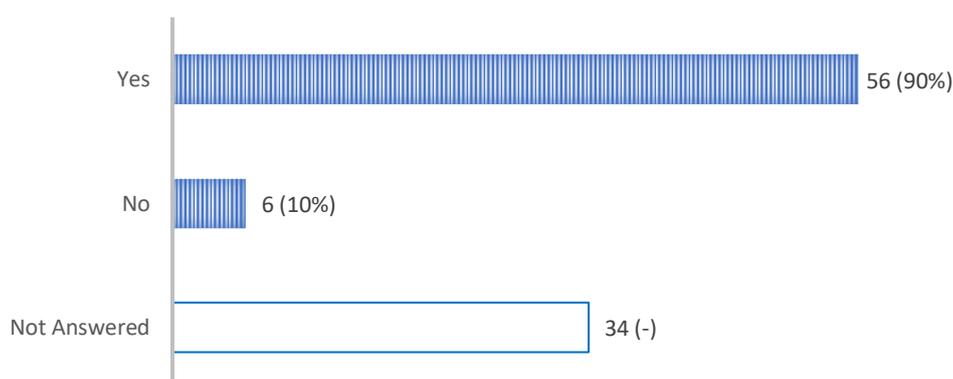
One young person expressed that as secure constituted a deprivation of liberty it should be time-bound, with children and young people aware of when they would be released. Another young person argued instead that it should be more open-ended, and available for as long as the child or young person needs it.

Question 17

Should the costs of secure care placements for children placed on remand be met by Scottish Ministers?

Yes / No

Please give reasons for your answer



Statistical overview

- Respondents overwhelmingly believed that the costs of secure care placements for children placed on remand should be met by Scottish Ministers, with 90% agreeing
- Only six respondents disagreed with this proposal, of whom five were individuals and one was a *Hybrid Organisation* that had been classified as 'Other'. All other organisations that responded to this question supported this proposal.

Main themes

The principal theme emphasised by multiple respondents was that this proposal would help promote needs-led decision-making, over decision-making that was driven by resources or finances, by taking the financial burden away from local authority budgets. Likewise, it was suggested it would also help in promoting consistent availability of secure care across Scotland, rather than a 'postcode lottery' of places. This proposal was strongly supported by Local Government/Social Work respondents.

"We agree with the view in the consultation that it is important to ensure decisions as to where a child is placed are driven by the needs of the child as opposed to financial considerations..."

[Case 82, Children's Hearings Systems-related]

"Local authorities are always tight for money and the decision not to put a young person into care is obviously financially driven at times!"

[Case 7, Individual]

"Drain on local authority budget could be a disincentive to place children in secure care – this proposal rightly takes cost out of the equation."

[Case 15, Stirling Council]

“The discretion and financial consideration placed on local authorities impacts on consistency in the decision making process across authorities. YP experience a post code lottery.”

[Case 53, Secure Care Centre]

A small number of respondents did however highlight that they believed funding should stay with local authorities (for example, via ring fenced funding), with one Local Government/Social Work respondent raising concerns that the proposal would lead to a reduction in local authority budgets. Relatedly, a number of responses also asked for further clarity around how Scottish Ministers would meet the cost of this proposal.

Young People

Five young people supported this proposal and three did not. This represented a considerably lower % of support than the adult respondents (63% compared to 94%). Several respondents raised concerns that secure placement decisions are currently driven by resource rather than the child’s welfare, with local authorities not sending children to secure to avoid paying for it. It was thought centralising funding might resolve this. Conversely, some young people felt that local authorities had a better understanding of local need, and it should therefore be funded and managed by them:

“I think it should be paid for by the council – they have a better understanding and involvement in of local matters.”

[Case 90, Individual Young Person]

“It’s nothing to do with Scottish Ministers. It’s social work and it’s about what’s happening locally, in the council. It’s better being handled by the council. If the government get involved they’ll put loads of people in who don’t understand the situation and it’ll affect the quality.”

[Case 91, Individual Young Person]

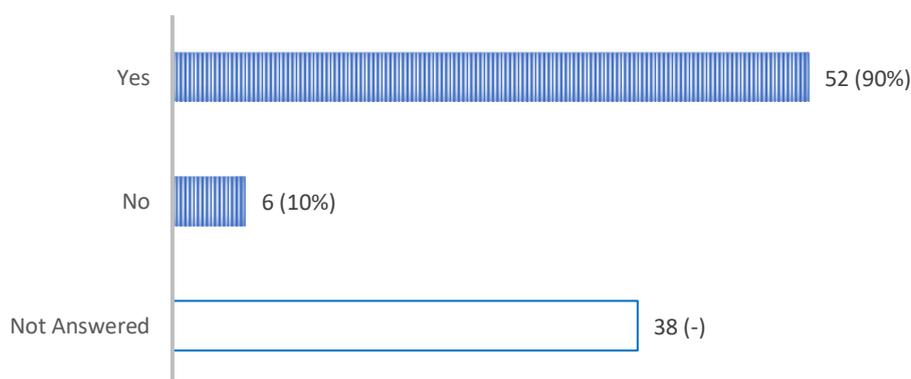
Question 18

Is a new national approach for considering the placement of children in secure care needed?

Yes / No

Please give reasons for your answer

If yes, please provide details of what this approach should look like



Statistical overview

- This proposal received similarly high support as *Question 17*, with 90% of respondents agreeing that a new national approach for considering the placement of children in secure care was needed
- Only six respondents disagreed with this proposal, including four individuals, one Local Government/Social Work organisation and one Children’s Hearings Systems-related organisation

Main themes

Many respondents believed a new national approach for considering the placement of children in secure care to be necessary based upon the consistency that it would offer, along with the associated benefits resulting from centralised monitoring and data practices.

“There are concerns around consistency of thresholds for decision making. There is also no cohesive and holistic overview of the impact, experiences and outcomes for children who are being considered for, are in, or are leaving secure care. The Promise calls for planning and provision to be based on understanding of need and data and the previous Justice Committee noted the lack of a centralised monitoring system for the number of places or referrals to secure care. Within current approaches, such monitoring and data provision is impossible.”

[Case 13, Clackmannanshire Council]

“...A national approach with an oversight of availability might see a reduction in the competition between local authorities to access available secure spaces. A process of matching children to the resource that would best meet their needs and ensuring that enough resource is commissioned would be a step in the right direction to support children in the greatest need of support. A national, multi-agency screening panel that authorises decisions about secure care and contributes to resource matching and allocation could improve consistency, and lead to fairer allocation of resource...”

[Case 50, Local. Government / Social Work Related]

However, several respondents did highlight the significance of the localised dimension in any consideration of the proposal, particularly around how local knowledge and expertise, along with understanding of resources, would sit within or alongside a national approach. This was particularly stressed by Local Government/Social Work respondents.

“There needs to be a more cohesive approach to placing children in secure care however would worry about a national body making decisions across the board. Local Authorities have the knowledge and understanding of the child and family locally and will have built relationships. LA’s will also know what resources and supports are available to consider community alternatives and to plan for a return home after a period of time in secure care.”

[Case 81, Local Government /Social Work Related]

A number of respondents did feel that further scoping and exploration needed to be carried out before any decision around a national approach was implemented.

Young People

Six young people agreed with this proposal and only one disagreed. Two key reasons were expressed for why a new national approach should be implemented. One aspect, closely related to the previous question, arose from concern that current placement decisions are driven by resource needs, rather than children’s welfare. It was suggested that there should be clearer criteria for referrals to secure care, and that this should be implemented and monitored nationally to create consistency across Scotland. Two responses suggested this should be undertaken by an independent or separate agency or professional, who can:

“...act as a central point of contact for referrals to secure care – this would mean that there is a more consistent approach to referrals (which could still include the Chief Social Work Officer of the respective local authority and the head of service of each secure care centre). This role could include assessing referrals to find the most appropriate placement for the child who has been referred, taking into account their needs and views.”

[Case 102, STARR]

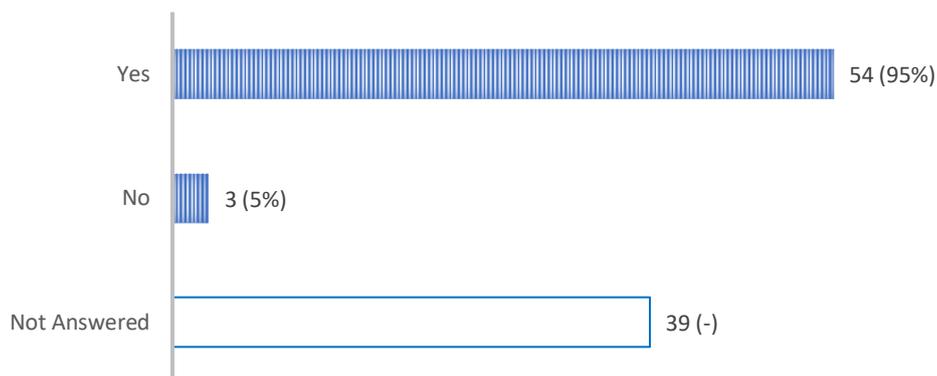
Furthermore, young people also highlighted that a new national approach would facilitate consistency in the quality and availability of support services across Scotland in both secure and in the community. One response highlighted how secure centres are currently run independent of each other, leading to significant differences in terms of children’s experiences and limitations in secure.

Question 19

Is provision needed to enable secure transport to be utilised when necessary and justifiable for the safety of the child or others?

Yes / No

Please give reasons for your answer



Statistical overview

- This proposal received one of the highest levels of support across the consultation, with 95% of respondents agreeing that provision was needed to enable secure transport to be utilised when necessary and justifiable
- Only three respondents disagreed with this proposal, including two individuals and one Local Government/Social Work organisation

Main Themes

Respondents raised various concerns with the current provision of secure transport in Scotland. Key to these concerns was the inconsistent availability of secure transport at the point of need. This was identified as a widespread problem, but with some respondents stressing that it posed a particular issue for rural areas and Scottish islands. Respondents, including Local Government/Social Work and Police-related organisations, highlighted that the lack of availability led to children and young people often waiting for unacceptable periods of time, exacerbating feelings of distress and anxiety. Whilst it was often difficult to forward-plan for journeys, even where transport had been organised in advance, it was often delayed

“It is clear that secure transport is not available across the country, at the point of need for children. This need cannot always be anticipated, but even when planning is possible, we know of many cases of unacceptable delay.”

[Case 22, Police Scotland]

Local Government/Social Work and Secure Care Centre respondents provided examples of situations where the lack of secure transport meant children were unable to be transported at all or had to be transported alongside adult prisoners or in police vehicles. One respondent highlighted that children in secure were having to attend their hearings remotely, even though they had the right to attend in person.

Moreover, respondents highlighted that without a national provider of secure transport local authorities needed to 'spot purchase' from private providers, often at great expense. Respondents raised concerns that these providers often cannot meet the care needs of children and young people, with staff not trauma-informed, physical restraints used unnecessarily and communication between providers and children inadequate.

This leads to some children being transported in situations which are not acceptable or child centred, and which cause additional trauma to the child. This includes amongst others, use of restraint, not having a familiar person with them, and lack of appropriate knowledge of the child's needs and circumstances by those undertaking the transport. Feedback from children confirms that this is a scary and difficult process which adds to their distress.

[Case 25, Social Work Scotland]

Unfortunately, we know that some providers do not treat children with the respect and dignity that they deserve, often using restraint to deal with challenging behaviour. Shockingly, many children find that they are automatically put in handcuffs by their transportation provider. A child does not need to be considered "high risk" to be put in handcuffs: a child who displays even the slightest sign of distress risks being subject to handcuffs or other forms of restraint.

[Case 17, Serenity Welfare]

For these reasons, the vast majority of respondents agreed that provision is needed to enable secure transport to be utilised. Respondents provided various suggestions and considerations for how provision could be enhanced and improved. Several argued that national standards were needed, with providers monitored and regulated to ensure they meet the needs and respect the rights of children and young people. It was highlighted that this could be based on the secure transport specification that is currently being prepared by the Secure Transport Working Group.

"The current model means there are no standards or regulation around the provision of transport resulting in varying experiences for young people..."

[Case 66, COSLA]

It was also proposed that secure transport could be based in secure centres, which would increase the availability of transport whilst allowing children and young people to get to know staff who would be specifically trained to support them. Several respondents also emphasised that whilst secure transport provision should be increased, this should still only be used as a last resort, with processes sufficiently flexible to allow children and young people to be transported by people they know where this is deemed appropriate and safe. One Local Government/Social Work organisation disagreed with this proposal. They argued that wherever possible, children must be accompanied by secure staff or other people they know, and that when security was needed this should be provided by Police Scotland.

Young People

Six young people agreed that provision was needed to enable secure transport to be used when necessary and justifiable, and one disagreed. Young people stressed that whilst each child in secure is different, with different needs, where a child poses a significant risk to others then secure transport should be available for them. Furthermore, it was felt secure transport helped to protect the privacy of the child. Despite this, several responses emphasised that the current model of secure transport was detrimental to the child and can be a traumatising and stigmatising experience. It was suggested that secure transport could be changed to resemble a 'normal' vehicle as much as possible, that this should never be a police vehicle, and that regulations could be altered to allow children to be accompanied by family members of carers where appropriate. Young people made other suggestions for secure transport, which will be discussed under *Question 20*.

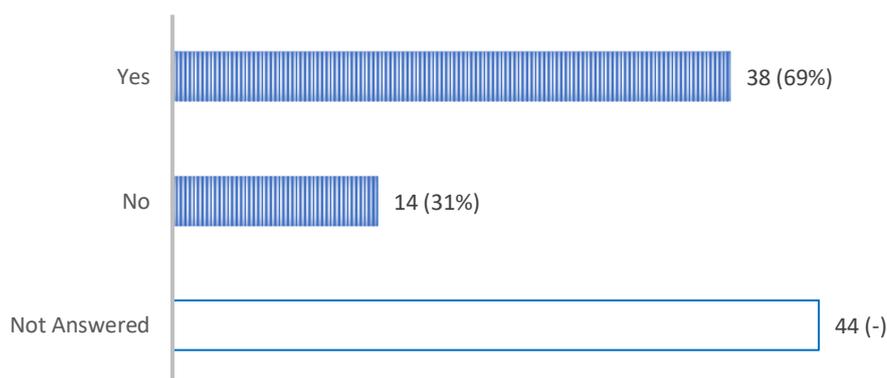
Question 20

Are there any other factors that you think need to be taken into account in making this provision for secure transport?

Yes / No

Please give reasons for your answer

If yes, please provide details of these factors



Statistical overview

- A large number of respondents did not answer this question. Of those who did, 69% said yes and 31% said no.
- Individuals were less likely to respond yes, at only 50% compared to 83% of organisations
- All *Influencer Organisations*, *Hybrid Organisations* and *Representative Groups* responded yes to this question, as did 77% of *Delivery Organisations*
- Within most sector groupings, 100% of respondents answered yes, with the exception of five Local Government/Social Work organisations and one Children's Hearings Systems-related organisation

Main Themes

Many of the responses to this question reflected answers provided to *Question 19*. This included the need for secure transport provision to be regulated, for staff to be trauma-informed and for no unnecessary use of restraint. In addition, several respondents raised concerns regarding how secure transport should be funded going forward, arguing that the current process of 'spot purchasing' from providers was expensive and unsuitable. This was particularly stressed by Local Government/ Social Work respondents. These respondents proposed that the Scottish Government should meet the cost of secure transport, through a national contract that can provide consistently available transport across Scotland.

The Scottish Government should meet the cost for secure transport as it operates a contract for adults. The service should be regulated and promote the rights of the child delivering in the manner outlined in the Secure Care Pathway and Standards. Someone the child knows should accompany them on their journey. Workers should be trained in trauma informed practice and create a safe and respectful space when travelling. No mechanical restraints should be used.

[Case 81, Local Government/ Social Work]

In addition to concerns regarding the funding of secure transport, various other factors were cited by respondents, including that:

- Children should be accompanied by a trusted adult during their journey
- Attention should be given to the age and stage of the child and any developmental needs they might have
- Secure transport must be made available to rural and island communities
- Journeys can often be long, and the impact on this for the child should be taken into account.

Young People

Seven young people responded to this question with factors they felt should be taken into consideration. It was highlighted that decisions on who needs to be transported securely should be professionally risk assessed and take into consideration the potentially negative impact that it can have on the child's mental health and self-esteem.

"I think they need to think carefully about the child's mental health. If they're not dangerous then secure transport shouldn't be used as it might affect their mental health and make them think they're dangerous or that other people think of them as dangerous. It might affect their confidence or how they see themselves."

[Case 96, Individual Young Person]

Furthermore, it was suggested that wherever possible children should be transported by or with someone they know, and if not someone from the centre should accompany them. Two respondents argued that restraint should never be used during these journeys, and one responded that communication to children and young people during these journeys had to be significantly improved, citing concerns that children are often currently ignored by secure transport workers and have no idea where they are getting taken to:

"We are aware of instances where children have experienced a dehumanising secure transport experience where staff involved refuse to communicate with the children. All staff involved in secure transport and secure care admission should be appropriately trained so that they have an understanding of adverse childhood experiences and trauma. This should be something that is specific to the roles of secure care transport and admissions, rather than staff being trained within adult prisons or subcontracting staff from private security operators."

[Case 102, STARR]

Question 21

Do you agree children should be able to remain in secure care beyond their 18th birthday, where necessary and in their best interests?

Yes / No

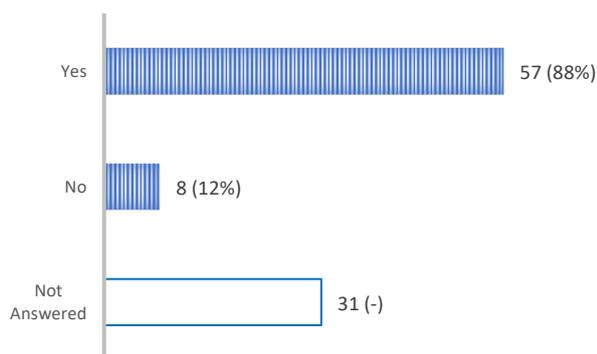
If yes, for all children or only those who are remanded or sentenced?

If yes, how long for?

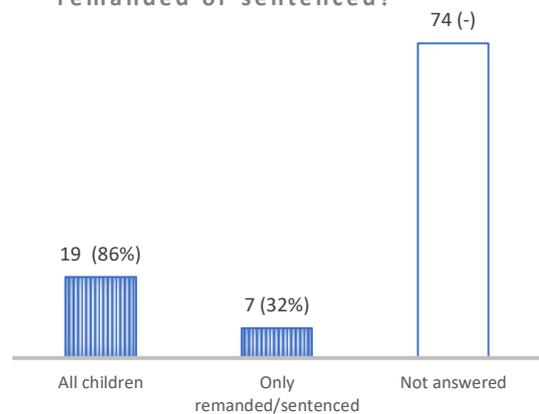
- a) For as long as the child's needs require it
- b) To a maximum length of remand or sentence (and if so what should this be?)
- c) To a maximum age (and if so what should this be?)
- d) For another period (please specify)

Please give reasons for your answers

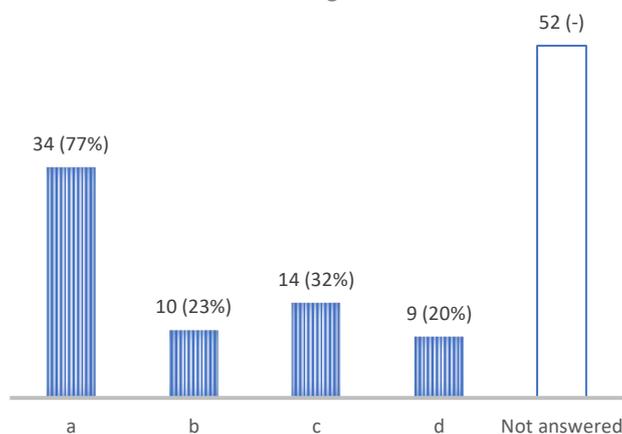
Should children be able to remain in secure care beyond 18?



For all children or only those remanded or sentenced?



How long for?



Statistical overview

- This question had three aspects. The first of which allowed respondents to answer yes or no, whilst the second and third aspects allowed respondents to select multiple options
- A significant majority of respondents felt children should be able to remain in secure care beyond their 18th birthday, with 88% agreeing and 12% disagreeing
- Individuals were less likely to support this proposal, with 74% agreeing, compared to 93% of organisations
- Of the three organisations who disagreed, all three were *Delivery Organisations*. More specifically these included one Children’s Hearings Systems-related organisation, one Local Government/Social Work organisation and one Secure Care Centre.
- For the second aspect of this question, the vast majority did not provide a response. Of those that did, 19 felt that secure care should be available for all children beyond their 18th birthday, and only seven felt this should only be for children who have been remanded or sentenced. Notably, a small number of respondents selected both options.
- For the third aspect of this question, which asked respondents how long secure care should be available for, again, the majority did not provide a response. Of those that did, the most popular option was for secure care to be available for as long as the young person needs it, with 77% of respondents selecting this.

Main Themes

Many respondents felt robust planning and risk assessment, along with a case-by-case or individualised approach, to be important when considering whether a child should remain in secure care beyond their 18th birthday.

“We would support the proposal that children who turn 18 could remain in secure care in specific circumstances and for a time limited period, when this is considered necessary and in their best interests. This should be based on assessment of their needs, strengths, risks and vulnerabilities and made on a case-by-case basis. Decisions should be limited to children who are remanded or sentenced and whose liberty requires to be deprived on an ongoing basis.”

[Case 28, HM Inspectorate of Constabulary]

“... secure care should be available for people beyond 18 in certain circumstances. We believe that a risk-based approach should be adopted and the individual facts and circumstances of the harm the child is exhibiting should be a primary consideration as to where the child should stay. Where the public’s safety through crime or harm caused by the child is at risk then they should be placed in the most appropriate setting to mitigate that risk.”

[Case 19, Third Sector]

Several respondents highlighted the importance of developmental factors in any consideration of whether a child should be able to remain in secure care beyond their 18th birthday.

“To recognise those whose chronological age and emotional/functional ages are misaligned/delayed/impaired. To take account of latent vulnerabilities including autism and ID.”

[Case 105, ARCH Parent and Carer Focus Group]

“Responding to a young person's needs should be less about chronological age and more about their age and stage of development. Our understanding of maturation and brain development has altered and our services need to be responsive to these developments. System barriers at present could prevent ongoing continuity of an important intervention or prevent an intervention from being introduced due to timescales and age rather than a person's needs.”

[Case 12, Local Government / Social Work]

Most respondents believed that a child should be able to stay in secure care beyond their 18th birthday up until age 21 years old. There were also reference to it being up to 26 years old. Other responses believed the period should be set at three months or 12 months after a child's 18th birthday. One respondent believed that there should be no maximum age limit.

“As Corporate Parents, CHS recognises the need to support those who have been involved in the hearing system beyond the age of 18. If a young person is benefiting from therapeutic support in a secure care setting it would be counter-intuitive to remove them based solely on the fact they have turned 18. There should be a care plan that supports the transition from secure care to a suitable community-based alternative where it safe to do so. Care experienced young people have a right to remain in care until they are 21; this upper age limit could also apply to secure care.”

[Case 58, Children's Hearings Scotland]

“To age 26 in line with the additional provisions for care experienced children, from the point of view of equity for all, but also this being when brain development particularly that of executive function is approaching full development.”

[Case 36, Other]

Several responses highlighted capacity, resource and child rights implications related to extending secure care provision beyond 18 years old. From a capacity and child rights perspective, particular attention was afforded to how secure care would cater for younger children, when placed alongside young people over 18 years old.

“...simply allowing a person now an adult but convicted of a crime and sentenced as a child to remain either for the duration of their sentence, or for a specific period, has a multitude of implications for the rights of others residing in the secure unit, for the expectations of establishments where they reside and in terms of staffing.”

[Case 25, Social Work Scotland]

“Allowing young people to remain in secure care for longer will require more resource and capacity to support this to happen. This will also need to be considered with all stakeholders, and sufficient investment provided so that decisions are not influenced by resources and the available workforce. We believe any such moves should accompany a wide-ranging review of the secure care system, with a particular focus on the rehabilitative aspect, to justify the rationale for keeping young people in secure accommodation beyond the age of 18.”

[Case 50, Local Government / Social Work]

Within a small number of responses, the importance of exploring whether community alternatives could be better utilised was highlighted.

“Where children are due to be released within a few months of turning 18, there should be liaison with the courts to explore whether the remaining part of their period of remand or sentence could be served in the community or within secure care.”

[Case 56, Clan Childlaw]

Young People

Five young people agreed that children should be able to remain in secure beyond their 18th birthday, whilst two disagreed. There were mixed views of how long and under what circumstances it would be appropriate for children and young people to stay in secure until. Two young people felt that beyond 18 was unnecessary, and that support should instead be provided to these young people via throughcare. Several young people felt that 21 was an appropriate upper age limit, whilst two felt that that secure care should be an option for people for as long as they need it:

“Someone should be able to stay in secure care for as long as they need it and not be under pressure to leave before they’re ready. There should be no upper age limit.”

[Case 96, Individual Young Person]

Several young people also raised caveats or considerations for this proposal, including that secure should be available for young people beyond their 18th birthday but only if they are in secure on care and protection grounds, not for offending, in which case they should be held in YOIs. Furthermore, a small number of young people suggested that if the upper age limit is to be extended, these older young people should be held in separate units. It was also suggested that all young people should be assigned an advocate on leaving secure care.

6. Pillar Four: Residential Care and Cross-Border Placements

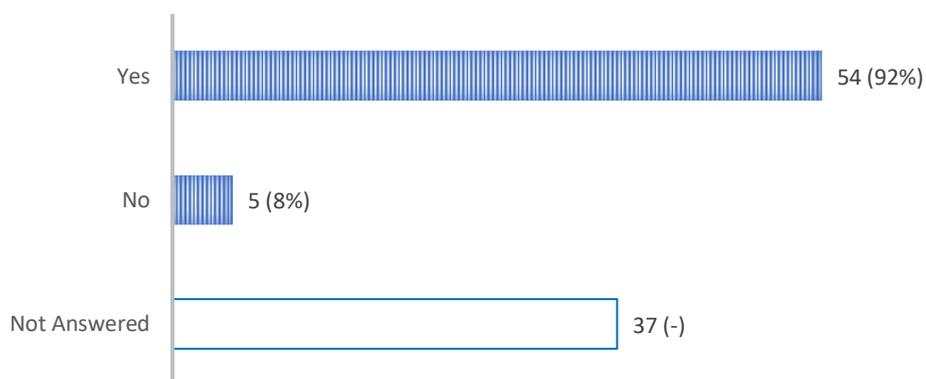
Question 22

Do you agree with the introduction of pathways and standards for residential care for children and young people in Scotland?

Yes / No

Please give reasons for your answer

If yes, please provide details of what measures and provisions are needed and how you think this should operate in practice



Statistical overview

- This question received widespread support, with 92% of respondents agreeing that pathways and standards should be introduced for residential care
- Only five respondents disagreed, of which three were individuals, one was a Local Government/Social Work organisation and one an organisation classified as 'Other'

Main Themes

Responses emphasised that the introduction of pathways and standards for residential care would allow children - both from within and outwith Scotland - to benefit from a high level of support, whilst also having their rights respected. It was noted that this would promote consistency of practice, and align strongly with the vision and ambitions of The Promise, and is more akin to the practice for secure care.

"Pathways and standards will reinforce strong rights based practice."

[Case 12, Local Government/ Social Work]

“Young people have already told us what needs to change through the Independent Care Review and The Promise. At [XXXXX], we want the proposed Children’s Care and Justice Bill to be used to help strengthen ongoing culture change in residential care across Scotland [...] staff felt that the development of new standards and pathways for residential care for children and young people could potentially be beneficial, but only if these are used as a mechanism to help bring the principles of The Promise (and future United Nations Convention on the Rights of the Child – UNCRC requirements) into practice quickly...”

[Case 24, Third Sector]

“...we set out our position that current practice creates a “second class” of looked after children in care in Scotland, who are not subject to the full oversight, support, and human rights protections of the Scottish statutory systems [...] It is vital that no child in Scotland is deprived of their liberty except in accommodation which is authorised, regulated, and approved to the highest Scots law and human rights standards.”

[Case 39, Children and Young People’s Commissioner for Scotland]

The importance of children’s input and a co-production methodology underpinning any development of pathways and standards for residential care was highlighted within a number of responses. These responses often cited the recent design and implementation of the secure care standards. This process was understood to have positively and meaningfully involved children and young people, which the production of any pathways and standards for residential care should seek to replicate.

“Any pathways and standards must be rights-focused and take a human rights-based approach in how they are developed. This would include carefully developing the resource alongside Care Experienced people across Scotland.”

[Case 64, Who Cares? Scotland]

Respondents provided some examples of what measures and provisions are needed, including: robust and timely health assessments; appropriate level and diversity of supports available; agreements for sharing information about a child’s health across borders; support for educational attainment; standards that specify staff ratios and training requirements and standards for transitions. Other responses did, however, highlight that there would need to be careful consideration of the resource, workforce and training implications of introducing new standards and pathways in this area. Three respondents highlighted that health and social care standards already exist, and that the focus should be on implementing these, rather than complicating the landscape with new standards:

“Developing new pathways and standards risks being an unnecessary distraction from focussing on sustained implementation of current standards and guidelines to ensure all children in residential care receive high quality care attuned to their needs and in line with the aspirations of The Promise.”

[Case 71, CELCIS]

A small number of respondents also questioned whether pathways and standards would bring about the necessary change to improve the quality of care provided in residential care. These responses stressed the need for wider culture change within residential settings and ‘values-led’ practice:

“Pathways and standards can be useful for ensuring a minimum quality of care and support that children and young people can and should expect when they are unable to live with their family. However, we believe it is important to consider whether new pathways and standards will in and of themselves guarantee the quality of relationships that children and young people have with the adults who support them in residential settings. The children and young people who live with us in our Sycamore cluster of children’s houses tell us they feel the requirements of regulation and inspection as they currently are make their homes feel more like work places. Making sure we provide nurturing homes and loving environments for our most vulnerable children and young people will only happen as a result of ensuring a confident workforce which feels empowered to provide care and support which is focused on consistent values of compassion, empathy and love.”

[Case 74, Aberlour]

Young people

Five young people supported the introduction of pathways and standards for residential care and two did not. There was differing views across respondents about the appropriateness of cross border placements. Some emphasised that removing children far from their communities should never be allowed, whilst others highlighted that at time this might be in the best interest of the child, and where they are needing care and protection Scotland should be open to providing this:

Cross border placements shouldn't be allowed; it's damaging for the child to be away from home. I've witnessed first hand how children from other countries come to residential care in Scotland and not coped.

[Case 90, Individual Young Person]

If a child from another country like England is in danger then they should get to come to Scotland right away to be safe. I think it would be hard for some children to leave their families behind in England but for other children, they might be glad to get away from their families. Every case is different and any changes that take place need to take that into consideration.

[Case 96, Individual Young Person]

If the practice of cross border placements is to continue, it was felt that standards and pathways would help ensure consistent, high-quality care for all those placed in residential settings. Two respondents highlighted that these must be written in a way that is easy for young people to understand, whilst another proposed that these be co-designed with children and young people.

"STARR recommends introducing co-produced pathways and standards for residential care. Evidence from the Secure Care Pathway and Standards shows that this can be effective in influencing change at both policy and practice levels, it adheres to Article 12 of the UNCRC, and ultimately could change outcomes for children and young people experiencing residential care."

[Case 102, STARR]

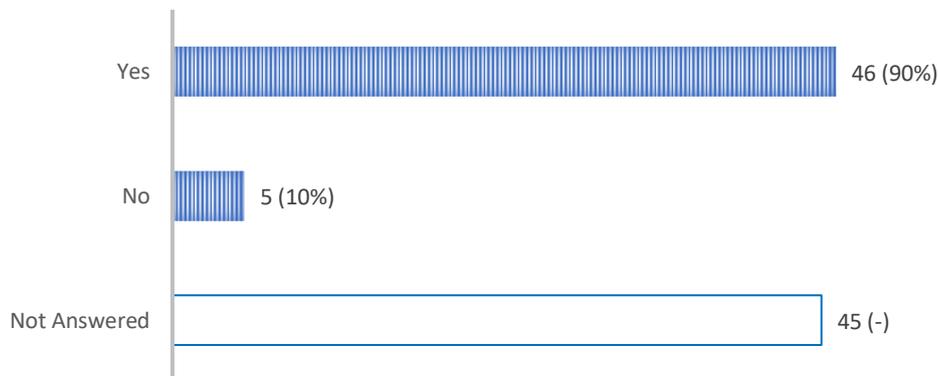
Question 23

Do you agree that local strategic needs assessment should be required prior to approval of any new residential childcare provision?

Yes / No

Please give reasons for your answer

If yes, please provide details of what measures and provisions are needed and how you think this should operate in practice



Statistical overview

- A significant number of respondents did not answer this question. Of those that did, 90% supported local strategic needs assessments
- Only five respondents disagreed with this proposal, including three individuals, one Children's Hearings Systems-related organisation and one Third Sector organisation.

Main Themes

Most respondents believed that a local strategic needs assessment should be required prior to approval of any new residential childcare provision, and that decisions should be based upon localised need, rather than financial incentives or motivations (particularly as regards to attracting cross-border placements). This was especially stressed by Local Government/Social Work respondents, who sought greater involvement and oversight of decisions to open new residential centres, with two respondents highlighting that in the past provisions have been opened without local practitioners being notified. Additionally, it was emphasised that this could also allow for careful planning in respect of the availability of local universal resources to be accessed by children located in these settings.

“A local strategic needs assessment would enable discussions prior to setting up a residential provision. This needs to consider the impact on the host LA area’s universal services as well as more targeted services. Most importantly it would consider the needs and support requirements of children potentially living in that provision. This would also seek to address, reduce and stop cross border placements where children are far removed from their families and communities unless this is exceptional and in the child’s best interests.

[Case 81, Local Government / Social Work]

“Currently providers can offer placements which do not necessarily reflect local need. A local strategic needs assessment prior to the provider setting up placements would help mitigate this, and would allow local authorities to have a say in the creation of any new provision. Planning decisions should take into account capacity of all local resources, for example CAMHS and supports for children with complex needs.”

[Case 50, Local Government / Social Work]

In Stirling there are a large number of residential homes with them often being set up with no discussion with local social work management. Leads to a drain on local resources. Control over this would mean that they were set up if needed and not on a profit basis.

[Case 15, Stirling Council]

A number of respondents also referenced the importance of geographical considerations in respect of any local strategic needs assessment relating to the approval of residential childcare provision.

“Vital that some, particularly rural authorities, do not become overloaded with private providers. A need not to overload what is possible to provide in relation to specialist support or indeed universal services. Currently local young people are potentially being displaced due to the extreme level of need being displayed by those placed in private establishments.”

[Case 6, Local Government / Social Work]

“We submit that there will be a greater need for new residential childcare provision in areas of higher population density, however we contend that it would be unjustifiable to relocate children from rural areas away from family purely for financial and expediency reasons. We contend that consideration should be given to the creation of a few small, localised units that have an ability to share their services with larger more centralised units. We are of the view that this would allow a child to move to another unit for a specific period to complete a course or activity.”

[Case 47, Legal]

Similarly, it was noted however, that the interplay between both local and national dimensions required further consideration.

“Small local authority areas will often rely on neighbouring authorities, or work in partnership with them for certain provision. Placements across local authority boundaries are often more local for a child than those within authority boundaries. Where particular needs such as disability or specialist provision are concerned, or where a level of deprivation of liberty may be indicated, a national needs assessment is required, and often more national provision is the only manageable way to meet those limited but significant needs. This would not be provided, with implications for Scottish children if we rely on local needs assessments. We suggest thought is given to a way of understanding need at both local and national level to inform any registration.”

[Case 25, Social Work Scotland]

Young People

Three young people agreed with this proposal and one disagreed. Two respondents were surprised that this was not already in place, and one felt that there should be a dedicated team in each local authority to manage this. A separate response argued that local needs assessments would be useful, and that whilst Scotland should offer cross-border placement if there is space, children in Scotland should be provided for first.

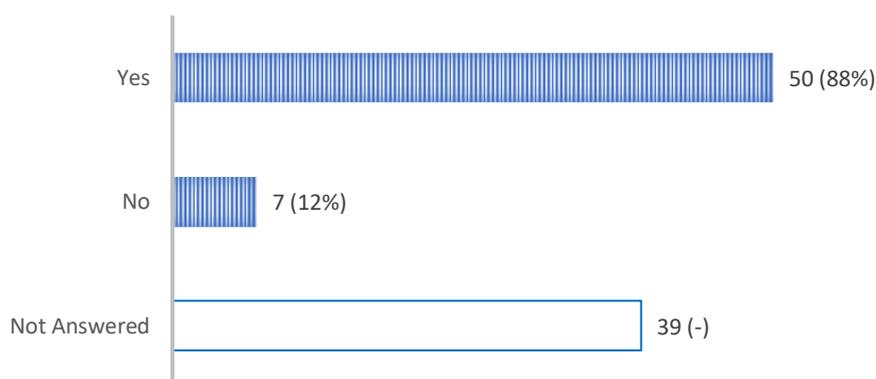
Question 24

Do you agree that there should be an increased role for the Care Inspectorate?

Yes / No

Please give reasons for your answer

If yes, please provide details of what measures and provisions are needed and how you think this should operate in practice



Statistical overview

- A significant number of respondents supported this proposal, with 88% agreeing and only 12% disagreeing. This percentage split was the same for both organisations and individuals
- All *Influencer, Hybrid and Representative Organisations* responded yes, compared to 82% of *Delivery Organisations*
- Of these *Delivery Organisations*, three were Local Government/Social Work organisations, and two were Secure Care Centre respondents. All other sector groupings supported this at 100%.

Main Themes

Most respondents believed that there should be an increased role for the Care Inspectorate, with several responses highlighting that greater scrutiny would be beneficial in respect of Deprivation of Liberty Orders (DOLOs) and cross border placements into residential care settings, whilst also commenting that greater frequency of inspections was required. However, a small number of Local Government/Social Work respondents and one Secure Care Centre respondent expressed concerns around whether the proposal would result in increased levels of bureaucracy and paperwork, aimed at measuring outcomes that may not appropriately encapsulate the level of care being provided.

"Inspection regimes are already overly complex, with too much bureaucracy and focus on policies and procedures. The paperwork expected detracts from the relationships that are so vital. It is a punitive set up with grades and failings based on measurements that do not focus on the outcomes considered important by children, young people, their families and the workforce. It is not an accurate depiction of the care delivered. Increasing the role as the regulation landscape currently is will only further oppress the ability for regulated services to flourish and care. Instead of increasing the role, there should be a complete overhaul of the regulation and scrutiny to ensure it is fit for purpose."

[Case 42, Local Government / Social Work]

Several responses felt that the Care Inspectorate already had sufficient or very high degrees of regulatory authority, whilst a number of other responses felt that further detail was required concerning the proposal and what an augmented role for the Care Inspectorate would involve.

Young people

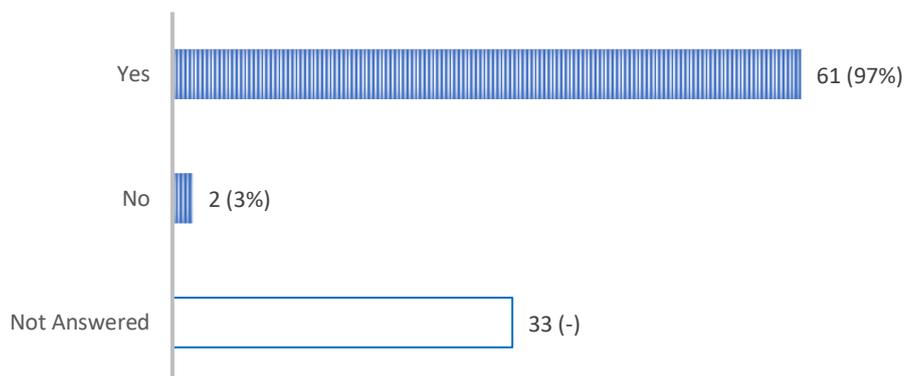
Four young people agreed that there should be an increased role for the Care Inspectorate and two disagreed. It was felt that the Care Inspectorate should regularly inspect centres and consult with children as part of these inspections to ensure their views are included. Two respondents expressed that the independence of the Care Inspectorate was key.

Question 25

Do you agree that all children and young people living in cross-border residential and secure care placements should be offered an advocate locally?

Yes / No

If yes, please provide details of how you think this should operate in practice



Statistical overview

- This proposal received one of the highest levels of support across the consultation, with 97% of respondents agreeing that children and young people living in cross-border care placements should be offered a local advocate
- Only two respondents disagreed with this proposal, including one Local Government/Social Work respondent and one Children’s Hearings Systems-related organisation. All other sector groupings and individuals supported this at 100%.

Main Themes

Almost all respondents agreed that all children and young people living in cross-border residential and secure care placements should be offered an advocate locally. A number of responses explicitly referenced Who Cares? Scotland as an organisation that could carry out this function. However, some respondents cautioned that even when accounting for the introduction of a local advocate, there would still be a need for children to have access to appropriate legal assistance and supports.

“...we do not think that advocacy support alone would be sufficient and are of the view that additional legal supports may be required. Our view is that these should also be funded by a placing authority.”

[Case 82, Children’s Hearings Systems-related]

“We therefore consider that any future Bill, in addition to independent advocacy, must provide access to state funded legal advice and representation in relation to the child’s legal and human rights, the relevant Scottish public authorities’ statutory duties and the child’s rights to access to justice and effective remedies under Scots Law.”

[Case 39, Children and Young People’s Commissioner for Scotland]

Several responses also highlighted cost implications associated with a local advocate, with a number believing that the cost should lie with the placing authority.

“it is important to address how the advocacy provision is funded. Currently, increasing numbers of children from other parts of the UK are being placed in secure care in Scotland; this presents a challenge for the receiving local authority as it is very resource intensive and difficult, in some cases impossible, to get costs reimbursed from the referring local authority.”

[Case 35, Justice Services for Children, Young People and Adults, City of Edinburgh Council]

The significance of understanding children’s views and gaining their input in respect of the role and function of a local advocate was also emphasised in responses.

“We highlight to the Scottish Government our response to the consultations on the Children (Scotland) Act 2020 [...] where we shared concerns about multiple different policies and legislative approaches with good intentions appointing various different support and advocacy workers in different systems often for the same children. As we know, children have repeatedly told us that it distresses them to re-tell their story to multiple different professionals. Any consideration of additional advocacy support must draw from the extensively shared views of children and young people about the importance of relationship-based support and the importance of a trusted support rather than multiple different professionals with different roles designed to help them.”

[Case 52, Children 1st]

A small number of respondents did believe that further consideration was needed prior to the taking forward of this proposal.

“While we have answered ‘yes’ to this question, as an opportunity to express views and assistance to do so is crucial, we would ask that further consideration is given before progressing this proposal, with particular thought to what this might look like, whether local provision is necessary and how it would be funded.”

[Case 25, Social Work Scotland]

The two responses which disagreed with local advocates stressed that children should receive advocates from their placing authority, as this is the jurisdiction they would be subjected to, and Scottish advocates would not have the necessary legal or system knowledge to effectively support them. One of these responses did, however, stress that if the child begins to access or be subjected to Scottish legal systems, then a local advocate should be provided.

Young people

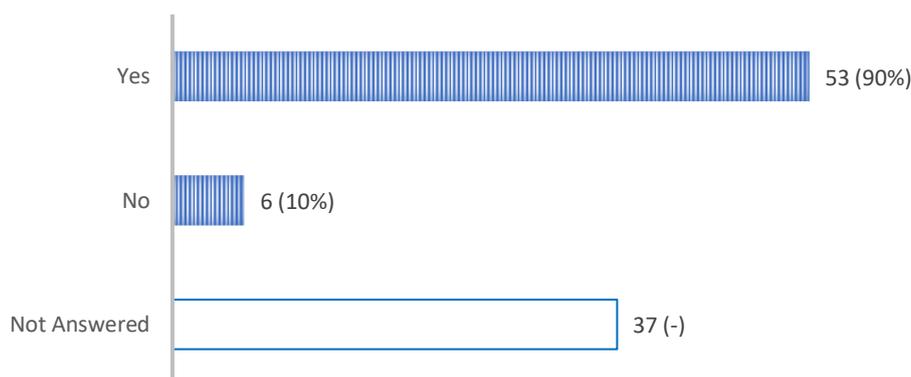
Nine young people agreed that a local advocate should be available to cross border placements, and none disagreed. Whilst some stressed that they did not agree that cross border placements should be happening at all, they felt that if this practice were to continue then local advocacy was essential to support the child. Local advocates were seen as crucial for helping children know what was happening to them, to explain their rights and as someone to talk to and confide in when feeling isolated from family/friends. One young person suggested that there should be a national bank of advocates specifically trained in Scots and English (or other) law, whilst another suggested that this role could fall on local social workers. One young person also expressed that there should be scope for the child to raise concerns about their local advocacy if they feel this is not working for them.

Question 26

Whilst there are standards and procedures to follow to ensure restraint of children in care settings is carried out appropriately, do you think guidance and the law should be made clearer around this matter?

Yes / No

If yes, please provide details of how this could be achieved



Statistical overview

- 90% of respondents felt guidance and the law should be made clearer around the restraint of children in care settings
- Only six respondents disagreed, including five individuals and one Secure Care Centre respondent

Main Themes

Whilst 90% agreed with this proposal, qualitative answers provided a more mixed response, with many stressing the distinction between changing legislation and changing guidance. Many respondents, in referencing the Promise, emphasised their support that Scotland strive to become a country that does not restrain its children, however most caveated this support with an acknowledgement that in some rare circumstances restraint might be necessary if this is the only way to protect the child and/or those around them. A small number of respondents also explicitly argued against any change to legislation that sought to ban restraint in residential childcare settings, highlighting that this may have unintended consequences:

“Prohibiting physical restraint would create a ‘gap’ by the removal of a practice used to prevent harm to children that could result in:

- *children (and staff) being hurt or harmed;*
- *increased ‘placement’ moves or breakdowns where a service is unable to keep a child safe;*
- *exposure to harm for staff leading to increased staff turnover, impacting on children’s access to consistent relationships;*
- *increased fear from staff of litigation if they physically intervene, and fear in terms of their physical interactions with children, particularly if this leads to ‘no-touch’ policies, which have been widely criticised ; and*
- *increased police involvement and risk of children being criminalised, where residential care services are unable to intervene to ensure safety so are left with no option but to contact the police”*

[Case 71, CELCIS]

Whilst many respondents felt that restraining children still needed to be an option for staff in residential settings, there was significant concern about how it was currently used. Respondents expressed that restraint practices were inconsistent across contexts and providers, and were often used to achieve behavioural compliance, rather than solely for the purpose of keeping the child and/or those around them safe. This was seen as a particularly pressing, given the physical and psychological pain that can be experienced by children and young people who have been restrained. Several respondents felt that current legislation was unclear on this matter, and needed to be amended to ensure all involved, including practitioners, children and young people, and their families, understood when and how restraint practices should be used:

The current legislation and guidance on restraint is not explicit enough on how restraint can be used and creates ambiguity in practice.

[Case 64, Who Cares? Scotland]

Many other respondents, however, stressed that current legislation was adequate and argued against any amendment to this. Instead, they felt that current inconsistencies were a result of implementation gaps and differential interpretations of current guidance. This, several respondents proposed, would be best resolved through producing updated national practice guidance on the use of restraint, informed by the views of children and young people who have been restrained. This could be accompanied by a requirement for practitioners to undergo regular training:

SPRAG members are not convinced there would be positive gains from amendments to the law in relation to restraint at this time [...] Members strongly advocate for the development of co-produced, updated practice guidance in relation to restraint and restrictive practice, and propose that, rather than a standalone document, guidance should comprise of a suite of resources and tools subject to regular review

[Case 18, SPRAG]

Nationally approved de-escalation and restraint training and approaches. Staff accredited to do this

[Case 40, Local Government/ Social Work]

Workers need regular training and development in understanding trauma and confidence in their ability to practice in a trauma informed way

[Case 81, Local Government/ Social Work]

In addition, several respondents emphasised the need for joined-up working across different sectors, to ensure a consistent approach to the use of restraint across residential care, secure care, secure transport, schools, health settings and YOIs. Several respondents also noted that any updated guidance should align with findings from the current Scottish Government consultation on physical restraint and seclusion in schools, to establish a national approach that would apply across these settings:

The outcomes of the planned consultation on physical restraint and seclusion in schools, and outcomes of this consultation, must be aligned to ensure that the expectations and experiences of children and young people and those who care for them are consistent across environments.

[Case 50, Local Government/ Social Work]

Moreover, many respondents also highlighted the need for any updated guidance to clarify the definition of restraint and related terminology, to ensure there is limited scope for differential interpretations:

“SPRAG considered the use of the word ‘pain’ in the consultation (page 58). Examples from direct practice advise that the experience of restraint can, despite all efforts to avoid this, result in physical and/or emotional pain to both the young person and the adult. This can complicate the emotional pain that often underlies the lead up to the restraint in the first place. Restraint is a highly emotive situation and experience, and to state that this must always be ‘pain free’ is not possible and could potentially lead to challenges in referencing and measuring physical and emotional pain. Instead SPRAG recommends a clear statement establishing the deliberate use of pain as unacceptable. SPRAG suggest that the wording and guidance around ‘last resort’ and the thresholds for this are made clearer, while also acknowledging the related complexities of assessing this in practice. [...] Further terms that the group believed would benefit from clear definition and explanation include ‘harm’, ‘necessary’, ‘justified’, ‘exceptional circumstances’, ‘reasonable’ and ‘proportionate’. The complexity and nuance required to consider and define these terms should be a full part of the development of guidance materials...”

[Case 18, SPRAG]

In addition, several respondents highlighted the lack of robust data in relation to the use of restraint, and stressed the need for mandatory reporting and monitoring of incidents to allow a better understanding of how this is used across Scotland:

“We agree with The Promise Oversight Board that the lack of progress on further regulation and exploration of the use of restraint in care is deeply concerning [...] All restraints and use of seclusion must be recorded and reported by residential care homes, secure care settings, Young Offenders Institutions and health and education settings so that progress towards the cessation of the practice can be monitored nationally.”

[Case, 64, Who Cares? Scotland]

Young People

Six young people agreed that legislation and guidance on restraint should be clearer and three disagreed. Amongst these responses, young people stressed that guidance needed to be clearer to limit inconsistencies across practice whilst emphasising that restraint should only be used as a last resort. Several respondents also highlighted that current restraint practices can be traumatising and disproportionate and can lead to an escalation of the situation if the young person reacts to being restrained. It was proposed that guidance and practice should be amended, so that staff are explaining to young people as they are being restrained what is happening and why, and what their rights are during this process. Two respondents highlighted that restraint should still be an option, as it was often necessary for staff safety and rarely used unless it was really needed.

7. Pillar Five: Age of Criminal Responsibility

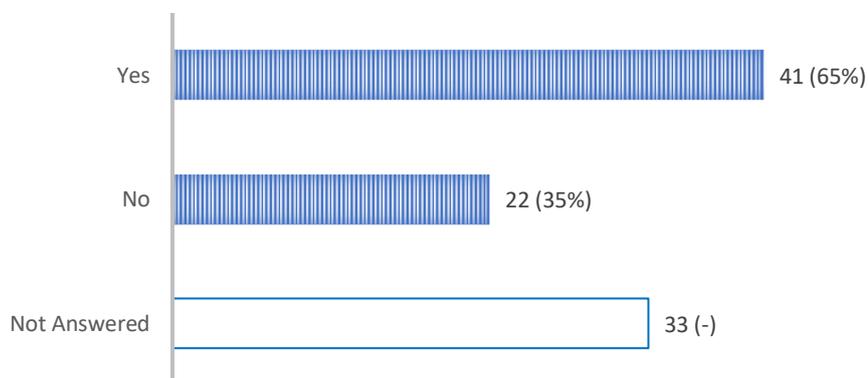
Question 27

Do you agree that the review of the 2019 Act should take place, as set out, with the 3-year statutory review period?

Yes / No

If no, what period do you think is appropriate?

If a shorter review period, how should the Scottish Government to address the lack of review findings or data to inform such a change?



Statistical overview

- 65% of respondents felt that the review of the 2019 Act should take place within the current timeframe, whilst 35% disagreed
- Individuals were more likely to agree than organisations, at 82% compared to 59%
- Agreement with this question was particularly low amongst *Influencer* and *Hybrid Organisations*, at 20% and 25% respectively. Conversely, 69% of *Delivery Organisations* and 86% of *Representative Groups* responded yes.
- In terms of sector groupings, all Children’s Hearings Systems-related organisations responded yes, as did 67% of Secure Care Centres, Police-related organisations and Local Government/Social Work organisations. Support was lowest among Third Sector organisations, with only 29% agreeing with this proposal.

Main Themes

Respondents who agreed that a review of the 2019 Act should take place as set out with the three-year statutory review period argued that this timeframe was appropriate for the review to gather sufficient data to effectively evaluate the impact of the act and generate knowledge for best practice should any increase of the Age of Criminal Responsibility (ACR) be made. This was particularly stressed by *Delivery Organisations*, including Local Government/Social Work and two Police-related organisations, many of whom emphasised that they supported a rise in the ACR, but felt three years was necessary.

“We would support the existing arrangements and timescales for the review of the 2019 Act. This would allow sufficient time for the Advisory Group to determine the operation of the Act in general and to provide fully-considered recommendations for future systems-change should this be required.”

[Case 28, HM Inspectorate of Constabulary]

Conversely, a very small number of respondents, including a different Police-related Organisation, felt that more than three years was needed before a review could take place, proposing that five years would allow for a larger sample of cases to be evaluated.

“The 3-year period does not provide a large enough sample to evaluate the Acts impact or effectiveness. A 5-year period would make more practical sense, especially since some covid-19 restrictions still existed in Scotland at the start of the period that the new age of criminal responsibility was introduced (when offending was often reduced).”

[Case 21, Police Related]

Some respondents felt that a review of the 2019 Act should take place urgently. This was particularly stressed by Children’s Rights organisations, and some Local Government/Social Work respondents, who highlighted discrepancies between the current ACR and international children’s rights standards. Respondents who felt the review should be brought forward emphasised existing data that supports an increase in the ACR as well as learning from other countries as to how they have operationalised their current age threshold.

“This is a matter of urgency. The current age of criminal responsibility in Scotland is two years below the minimum internationally accepted minimum, as confirmed by the Parliamentary Assembly of the Council of Europe and the UN Committee on the Rights of the Child [...] It is unacceptable that it took 2 and a half years for Part 1 to come into force, during which time, Scotland continued to have the lowest age of criminal responsibility in Europe. This has also delayed the beginning of the 3 year review period, we feel the data gathering should have already taken place. In light of the continued failure to meet international minimum standards we call for the minimum age of criminal responsibility to be increased immediately by this Bill to at least 14, with the review focussing on what is required to raise the age to 16 and beyond...”

[Case 39, Children and Young People’s Commissioner for Scotland]

“It is understood that only a brief amount of time into the review period of the Act has passed and, therefore, there is a lack of findings from the Advisory Group about how this legislation has operated so far. However, we are strongly of the view that there is enough data to at least increase the minimum age of criminal responsibility to 14. A wealth of evidence on this was provided by the children’s sector in the last consultation on this issue, and so we would urge the Scottish Government to revisit these submissions. The Advisory Group could then utilise its review period to examine the evidence about raising the age higher (to 16).”

[Case 27, Children in Scotland]

It was also suggested that ‘a mid-point review’ could be helpful in expediting any potential future legislative change.

“We recognise the challenge of a shorter review period if there is not enough data to make a judgement. However, a mid-point review should be undertaken to determine if there have been sufficient numbers on which to form an opinion as to whether the processes have worked and what challenges have emerged. We are concerned if the review period is set at 3 years, it may be several months before the evaluation is undertaken and concluded and if legislation requires to be updated following a period of consultation it may be a further 18/24 months before this happens. We suggest that the review period concludes and reports back at the 3 year mark.”

[Case 29, Falkirk Council]

Young People

Five young people responded to this question, with three disagreeing that the review period should take place within the three-year period, and two agreeing. Three young people stressed that they felt the age of

criminal responsibility was currently too young, and should be raised to 14 or 16, although they offered mixed views on whether this needed to be reviewed urgently or could wait until the planned three-year period.

8. Pillar Six: Assessing Impact

Question 28

What, if any, do you see as the data protection related issues that you feel could arise from the proposals set out in this consultation?

Respondents identified a series of key concerns relating to data protection issues, most notably around the potential for intrusive data collection and excessive data-sharing of individual's information. This was especially stressed by Children's Rights organisations - along with Local Government/Social Work and Children's Hearings Systems-related organisations - and was seen as particularly relevant to section one of the consultation, surrounding proposals to share information about a child who has harmed to the person who has been harmed and/or their families.

"There could be unnecessary data shared about the child or victim in the course of some of the proposals so guidance would need to be very clear about how when and why to share information."

[Case 8, Individual]

"Section 1 of the consultation, on sharing information about children's hearings, would have significant data protection issues requiring detailed consideration."

[Case 56, Clan Childlaw]

Several respondents also highlighted the need for a full impact assessment to be carried out prior to the implementation of proposals being taken forward.

"An impact assessment would be required to be carried out by the Scottish Government on the specific proposals to be taken forward."

[Case 61, SOLAR]

Young People

Responses to this question from young people were limited. Those that did respond repeated concerns that there could be data protection issues related to the sharing of information about a child (including when they breach conditions) to the person they have harmed. One respondent raised that there may be data protection issues around proposals to provide cross border placements with local advocates, and suggested local advocates sign data protection documents. Further, concern was raised that throughout these processes, the Scottish Government and their related agencies might be collecting more data than necessary, constituting an invasion of children and young people's privacy. One respondent highlighted that children should be made aware of their data protection rights.

Question 29

What, if any, do you see as the children’s rights and wellbeing issues that you feel could arise from the proposals set out in this consultation?

Main Themes

In answering this question, many respondents highlighted the need for a full Children’s Rights and Wellbeing Impact Assessment (CRWIA) in relation to the proposals.

“We note that no Child Rights and Wellbeing Impact (CRWIA) has been published alongside this consultation. This is regrettable as it would have been useful to review the Government’s assessed impact of the proposals it has made. We strongly recommend that a CRWIA is undertaken on these proposals as soon as possible.”

[Case 27, Children in Scotland]

Many respondents also stressed the need for legislation and practice to balance the rights and needs of the child causing harm, alongside the rights of the person(s) harmed.

“The main issue appears to be balancing the needs and rights of a child that has caused harm with a child who has been harmed and is a victim. However Police Scotland acknowledge that all children have these rights, including when they cause harm.”

[Case 22, Police Scotland]

“It is imperative that if the rights of children who cause harm are enhanced further through these proposals, then the balance of these rights must be simultaneously addressed with those harmed. This Bill is an opportunity to give a voice to survivors of sexual violence and their families, to ensure that their trauma is recognised and understood in the decision-making process.”

[Case 87, Women’s Rape and Sexual Abuse Centre Dundee and Angus]

In considering specific children’s rights and wellbeing issues, respondents cited various aspects and potential implications of the proposals, including:

- Sharing of further information about a child to a person they have harmed, where there is concern this may breach the rights and safety of the child.
- Reducing the criteria for Movement Restriction Conditions where this has the potential to net widen and/or up tariff.
- The need for 16- and 17-year-olds in the children’s hearings system to have access to legal advocacy
- The lack of focus the consultation gives to community alternatives and the funding of these.
- The need for proposals to be co-designed with children and young people.
- The balance between listening to children’s perspectives during decision making processes whilst ensuring their care and protection.
- The importance of considering how proposals may impact on existing legislation surrounding children’s rights, including: the Age of Legal Capacity (Scotland) Act 1991; the Marriage (Scotland) Act 1977; the Civil Partnership Act 2004; the Children’s Hearing’s (Scotland) Act 2011; the Children (Scotland) Act 1995

Young People

Responses to this question from young people were again limited. One response highlighted the need for a more detailed impact assessment on the proposals within the consultation. Two other responses stressed again that proposals should focus on the best interest of the child and not be resource driven.

Question 30

What, if any, do you see as the main equality related issues that you feel could arise from the proposals set out in this consultation?

Main Themes

As highlighted in responses to *Question 29*, the importance of appropriate impact assessments being carried out in relation to the proposals was noted by several respondents.

“A Child Rights Impact Assessment (CRIA) should be used to gain more detailed understanding of how the proposed reforms could be felt differently by different groups.”

[Case 73, Together]

The need for careful consideration of how the proposals could impact on different groups within society was a point highlighted in many responses.

“We know that children from certain backgrounds have an increased likelihood of entering the care system. This includes children from minoritised ethnic backgrounds, those living in poverty and areas of high deprivation, and those where domestic abuse, mental health, substance use, or offending are present. Any proposals related to the care, welfare and protection of children must take account of these inequalities and ensure measures are in place to avoid further oppression or stigmatisation.”

[Case 50, Local Government/ Social Work]

“The proposals outlined in this consultation must take more cognisance of the gendered nature of domestic abuse and build in appropriate, specialist support for the numbers of women, children and young people who have experienced domestic abuse who will come into contact with the children’s hearings system under new proposed measures.”

[Case 57, Scottish Women’s Aid]

Relatedly, attention was also drawn to the need to recognise how proposals would impact upon children with disabilities.

“Due consideration should be given to children who are vulnerable as a result of hidden disability, undiagnosed learning difficulty or other issues which may limit their full understanding of their circumstances and the implications of the decisions made on their behalf.”

[Case 28, HM Inspectorate of Constabulary]

Young People

Responses to this question were again limited. Two responses raised concerns re discrimination against those with criminal charges or who have been placed on electronic monitoring tags. It was felt this could stigmatise children and attach labels to them. Further, one respondent highlighted that any advocates or points of contact should:

“...be given lots of training around different identities e.g. people of colour, LGBTQ young people etc.”

[Case 55, Individual Young Person]

9. Concluding Comments

The consultation has captured a broad range of responses, from individuals and organisations across a number of different sectors. Although opinions, perspectives and experiences varied, there was generally a reasonable level of consensus within and across topics. Pillars with high levels of agreement included secure care and residential care. While maximising the use of the children's hearings system received broad support, there were mixed views about whether existing measures required amendment in order to do so. There were also more mixed views in relation to how children should interface with 'criminal' justice settings, such as court or YOI. While there was often support for making these settings more 'child-friendly', others understood the desire for improvement but felt that for under 18s, this was at odds with the aims of the proposed Bill. The potential use of Movement Restriction Conditions for children who did not yet meet the secure care criteria were also divided, with many seeing both potential benefits but also possible consequences of net-widening and up-tariffing.

While, overall, most of the proposed changes received relatively high amounts of support, within this there was frequently an acknowledgement that the proposed changes had implications for other parts of the system, especially in relation to resources, workforce development and skills, or capacity. In addition, there was frequently a reminder that the proposed changes must not unintentionally undermine organisational purpose, culture or values. This was especially pertinent for the expansion of the children's hearings system, and its welfare principles regarding the best interests of the child, and minimum intervention. There was also a recognition of the sometimes delicate balance between meeting the needs of the child who had caused harm, and the person harmed. As such, assessing the impact of the changes on the justice system as a complex whole, as well as on children and young people was seen as being important.

APPENDIX A: Scottish Youth Parliament – Survey response

The #WhatsYourTake online survey is carried out each year to gather young people's views on current issues. Children's care and justice was one of the topics considered by young people (243 young people responded). This was conducted and compiled by the Scottish Youth Parliament.

#WhatsYourTake - Children's care and justice July 2022



The #WhatsYourTake online survey is carried out each year to gather young people's views on current issues. This #WhatsYourTake survey was open from 10th June until 6th July 2022, and asked questions on the following topics:

- **Children's care and justice** - Imagining the future of children's care and justice
- **Reducing car use** - Working together to reduce car use for a healthier, fairer, greener Scotland
- **Cost of school** - Exploring the possibility of free school meals, school milk and low-cost uniform in secondary schools
- **Tobacco free Scotland** - Reaching for the future - building a Tobacco-free Scotland
- **Education** - Designing the national discussion on education
- **Children's Services** - Children's Services Reform

This report gives an overview of the key findings on the questions relating to children's care and justice from the July 2022 #WhatsYourTake survey.

Respondent Profile

243 young people took responded to the #WhatsYourTake survey in July 2022.

Of these:

- 67.8% are aged between 12 and 17, 16.7% are aged 18-20, and 15.5% are aged 21-25.
- 52.5% identify as female, 35.3% identify as male, 8.0% identify as non-binary, and 3.4% prefer to use their own term. The remaining respondents preferred not to say.
- 60.2% are at school, 21.4% go to university or college, 18.1% are in full time or part time work, 0.8% are doing an apprenticeship or other training, and 5.3% are unemployed. 2.1% are not taking part in any of these activities.
- 81.5% identify as English / Welsh / Scottish / Northern Irish / British.
- Respondents came from 28 local authorities, [our 11 national voluntary organisations](#), and various others representing a diverse range of communities of interest and lived experience (including youth voice organisations, student unions, a range of cadets, and various sports clubs).

This report was compiled by Rosy Burgess, SYP Governance and Events Manager - rosy.b@syp.org.uk.

www.syp.org.uk

@OfficialSYP

Imagining the future of children's care and justice

The Scottish Government wants and needs to hear from you on the future of children's care and justice!

We know that children and young people do not always get a say in the matters that affect them. Right now the Scottish Government is gathering views on how we can safeguard, protect and support children, especially those in conflict with the law. The Scottish Government want to make sure all children get the right support, from the right people, in the right place, at the right time, via age-appropriate systems and settings. We are gathering views on lots of different areas, but would particularly like to hear from you about the Children's Hearings System and the criminal justice system. The views gathered via the SYP will be combined with those gained during the consultation and engagement process in respect of the proposals as a whole. Your views will help to inform changes to the law.

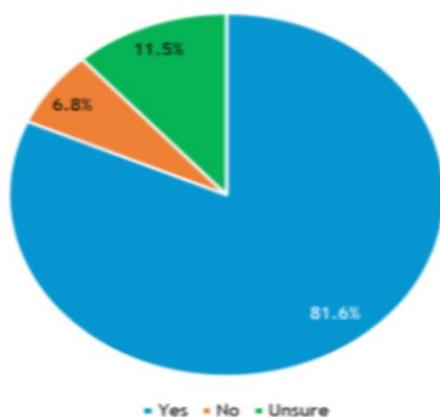
The Children's Hearings System

The Children's Hearings System is the care and justice system for children. Some children do not have all their wellbeing needs met and face risks in their lives. Children who come into conflict with the law may be vulnerable and have had problems in their lives. At the moment some children who come into conflict with the law are supported through the Children's Hearings System and others through the Criminal Justice System. The Scottish Government would like more children to go to the children's hearings system when they need to, but the most serious cases will still be dealt with through the criminal justice system.

The Criminal Justice System

The criminal justice system is all organisations and professionals that deal with crime and the courts. A court is the place where a decision is made about whether someone has committed an offence (a crime) or not. Children and young people have told us about the difficulties they experience at court-it can be hard to understand what is going on and participate-and can be traumatic.

Do you agree that Scotland should make use of the children's hearings system as much as possible when a young person has been in conflict with the law, instead of using the traditional criminal justice system?



234 young people responded to this question. **81.6%** said 'yes' - they do agree Scotland should make use of the children's hearing system as much as possible when a young person has been in conflict with the law.

Comments in response to this question are shown on the next page.

Young people who responded 'Yes' to this question commented:

- Children shouldn't have to face the daunting experience of standing alone in court.
- It's becoming more and more clear that we need to take a trauma-informed approach to justice and address the impact of ACES; the whole system needs reformed but using Hearings is a great start.
- Rehabilitation is more important when it comes to children, but punishment is also necessary
- Why would you put young people through a system designed for adults?
- As someone who was involved in the criminal justice system as a child, it was traumatic, not trauma informed and not receptive to my needs at all. Young people need a system that works for us and understands the nuances of child development, social/peer pressure and the impact of trauma.
- A young person should be treated differently when before the law as they will not yet have the same knowledge or understanding of the legal system as an older person might.
- The focus should be on reintegration into society as opposed to branding kids as criminals, which could have worse long-term outcomes.
- Whether someone breaks the law or not does not matter on age. It matters whether they were able to differentiate right from wrong and still committed an offence. A punishment should still be made to the offender as it shows that actions have consequences and forces them to take responsibility. Only after a punishment has been decided, can any potential support then be offered. Avoiding charges/punishments merely due to them being young does nothing but enforce a rhetoric that "I can get away with that because I'm a child"
- Yes because it will be more empathetic and allow the young person the opportunity to give their views more easily
- A lot of the time children commit crimes because of something going wrong in their life i.e. they're being abused or struggling mentally. By allowing them to go through a system which can be more accommodating to this, they can maybe get the help they need and you can actually get to the root of the problem which stops them becoming criminals as adults.
- a young person, who is below 18, should try and make full use of the children's hearing system.
- Because children may be unable to understand what they have done wrong, have external factors like peer pressure and home environment, affecting their judgements, not all children commit crime maliciously and many are scared.
- We need to make the process less overwhelming so any young person can fully engage
- More consideration needs to be taken for the young person as a whole rather than looking at one particular incident

Young people who responded 'No' to this question commented:

- There is far too much anti social behaviour now.
- children let off too easy and don't fully experience consequences of their actions
- If they do something wrong punish them like an adult
- Depends on the crime
- The streets are not safe because of liberal, woke, Marxist, soft, justice policy.
- They should be put through a system similar to the rest of the UK's

Young people who responded 'Unsure' to this question commented:

- It should depend on the severity, reason for committing the crime at the mental well-being and background of the child
- Some crimes mean people need to be jailed. Like when teenagers kill someone. Slap on the wrist not gonna help with that is it

- I think it totally depends on the case. Some crimes by children are just silly mistakes and shouldn't be blown out of proportion. However some are horrific in nature and need to be dealt with appropriately. As a teacher, my class know exactly what is right and what is wrong - they are 8 years old. So when you have 14 year olds committing awful crimes and their defence is that they made a mistake... it was their own decision and they knew it as wrong.
- I don't feel I know enough about the topic to make a fully informed decision
- Least traumatic environment for a child would be best. Is this run in conjunction with the MoJ? Are best practices shared?

Which, if any, of the following potential changes in the criminal justice system should be made when it is dealing with children?

Participants were given eight options and space to add additional comments. Responses are shown overleaf.

Eleven young people responded 'other' and commented as follows:

- Different sentences and criteria should be applied when dealing with young offenders, the sentence should be focused on support rather than retribution
- More focus and funds needs to be on preventing crime in the first place, through better mental health support and reducing economic inequality.
- Lock the children up
- dont wear the wig
- Increasing the age of criminal responsibility, ensuring U18s are not held in YOIs, ensuring all children (not just CEYP) can be referred to secure care (but that we also have a focus of utilising secure mental health facilities)
- Special training for judges would be beneficial, but I think that the overall process should be kept as realistic as possible
- I don't know enough about safe guarding or child psychology to have an opinion!
- Although I don't think changing the setting a hearing is held in necessary, I do like the idea of dispensing with the traditional garb and sitting in a more informal context/environment.
- We need to lock more people up in austere conditions, and for longer, to protect the public
- Ensuring that the courts and other officials make all reasonable sanctions to support the child in whatever way the child needs. Also making sure that the child does not feel scared or intimidated by members of the jury etc.
- Judges and sheriffs should be trained in working with children

More understanding of children's needs - such as taking into account speech and language needs and ensuring the child is spoken to directly by the sheriff/ judge and not through their solicitor or social worker.

72.0%

Judges and sheriffs are specially trained in working with children, do not wear gowns and wigs, and sit at the table with the child and people who support them.

62.1%

Cases being held in a more child-friendly environment, not traditional court rooms, which could either be specifically designed for children, in a different building or different room within existing court premises (such as a jury room or a child friendly)

60.5%

Ensuring children are kept separate from adults attending court/ other settings (e.g. through separate entrances or waiting areas).

55.6%

The provision of person-centred support to children throughout the court process including via the court's decision. This could include multi-agency support and/ or advocacy (as well as existing legal representation).

51.4%

Having as few people in courts as possible.

51.0%

Holding dedicated, separate courts for children.

47.3%

I don't think they should make any changes

6.6%

0.0% 20.0% 40.0% 60.0% 80.0%

APPENDIX B: Full statistical breakdown of standard responses to each question.

Question 1			
Response Type	No	Not Answered	Yes
Individual	10	2	13
Organisation	7	29	35
Children’s Hearings System related	0	0	3
Legal and related	0	6	1
Local Government / Social Work	2	4	16
Other	1	7	4
Police and related	1	0	2
Secure Care Centre	2	2	1
Third Sector Organisation	0	8	7
Young Person’s Organisation	1	2	1
Delivery	5	9	19
Hybrid	0	8	8
Influencer	2	6	3
Representative	0	6	5
Adult	15	29	40
Child / Young Person	2	2	8

Question 2			
Response Type	No	Not Answered	Yes
Individual	6	2	17
Organisation	4	29	38
Children's Hearings System related	0	0	3
Legal and related	0	6	1
Local Government / Social Work	2	4	16
Other	1	7	4
Police and related	0	0	3
Secure Care Centre	1	3	1
Third Sector Organisation	0	7	8
Young Person's Organisation	0	2	2
Delivery	3	8	22
Hybrid	0	9	7
Influencer	1	6	4
Representative	0	6	5
Adult	9	29	46
Child / Young Person	1	2	9
Question 3			
Response Type	No	Not Answered	Yes
Individual	2	2	21
Organisation	3	22	46
Children's Hearings System related	1	0	2
Legal and related	0	6	1
Local Government / Social Work	1	0	21
Other	1	6	5
Police and related	0	0	3
Secure Care Centre	0	2	3
Third Sector Organisation	0	7	8
Young Person's Organisation	0	1	3
Delivery	2	4	27
Hybrid	1	8	7
Influencer	0	5	6
Representative	0	5	6
Adult	5	23	56
Child / Young Person	0	1	11

Question 4			
Response Type	No	Not Answered	Yes
Individual	2	3	20
Organisation	0	27	44
Children's Hearings System related	0	1	2
Legal and related	0	6	1
Local Government / Social Work	0	2	20
Other	0	6	6
Police and related	0	0	3
Secure Care Centre	0	2	3
Third Sector Organisation	0	8	7
Young Person's Organisation	0	2	2
Delivery	0	7	26
Hybrid	0	8	8
Influencer	0	6	5
Representative	0	6	5
Adult	0	27	57
Child / Young Person	2	3	7

Question 5			
Response Type	No	Not Answered	Yes
Individual	7	6	12
Organisation	18	31	22
Children's Hearings System related	2	1	0
Legal and related	1	6	0
Local Government / Social Work	8	2	12
Other	4	7	1
Police and related	0	0	3
Secure Care Centre	0	3	2
Third Sector Organisation	3	9	3
Young Person's Organisation	0	3	1
Delivery	9	9	15
Hybrid	4	9	3
Influencer	3	7	1
Representative	2	6	3
Adult	23	32	29
Child / Young Person	2	5	5

Question 6			
Response Type	No	Not Answered	Yes
Individual	9	6	10
Organisation	13	32	26
Children's Hearings System related	2	0	1
Legal and related	1	6	0
Local Government / Social Work	6	4	12
Other	2	8	2
Police and related	0	0	3
Secure Care Centre	0	2	3
Third Sector Organisation	2	9	4
Young Person's Organisation	0	3	1
Delivery	7	8	18
Hybrid	2	11	3
Influencer	2	7	2
Representative	2	6	3
Adult	17	33	34
Child / Young Person	5	5	2

Question 7 (part 1)			
Response Type	No	Not Answered	Yes
Individual	3	6	16
Organisation	2	26	43
Children's Hearings System related	1	0	2
Legal and related	0	5	2
Local Government / Social Work	0	1	21
Other	0	9	3
Police and related	0	0	3
Secure Care Centre	0	1	4
Third Sector Organisation	1	6	8
Young Person's Organisation	0	4	0
Delivery	1	4	28
Hybrid	0	7	9
Influencer	1	8	2
Representative	0	7	4
Adult	3	28	53
Child / Young Person	2	4	6

Question 7 (part 2)			
Response Type	Option 1	Option 2	Option 3
Individual	13	8	8
Organisation	36	27	28
Children's Hearings System related	2	2	2
Legal and related	2	2	1
Local Government / Social Work	14	11	10
Other	3	3	3
Police and related	3	2	2
Secure Care Centre	4	2	3
Third Sector Organisation	8	5	7
Young Person's Organisation	0	0	0
Delivery	21	17	17
Hybrid	10	6	9
Influencer	0	0	0
Representative	5	4	2
Adult	45	32	34
Child / Young Person	4	3	2

No quantitative aspect of Question 8.

Question 9 (part 1)			
Response Type	No	Not Answered	Yes
Individual	3	8	14
Organisation	1	30	40
Children's Hearings System related	0	0	3
Legal and related	0	6	1
Local Government / Social Work	1	3	18
Other	0	8	4
Police and related	0	0	3
Secure Care Centre	0	2	3
Third Sector Organisation	0	7	8
Young Person's Organisation	0	4	0
Delivery	1	7	25
Hybrid	0	8	8
Influencer	0	9	2
Representative	0	6	5
Adult	2	32	50
Child / Young Person	2	6	4

Question 9 (part 2)				
Response Type	Option 1	Option 2	Option 3	Option 4
Individual	10	3	6	6
Organisation	25	16	25	22
Children's Hearings System related	2	2	3	0
Legal and related	1	1	1	1
Local Government / Social Work	11	7	10	8
Other	4	4	5	5
Police and related	1	1	2	2
Secure Care Centre	2	1	1	2
Third Sector Organisation	4	0	3	4
Young Person's Organisation	0	0	0	0
Delivery	16	11	16	12
Hybrid	5	2	4	7
Influencer	1	1	1	1
Representative	3	2	4	2
Adult	31	19	29	28
Child / Young Person	4	0	2	0

Question 10			
Response Type	No	Not Answered	Yes
Individual	7	2	16
Organisation	6	17	48
Children's Hearings System related	1	0	2
Legal and related	0	4	3
Local Government / Social Work	2	1	19
Other	0	6	6
Police and related	1	0	2
Secure Care Centre	0	1	4
Third Sector Organisation	2	4	9
Young Person's Organisation	0	1	3
Delivery	4	3	26
Hybrid	1	5	10
Influencer	0	4	7
Representative	1	5	5
Adult	8	18	58
Child / Young Person	5	1	6

Question 11			
Response Type	No	Not Answered	Yes
Individual	10	4	11
Organisation	16	23	32
Children's Hearings System related	1	0	2
Legal and related	0	5	2
Local Government / Social Work	8	1	13
Other	1	6	5
Police and related	3	0	0
Secure Care Centre	0	1	4
Third Sector Organisation	2	8	5
Young Person's Organisation	1	2	1
Delivery	11	2	20
Hybrid	1	8	7
Influencer	1	7	3
Representative	3	6	2
Adult	20	24	40
Child / Young Person	6	3	3

Question 12			
Response Type	No	Not Answered	Yes
Individual	3	5	17
Organisation	3	31	37
Children's Hearings System related	0	1	2
Legal and related	0	6	1
Local Government / Social Work	2	3	17
Other	0	7	5
Police and related	0	1	2
Secure Care Centre	0	1	4
Third Sector Organisation	1	9	5
Young Person's Organisation	0	3	1
Delivery	1	7	25
Hybrid	0	10	6
Influencer	1	8	2
Representative	1	6	4
Adult	4	31	49
Child / Young Person	2	5	5

Question 13				
Response Type	No	Not Answered	Yes to some changes	Yes to all changes
Individual	3	3	7	12
Organisation	1	25	11	34
Children's Hearings System related	1	0	0	2
Legal and related	0	6	0	1
Local Government / Social Work	0	0	1	21
Other	0	8	2	2
Police and related	0	0	1	2
Secure Care Centre	0	2	2	1
Third Sector Organisation	0	8	4	3
Young Person's Organisation	0	1	1	2
Delivery	1	5	5	22
Hybrid	0	9	4	3
Influencer	0	6	2	3
Representative	0	5	0	6
Adult	3	26	14	41
Child / Young Person	1	2	4	5

Question 14			
Response Type	No	Not Answered	Yes
Individual	2	11	12
Organisation	1	31	39
Children's Hearings System related	0	0	3
Legal and related	0	6	1
Local Government / Social Work	0	1	21
Other	0	9	3
Police and related	0	1	2
Secure Care Centre	1	1	3
Third Sector Organisation	0	10	5
Young Person's Organisation	0	3	1
Delivery	1	7	25
Hybrid	0	11	5
Influencer	0	8	3
Representative	0	5	6
Adult	2	34	48
Child / Young Person	1	8	3

Question 15			
Response Type	No	Not Answered	Yes
Individual	10	8	7
Organisation	31	32	8
Children's Hearings System related	2	0	1
Legal and related	1	6	0
Local Government / Social Work	17	2	3
Other	3	8	1
Police and related	2	1	0
Secure Care Centre	2	1	2
Third Sector Organisation	4	11	0
Young Person's Organisation	0	3	1
Delivery	21	6	6
Hybrid	5	11	0
Influencer	1	9	1
Representative	4	6	1
Adult	39	33	12
Child / Young Person	2	7	3

Question 16				
Response Type	No	Not Answered	Yes through certain routes	Yes through all routes
Individual	2	5	12	6
Organisation	4	23	5	39
Children's Hearings System related	1	1	0	1
Legal and related	0	5	0	2
Local Government / Social Work	2	0	3	17
Other	0	5	1	6
Police and related	0	0	0	3
Secure Care Centre	0	2	0	3
Third Sector Organisation	1	8	1	5
Young Person's Organisation	0	2	0	2
Delivery	3	6	3	21
Hybrid	1	6	1	8
Influencer	0	7	1	3
Representative	0	4	0	7
Adult	6	24	12	42
Child / Young Person	0	4	5	3

Question 17			
Response Type	No	Not Answered	Yes
Individual	5	5	15
Organisation	1	29	41
Children's Hearings System related	0	0	3
Legal and related	0	4	3
Local Government / Social Work	0	1	21
Other	1	8	3
Police and related	0	1	2
Secure Care Centre	0	2	3
Third Sector Organisation	0	10	5
Young Person's Organisation	0	3	1
Delivery	0	8	25
Hybrid	1	9	6
Influencer	0	8	3
Representative	0	4	7
Adult	3	30	51
Child / Young Person	3	4	5

Question 18			
Response Type	No	Not Answered	Yes
Individual	4	7	14
Organisation	2	31	38
Children's Hearings System related	1	0	2
Legal and related	0	6	1
Local Government / Social Work	1	4	17
Other	0	7	5
Police and related	0	0	3
Secure Care Centre	0	2	3
Third Sector Organisation	0	10	5
Young Person's Organisation	0	2	2
Delivery	1	10	22
Hybrid	0	8	8
Influencer	0	8	3
Representative	1	5	5
Adult	5	33	46
Child / Young Person	1	5	6

Question 19			
Response Type	No	Not Answered	Yes
Individual	2	7	16
Organisation	1	32	38
Children's Hearings System related	0	1	2
Legal and related	0	6	1
Local Government / Social Work	1	0	21
Other	0	7	5
Police and related	0	1	2
Secure Care Centre	0	1	4
Third Sector Organisation	0	13	2
Young Person's Organisation	0	3	1
Delivery	1	6	26
Hybrid	0	12	4
Influencer	0	9	2
Representative	0	5	6
Adult	2	34	48
Child / Young Person	1	5	6

Question 20			
Response Type	No	Not Answered	Yes
Individual	8	9	8
Organisation	6	35	30
Children's Hearings System related	1	1	1
Legal and related	0	6	1
Local Government / Social Work	5	2	15
Other	0	7	5
Police and related	0	1	2
Secure Care Centre	0	1	4
Third Sector Organisation	0	14	1
Young Person's Organisation	0	3	1
Delivery	6	7	20
Hybrid	0	12	4
Influencer	0	10	1
Representative	0	6	5
Adult	11	38	35
Child / Young Person	3	6	3

Question 21 (part 1)			
Response Type	No	Not Answered	Yes
Individual	5	6	14
Organisation	3	25	43
Children's Hearings System related	1	0	2
Legal and related	0	5	2
Local Government / Social Work	1	1	20
Other	0	6	6
Police and related	0	0	3
Secure Care Centre	1	1	3
Third Sector Organisation	0	9	6
Young Person's Organisation	0	3	1
Delivery	3	5	25
Hybrid	0	7	9
Influencer	0	8	3
Representative	0	5	6
Adult	6	26	52
Child / Young Person	2	5	5

Question 21 (part 2)		
Response Type	For all children	Only for remanded/ sentenced
Individual	4	2
Organisation	15	5
Children's Hearings System related	2	0
Legal and related	0	0
Local Government / Social Work	7	3
Other	0	1
Police and related	1	0
Secure Care Centre	3	0
Third Sector Organisation	2	1
Young Person's Organisation	0	0
Delivery	13	3
Hybrid	2	1
Influencer	0	0
Representative	0	1
Adult	18	7
Child / Young Person	1	0

Question 21 (part 3)				
Response Type	For as long as child needs	A maximum length of remand/ sentence	To a maximum age	For another period
Individual	13	2	6	1
Organisation	21	8	8	8
Children's Hearings System related	2	1	1	1
Legal and related	1	1	0	0
Local Government / Social Work	8	3	3	4
Other	3	1	3	0
Police and related	1	1	0	0
Secure Care Centre	2	0	0	0
Third Sector Organisation	4	1	1	2
Young Person's Organisation	0	0	0	1
Delivery	11	4	2	3
Hybrid	6	1	2	1
Influencer	0	0	0	2
Representative	4	3	4	2
Adult	32	10	11	8
Child /Young Person	2	0	3	1
Question 22				
Response Type	No	Not Answered	Yes	
Individual	3	8	14	
Organisation	2	29	40	
Children's Hearings System related	0	0	3	
Legal and related	0	6	1	
Local Government / Social Work	1	2	19	
Other	1	7	4	
Police and related	0	1	2	
Secure Care Centre	0	1	4	
Third Sector Organisation	0	10	5	
Young Person's Organisation	0	2	2	
Delivery	1	6	26	
Hybrid	1	10	5	
Influencer	0	7	4	
Representative	0	6	5	
Adult	3	33	48	
Child / Young Person	2	4	6	

Question 23			
Response Type	No	Not Answered	Yes
Individual	3	11	11
Organisation	2	34	35
Children's Hearings System related	1	0	2
Legal and related	0	6	1
Local Government / Social Work	0	1	21
Other	0	7	5
Police and related	0	2	1
Secure Care Centre	0	3	2
Third Sector Organisation	1	12	2
Young Person's Organisation	0	3	1
Delivery	2	8	23
Hybrid	0	12	4
Influencer	0	8	3
Representative	0	6	5
Adult	4	37	44
Child / Young Person	1	8	3

Question 24			
Response Type	No	Not Answered	Yes
Individual	2	9	14
Organisation	5	30	36
Children's Hearings System related	0	0	3
Legal and related	0	6	1
Local Government / Social Work	3	0	19
Other	0	6	6
Police and related	0	1	2
Secure Care Centre	2	1	2
Third Sector Organisation	0	13	2
Young Person's Organisation	0	3	1
Delivery	5	5	23
Hybrid	0	12	4
Influencer	0	8	3
Representative	0	5	6
Adult	5	33	46
Child / Young Person	2	6	4

Question 25			
Response Type	No	Not Answered	Yes
Individual	0	6	19
Organisation	2	27	42
Children's Hearings System related	1	0	2
Legal and related	0	6	1
Local Government / Social Work	1	1	20
Other	0	7	5
Police and related	0	1	2
Secure Care Centre	0	1	4
Third Sector Organisation	0	9	6
Young Person's Organisation	0	2	2
Delivery	2	5	26
Hybrid	0	11	5
Influencer	0	6	5
Representative	0	5	6
Adult	2	30	52
Child / Young Person	0	3	9

Question 26			
Response Type	No	Not Answered	Yes
Individual	5	6	14
Organisation	1	31	39
Children's Hearings System related	0	1	2
Legal and related	0	6	1
Local Government / Social Work	0	5	17
Other	0	6	6
Police and related	0	1	2
Secure Care Centre	1	2	2
Third Sector Organisation	0	8	7
Young Person's Organisation	0	2	2
Delivery	1	9	23
Hybrid	0	11	5
Influencer	0	6	5
Representative	0	5	6
Adult	3	34	47
Child / Young Person	3	3	6

Question 27			
Response Type	No	Not Answered	Yes
Individual	3	8	14
Organisation	19	25	27
Children's Hearings System related	0	0	3
Legal and related	1	5	1
Local Government / Social Work	7	1	14
Other	3	7	2
Police and related	1	0	2
Secure Care Centre	1	2	2
Third Sector Organisation	5	8	2
Young Person's Organisation	1	2	1
Delivery	8	7	18
Hybrid	6	8	2
Influencer	4	6	1
Representative	1	4	6
Adult	19	26	39
Child / Young Person	3	7	2

No quantitative aspect of Questions 28-30.



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