**Children’s Care and Justice – Potential Changes to the Law**

**Conversation Guide**

The Scottish Government is consulting on possible legislative reforms to safeguard and support children, particularly those in conflict with the law, within age-appropriate systems and services. [Consultation](https://consult.gov.scot/children-and-families/childrens-care-and-justice-reforms) is currently underway that will help inform development of a Children’s Care and Justice Bill, committed to in the current Programme for Government.

This conversation guide has been developed to capture the views of children and young people on these proposed changes.

We know that the changes the Scottish Government are suggesting could have a big impact on children, aged under 18. Some of the changes might also impact on young people, aged 18-25. We want to ensure that children and young people are as included as possible in developing these changes.

We know that children and young people often prefer to answer questions like this with people that they know and have relationships with. As such we are looking for your help as workers to gain children and young people’s views. This conversation guide has been developed to assist you to help the children and young people you are working with to participate. It can also be used independently by children or young people should the child or young person wish to do so.

Whilst we are very aware of the pressure that is currently on children, young people and practitioners and how busy people are; we believe it is really important that children and young people are heard in these important matters.

We have also developed some associated materials that might help to make engagements more interactive. These can be found in Appendix A.

We are planning to hold some virtual sessions on the consultation, which will be open to all children and young people. If you would like to find out more, please get in touch at: CC&JBill@gov.scot. The team working on the law would also be happy to discuss this guide and to meet with you and/or any groups of children you are working with. If you would like that, please get in touch at: CC&JBill@gov.scot.

# **Using the Conversation Guide**

We would like you as workers to use these resources as prompts to guide conversation between you and the child/young person or group. These discussions can take place in whichever way suits the child or young person best. There may be scope to do this individually or collectively with groups of children/young people. Questions could be asked over the phone, text, email, virtually or in person. We have added some materials in Appendix 1 that might help to bring the questions to life and make answering them more interesting and interactive for children/young people. If you use these materials, please share the outputs by either taking photos of, or scanning, these and returning them to: CC&JBill@gov.scot. The intention is that this conversation guide and associated materials are used flexibly based on what children and young people are most interested or concerned about and in a manner that suits them. If you can identify more creative ways of doing so or of recording feedback on these questions, that would be welcomed and we would like to hear about this-we will aim be as accommodating as possible in accepting feedback in different formats.

In February 2020, Scotland’s Independent Care Review published a series of reports with The Promise outlining a vision for Scotland. The Promise told Scotland what it must do to make sure its most vulnerable children, especially those who come into contact with the care system, feel loved and have the childhood they deserve. The proposals in this consultation aim to help with that commitment, and cover a lot of different areas. These include the children’s hearing system, the criminal justice system, secure care, children placed in cross-border placements and the age of criminal responsibility.

Responses can be submitted for all topics, a single topic, or a selection of questions can be answered from each. For all questions the Scottish Government are interested in the reasons given for answers and would be grateful if you could record this information. We have not included all the questions from the consultation in this guide-this is because on some topics, like the age of criminal responsibility, we have already asked children and young people for their views before. Some questions are specifically asked of children who have particular experiences-for example of being in secure care-even if the child doesn’t have these experiences but wants to have their say, they can. All questions in the consultation can be found [here](https://consult.gov.scot/children-and-families/childrens-care-and-justice-reforms). Throughout all documents when we use the word child we mean all under 18s (unless otherwise stated) and young people 18-25 year olds.

An optional recording template is included in Appendix 2.

We would appreciate if you could record information anonymously for each conversation and share this with the Scottish Government by 22 June 2022**.**

In doing so, we request that you explain the project to the child/young person or group using the information sheet below and verbally gain their consent and agreement to this information being shared anonymously with the Scottish Government. Please explain that only information relevant to the questions will be shared, not the child or young person’s personal details, and that they will not be identified either to the Scottish Government or in any reporting of findings. Please ensure that you have explained to the child or young person that if they tell you information that they, a member of their family or someone else is at risk of being hurt or harmed, you have a duty to share this information with local services like social work. You can send any responses to CC&JBill@gov.scot.

We have tried to provide a brief overview of the current approaches to children under each section. More information on a child’s journey through the justice system can be found at:

[The child's journey: A guide to the Scottish justice system (iriss.org.uk)](https://content.iriss.org.uk/youthjustice/index.html)

[Journey through Justice - Children's and Young People's Centre for Justice (cycj.org.uk)](https://www.cycj.org.uk/resource/journey-through-justice-cycj/#:~:text=Journey%20through%20Justice%20is%20a%20development%20of%20%E2%80%98The,Criminal%20Justice%20in%20Scotland%3A%20the%20Young%20Person%E2%80%99s%20Journey%E2%80%99.)

[Homepage - Just The Right Space](https://justtherightspace.org/)

Fuller information on the changes being proposed can also be found in the full consultation document: [add]. There is also an easy read version of the consultation that anyone, including children and young people, can respond directly to [add].

# **Information for Children and Young People**

The Scottish Government wants and needs to hear from you!

We know that children and young people do not always get a say in the matters that affect them. We want to change this. Right now the Scottish Government are 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. Your views will help to inform changes to the law.

We have asked the people that work with you to talk about this and see if you would like to take part. If you are happy to do so, they will ask you some questions and write down your views and reasons for your answers, so they can share this with the Scottish Government. You can answer questions on all topics, a single topic, or a selection of questions from each. Some questions are specifically asked of children who have particular experiences-for example of being in secure care-even if you don’t have these experiences but want to have your say, please do so.

The Government will read all the information you and other children and young people have given them and write a short report saying what they did with the information. This will be looked at alongside views from workers, researchers and the public and will help them to focus on what in the law needs to change.

This information will then be shared with Scottish Ministers who will think about and decide what changes to put into Parliament for consideration. Parliament makes law. Different people might want different changes-it will be for Scotland’s Parliament to ultimately decide what changes are made to the law.

Only information relevant to the questions will be shared with the Scottish Government. The Scottish Government won’t receive any of your personal details.

If you are happy to participate, please let your worker know.

# **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. This may have been going on a long time and it can be complicated. Concerns about a child can be reported to the Children’s Reporter.

At the moment, all children under 16 can go to a children’s hearing if someone is concerned about what is going on in their lives. The Children’s Reporter will get information about the child and decide if a discussion (a hearing) is needed. Only some 16 and 17 year olds can. A hearing can make a decision to help the child and make sure they get all the help that they need.

The law is all the rules that a country has that must be stuck to. If someone does not stick to the law we can say they have broken the law, committed an offence, or they are in conflict with the law. Children who come into conflict with the law may be vulnerable and have had problems in their lives. Children aged between 12 and 15 years and some 16 and 17 year olds can be reported to the Children’s Reporter and the Procurator Fiscal when they commit the most serious crimes. The Procurator Fiscal is the person who decides to take a case to court or not. The Children’s Reporter and Procurator Fiscal will then talk about the case. The Procurator Fiscal will decide whether the child’s case should be dealt with by a children’s hearing or a court.

We asked before if we should change the law so that all children under 18 who may need extra legal protection and support can be referred to a children’s hearing. This includes children at risk of exploitation, abuse or harm due to the behaviour of other people. This will also mean all under 18s who are charged by the police could be reported to the Children’s Reporter and the Procurator Fiscal.

Most people agreed that this change should be made and we want to make this happen. Not all children referred to the Children’s Reporter will be in conflict with the law but we have heard that there are lots of things that need to be considered for these children. This is because this change will mean more children will go to a hearing and that more people who have been harmed by a child, including other children and their families, will come into contact with the children’s hearings system.

The children’s hearings system is different to the criminal justice system and court. The hearing system is not about punishment but is focused on the child’s needs and welfare and whether they need protection or guidance in their life overall. As a result, what the child’s hearings system and the criminal justice system can do differs. Also if someone has been harmed the information and support they can get is different.

## Information and support where a person has been harmed by a child and that child went to a children’s hearing

When we asked before we were told that more information and support would need to be available to people who have been harmed (including children and their parents) if more children can be referred to the Children’s Reporter. Children and young people were less clear about whether more information should be given-some felt more should be given and others that this should be decided on a case-by-case basis and that none of the child’s personal details or about any support they were being given should be shared.

If a child goes to a hearing, panel members will decide if a compulsory supervision order is needed. This is a legal document which allows people like a social worker to help the child. This order can say a child has to do or not do certain things like where they should live, who they can see, where they can go (which can be monitored through an electronic tag) and if they need to be placed in secure care. Just now the person who has been harmed would not be told about these things even if they relate to them. For example, if a child is not allowed to approach a person who has been harmed before, that person would not know that and would not know to tell anyone if the child came near them. All a person who has been harmed can be told is whether or not a hearing was arranged and the outcome of the hearing. People who have been harmed can also be told general things about the children’s hearings system and how Scotland treats children who do things which are against the law.

We want to make sure anyone harmed by a child’s behaviour can access support they need. There is lots happening to try to make sure all children get the support that they need. This includes where children have been harmed, for example through the development of a ‘Bairns Hoose’ where children can get all the help they need in one setting and pre-recording evidence so less people have to go to court to give evidence. But people who have been harmed, especially those who are also children, have told us they do not always get enough help, this can be hard to access or that they need to go to different organisations to get this when a child who has harmed them goes to a children’s hearing. People who have been harmed can get help to access support organisations from the children’s hearings Victim Information Service and can access support services themselves. But children who have been harmed can find it difficult to get help from other services like social work and education, especially if they go to the same school or live near the child who has harmed them. We want to know if people who have been harmed should be given more support.

We are also considering if there should be a single person (called a single point of contact) for each person who has been harmed who would provide information and either direct help and/or join up other supports. This should make it easier for people who have been harmed to get the information and help they need when they need it. This person could be part of the children’s hearings system, social work, education, a victim support organisation or another organisation.

## Using the children’s hearings system as much as we can

We want to use the children’s hearings system as much as we can to make sure children and young people who need it get the support they need. To do that we are thinking about what other supports might need to be available in the children’s hearings system to do this and keep people safe. Some of the options we are thinking about is:

* When panel members are thinking about making a compulsory supervision order, making sure they think about whether any measures are needed to protect any person who has been harmed where there is a risk of serious harm. This harm might be physical or could be other types of harm. Panel members could think about things like making it condition that the child cannot go near a particular person or to certain places like where that person lives.
* Allowing more children to have where they can go limited and monitored through an electronic tag. Currently this is only possible if the child is likely to run away and if they did they would be at risk; or is likely to self-harm; or is likely to injure someone else. We are wondering if instead of this being possible when a child is likely to injure someone else, whether this should be if:

 -the child is likely to cause serious harm (whether physical or not) to another person; or

 -the child has committed a particular offence; or

 -the victim is particularly vulnerable.

* Allowing sheriffs and judges to ask the hearing for advice when any child has been found or pled guilty at court about what to do next or for the hearing to take the child’s case. Currently the sheriff or judge can only do this for some children.

Currently no child can be supported in the children’s hearings system after their 18th birthday. By allowing more 16/17 year olds to be referred to the children’s hearings system this means they could only be supported through a compulsory supervision order until they are 18. Young people can still access services and supports after they turn 18, including if they are care leavers, and from different organisations like adult and criminal justice social work. But some young people have told us turning 18 can lead to support stopping. We want to make sure children get the support they need when they turn 18. One way this could be done would be to allow young people to remain subject to measures through the children’s hearings system beyond their 18th birthday. There would be lots to think about, like to what age should this continue; would this just be for children who were referred before they were 18; and young people having different rights to children.

## Questions

1. If you have experience of being harmed by another child and that child went to a children’s hearing (as a result), we want to understand your experience so we can make it better for children and young people in a similar situation in the future. Can you think of any information or support that you would have found helpful, but that you didn’t get?

2. Should more information be able to be shared with a person who has been harmed (and their parents if they are a child) if a child is subject to an order through the children’s hearings system with measures that relate to them?

Yes No

3. Where a person has been harmed by a child and that child has been referred to the Children’s Reporter (as a result), should additional support be made available to the person who has been harmed?

Yes No

If yes, should this be for all people who have been harmed?

If yes, what additional supports should this include?

(See Appendix 1 for additional materials)

4. Should a single point of contact be introduced for each person who has been harmed?

Yes No

If Yes, should this be for all people who have been harmed?

If yes, in what organisation should this person be based? (This will likely be limited to a particular organisation rather than the individual being able to choose who this would be)

5. Should panel members be able to consider other options as part of a child’s order to keep other people safe?

Yes No

If yes, do you have any ideas for other options?

(See Appendix 1 for additional materials)

6. Should children be able to stay within the children’s hearings system after their 18th birthday?

Yes all children

No not all children only some (please explain who)

No

If yes, to what age?

(See Appendix 1 for additional materials)

# **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. There are different kinds of courts, they might have a Sheriff in charge in a Sheriff Court and a Judge in charge in a High Court. Children under 18 can go through the criminal justice system and court.

## Courts

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. Although we want more children to go to the children’s hearings system when they need to, the most serious cases will still be dealt with through the criminal justice system. We are keen to hear views on how this can be improved for children.

There are already things happening in Scotland to improve traditional court settings, including Youth Sentencing courts and Structured Deferred Sentencing courts which have things like set judges or sheriffs, who hold regular reviews with children and young people, and extra support after a child or young person has been sentenced. Other improvements could be made like making sure separate courts at set times are used for children; that only people who need to be at court can be there; using different rooms either in courts or elsewhere; that all children have someone to support them; and have an independent advocate who can help to have their views heard. We would like your views on these changes and you might have your own ideas on other things that could be done.

## Children in secure care and Young Offenders Institutions

When children need intensive support in a locked setting they can be placed in secure care or a Young Offenders Institution (YOI). Some children are in secure care because they are in conflict with the law or have caused harm to someone else, and others because they are at risk of being harmed. Children are cared for together in secure care, because if children are placed through the children’s hearings system or the criminal justice system, their needs are often similar. Measures are in place to make sure all children in secure care can be kept safe.

Children can only be placed in a YOI by a sheriff or judge if they are accused of, have admitted to or been found guilty of breaking the law. Children in secure care and YOI have experienced high levels of needs, vulnerabilities and risks in their lives. The two environments differ-secure care is a form of care, not being about punishment; children are cared for in smaller, more homely units; there are more staff and they are trained differently; and the restrictions like restraint that can be used are different. There have been concerns in Scotland and elsewhere about children being placed in YOIs. We want to make sure children where children need to be deprived of their liberty that this is in secure care and are thinking about whether the use of YOIs should be stopped for all children aged under 18. We want your views on this.

We want to make sure that all children or care leavers who are remanded - the court has decided that you the child will go to a secure care centre or YOI until their court case takes place - or sentenced to secure care or a YOI get the support that they need. This should be from the point of being remanded or sentenced to after a child’s stay in secure care or a YOI. There are already lots of laws and policies to say that this should happen but we want to make sure all children and care leavers get the support they need.

## Identifying children who go to court

It is against the law for anyone to identify a child that has been accused of, admitted to or been found guilty of breaking the law. The judge can make an exception when the court is satisfied this is in the public interest. Whilst the public may be interested in knowing the identity of a child, especially if serious harm has been caused, this can have negative impacts on the child’s rights, safety, future outcomes and return to the community. This can also impact on the child’s family. We are considering if this should be changed so that a judge can only identify a child if this is necessary for the purpose of protecting the public from serious harm and/or in the interests of justice. We also wonder if the child’s identity should be protected from their first contact with the criminal justice system, including before they are charged, and until they turn 26 years of age rather than being automatically identified at 18 years of age.

## Questions

1. Do you think the criminal justice system should be changed for children?

Yes No

If yes, do you have any views on how the system could be changed?

(See Appendix 1 for additional materials)

2. Where a child has been sentenced or remanded, should this always be in secure care rather than a YOI?

Yes No

3. Should we stop using YOIs for children aged under 18?

Yes No

Should there be any exceptions to this?

Yes No

If yes, what should these exceptions be?

4. If you have been in secure care before, can you think of anything that should change if more children who have been remanded or sentenced are going to be placed in secure care?

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

Yes No

6. Should we change the rules on anonymity of children?

Yes No

Are the changes we are thinking of the right ones?

(See Appendix 1 for additional materials)

# **Secure Care**

Secure care aims to give children a high level of support and education in a caring environment where their rights are respected to make things better for them now and in the future.

## Placing a child in secure care

There are lots of ways a child can be placed in secure care: this might be a decision of a children’s hearing; the police before a child appears at court; a court when a child has been remanded or sentenced; or the senior social work manager (known as the Chief Social Work Officer) where the child lives because there are lots of worries about the child. These different routes can be complex and are not always available to all children who could benefit from secure care. This is particularly the case for 16/17 year olds who often need to be subject to a particular legal order either through the children’s hearings system or court before they can be placed in secure care. For example, where a remanded or sentenced child is not subject to a particular legal order, often the only option if they need to be deprived of their liberty is to be placed in a YOI. We want to make sure any child who needs to be placed in secure care can be.

Currently when a child is going to be placed in secure care, either the social work department in the local authority where the child lives or the Scottish Government will arrange this. Different areas have different ways of considering a child’s needs when they might need to be placed in secure care. If this is agreed, staff from the social work department will check if a bed is available and contact one of the five secure care centres in Scotland to see if the centre can offer the child a place to meet their needs. This decision will be made by a manager at the secure care centre. This means across Scotland we do not know how many children are being considered for secure care and their needs. We also do not know about these children’s experiences of secure care and what their outcomes are like. Also there are times when a child really needs to be placed in secure care but there are no beds available. We want to make sure that any child who needs to be placed in secure care can be and the children who are placed in secure care are those who need this the most. We are wondering if there should be an a more consistent approach across Scotland to considering the needs and circumstances of any child who might need to be placed in secure care. There are different examples across the United Kingdom that we could explore. For example, there is a Secure Welfare Coordination Unit in England and Wales who provide a dedicated single point of contact for local authorities to arrange secure care placements. In Northern Ireland there is a panel of professionals, like social workers, lawyers, health workers, teachers, advocacy workers who are involved in making decisions about placing children in secure care across the whole country. We are keen for your views on this.

## Secure transport

When children are going to secure care or are in secure care and are going to important appointments, like court or medical appointments, they can be transported in lots of different ways. This might be by their social worker, staff from secure care, the police or secure transport from private organisations. Children have told us that these journeys could be improved and that they should be able to expect people they know and trust goes with them, that they are not waiting long times for transport, know what will happen, and are treated with dignity, compassion, sensitivity and respect. Just now it can be difficult to make sure that always happens and work is happening to address this. We want to know if we should do more about secure transport.

## Secure care for young people

Children can only stay in secure care until their 18th birthday. This means that no matter what a child’s needs, wishes or best interests are, they have to move on from secure care when they turn 18. For children who are remanded or sentenced, this can mean they have to move on to a YOI, even if they only have a few days left of their sentence. We don’t think this is right and want to change this for children who are remanded and sentenced so they can stay beyond their 18th birthday. Any decision would be made on an individual basis, taking account of the child/young person’s views and the staff who are supporting them, and would be for a time limited period. We are wondering if this should be changed for children placed in secure care because of concerns about their care and welfare too. There are lots of things to consider here. Children cannot be on an order through the children’s hearing past the age of 18, so if they were to stay in secure care beyond this would not be on an order but to stay in secure care this needs to be lawful. A child should be in secure care for the shortest time possible so remaining in secure care after a child’s 18th birthday might not be the shortest time possible. Also after a child turns 18 they are classed as an “adult”. Children and adults should not be cared for together unless this is in the child’s best interests. We are keen to hear your views on this.

## Questions

1. Should all children aged under 18 be able to be placed in secure care where this has been deemed necessary, and in their best interest?

Yes all children

No not all children only some (please explain who)

No

2. Should there be a more consistent approach across Scotland to considering the needs and circumstances of any child who might need to be placed in secure care?

Yes No

If yes, do you have any ideas about what a new approach could look like?

3. If you have been in secure care before, we want to understand your experience of secure transport so we can make it better for children in a similar situation in the future. Can you think of anything that should change to make secure transport better?

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

Yes for all children

Yes but only for children who are remanded or sentenced

No

If yes, how long for?:

For as long as the child needs this based on their needs

To a maximum length of remand or sentence (and if so what should this be?)

To a maximum age (and if so what should this be?)

# **Residential Child Care and Cross-border Placements**

## Cross-border placements

Some children are placed in residential care settings in Scotland from other parts of the UK There are lots of different legal orders through which this can be done. Sometimes these children are placed in secure care and sometimes in children’s homes. There have been concerns about cross-border placements because these children can be far away from their homes, families and friends; this can impact on children’s rights; and Scottish professionals do not always know about these children’s placements.

We want fewer children to be placed from elsewhere in the UK into residential care placements in Scotland. These placements should only happen in exceptional circumstances where it is in the best interests of the child. However until there is enough secure and residential care for children who need this support, particularly in England, cross-border placements into Scotland will continue. We want to make sure there are more safeguards in place for children who are placed in care in Scotland from elsewhere in the UK.

One way of doing this that we are considering is to develop pathways and standards for residential care for children and young people in Scotland. These would apply to all children who were in residential care in Scotland, including those placed from elsewhere in the UK. There are already [Pathway and Standards for secure care](https://www.securecarestandards.com/), that set out what all children in or on the edges of secure care should expect before, during and after a stay in secure care. Everyone who works with these children is working towards making sure these Standards are implemented.

Currently all children in Scotland living in secure care or residential care have access to an advocate to help them have their views heard. This is not always the case for children placed from elsewhere in the UK. We think advocates have an important role and that all children should have access to local advocacy.

## Restraint

Children in secure care and residential care can be restrained by staff when there are exceptional circumstances and this is the only option to keep them safe. There are laws and guidelines about when and how children can be restrained and what needs to happen afterwards. The Independent Care Review heard a lot about restraint and that experiencing this could be frightening, painful and embarrassing. Lots of work is underway to make sure restraint is only ever used in exceptional circumstances and to prevent serious harm. We want to know if there should be more in guidance and law about restraint.

## Questions

1. Should pathways and standards for residential care for children and young people in Scotland be introduced?

Yes No

Can you think of any standards that should be included?

2. 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

3. Should there be more law and guidance on restraint?

Yes No

**7. What happens next?**

Your worker will share your views and answers with the Scottish Government. We will read all the information received from children and young people, which will be looked at alongside other views gained in response to the Consultation. We will write a short report saying what we did with the information.

If you are interested in future participation opportunities and:

Are aged 16-25 with care and justice experience, please get in touch with [Youth Justice Voices](https://www.cycj.org.uk/what-we-do/youth-justice-voices/#:~:text=Youth%20Justice%20Voices%20Youth%20Justice%20Voices%20is%20a,Forum%20%28Staf%29%2C%20funded%20by%20the%20Life%20Changes%20Trust.).

Are any age with experience of being in or on the edges of secure care, please get in touch with [STARR](https://www.cycj.org.uk/what-we-do/starr/).

**8. Acknowledgements**

We are grateful to the children and young people from STARR and Youth Justice Voices and staff from [Our Hearings, Our Voice](https://www.ohov.co.uk/); [CELCIS](https://www.celcis.org/); Children and Young People’s Centre for Justice ([CYCJ](https://www.cycj.org.uk/)); and [STAF](https://www.staf.scot/) helped us to develop this guide. We are also grateful to those who have previously been involved in similar previous work, including the Youth Justice Visionaries.

**Appendix 1: Children’s Care and Justice – Potential Changes to the Law: Supporting materials**

These materials might assist in making the questions in the conversation guide more engaging. We have not included materials for every question.

**3. The Children’s Hearings System Questions**

3. Where a person has been harmed by a child and that child has been referred to the Children’s Reporter (as a result), should additional support be made available to the person who has been harmed?

Yes No

If yes, should this be for all people who have been harmed?

If yes, what additional supports should this include?

Below are some examples of the types of supports that could be made available to people who have been harmed. This can be used to simulate discussion or completed as an exercise by printing out the sheet and using thumbs up images to identify agreement or otherwise with each example of support. Children/young people can add other suggestions using blank bubbles. Any further information on why particular supports were included would be welcomed.

Support to recover from harm and trauma

Help through education and at school

Counselling

Health support, including mental health support

Help from social work

**    **

5. Should panel members be able to consider other options as part of a child’s order to keep other people safe?

Yes No

If yes, do you have any ideas for other options?

Column one has been populated with options that are currently available as part of a child’s order. There might be other examples that children/young people want to add. We have added some possible options for column 2 below that can be printed and cut out for discussion, before being attached to the table if the child/young person thinks this could be a good idea. Children and young people can also add their own suggestions to the table. It might be possible to transfer this information to flip charts to make it more accessible. Any further information on why suggestions are included or not would be welcomed.

|  |  |
| --- | --- |
| **What options are currently available as part of a compulsory supervision order**  | **What else could be available**  |
| Saying where the child should live  |  |
| Allowing who the child lives with to restrict their ability to go out  |  |
| Stopping the child going certain place(s)  |  |
| Saying the child has to stay in certain places(s)  |  |
| An electronic tag to check where the child is alongside the child being given lots of support  |  |
| Saying the child should live in secure care  |  |
| Saying who the child can see, when or where  |  |
| Saying who the child cannot see  |  |
| Saying the child has to do certain things like treatment in respect of substance misuse of mental health  |  |
| Saying the child has to undertake specific interventions or activities  |  |
| Saying the child must not do certain things  |  |

**What could be available:**

Panel members being able to make measures to protect any victim(s) where there is a risk of serious harm

More children being able to have an electronic tag to check where the child is alongside the child being given lots of support

Allowing all children to be remitted to the children’s hearings system from court

6. Should children be able to stay within the children’s hearings system after their 18th birthday?

Yes all children

No not all children only some (please explain who)

Below are the current key ages enshrined in Scottish legislation to give some ideas for what this maximum age could be. This might be completed as an exercise by printing out the age sheet and using thumbs up images to vote for a preferred age. Any further information on why a particular age is chosen would be welcomed.

19-children can stay at school past their 18th birthday

18

21-this is the age limit for continuing care and YOIs

Another age

26th Birthday is the age limit for aftercare for care leavers

25-this is the age for the Young People’s Sentencing Guideline

**    **

**4. The Criminal Justice System Questions**

1. Do you think the criminal justice system should be changed for children?

Yes No

If yes, do you have any views on how the system could be changed?

In the clouds below are examples of how the criminal justice system could change for children that can be printed and cut out for discussion. Please attach those changes that the child/young person think should be made to a separate sheet. We have left some clouds blank for children/young people’s own suggestions. It might be possible to transfer this information to flip charts to make it more accessible. Any further information on why examples are included or not would be welcomed.

Having set court times so I don’t need to wait

Not using traditional court rooms

Keeping children separate from adults

Dedicated separate courts for children

Having as few people at court as possible

Using a different building

Using a child friendly room

Using jury rooms

Having dedicated and specially trained judges and sheriffs

No gowns and wigs

My social worker can sit with me

Everyone sits round a table-no dock or bench

My parent or carer can sit with me

I get lots of breaks

Everyone speaks directly to me not through my lawyer

I can understand what is said

I get support right the way through

I have an advocate who helps make my views know

The court day is shorter

Things taken are slower

The judge/sheriff regularly reviews how things are going

The judge/sheriff and my lawyer is trained in how to speak to children

**Changing the Criminal Justice System**

6. Should we change the rules on anonymity of children?

Yes No

Are the changes we are thinking of the right ones?

Below is a table with proposed changes the Scottish Government are currently considering written as a statement. Please use thumbs up or down images to indicate whether you agree or disagree with each statement. Blank rows at the end of the table can be used for your own suggestions. You can agree with some proposals and not others. Any further information on why proposals are supported or not would be welcomed.

|  |  |
| --- | --- |
| **Proposed change** | **Agree/disagree**  |
| **A child should only be able to be identified if a judge decides this is needed to protect the public from serious harm and/or in the interests of justice**  |  |
| **A child’s identity should be protected from their first contact with the criminal justice system, including pre-charge** |  |
| **A child who has committed a crime as a child should not be able to be identified on their 18th birthday** |  |
| **A child’s identity should be protected into adulthood, unless after they turn 18 a judge decides they should be identified to protect the public from serious harm and/or in the interests of justice**  |  |
| **A child’s identity should be protected until they turn 26 unless after they turn 18 a judge decides they should be identified to protect the public from serious harm and/or in the interests of justice** |  |
|  |  |
|  |  |

**    **

**5. Secure Care Questions**

1. Should all children aged under 18 be able to be placed in secure care where this has been deemed necessary, and in their best interest?

Yes all children

No not all children only some (please explain who)

No

Below is a table with proposed changes the Scottish Government are currently considering written as a statement. Please use thumbs up or down images to indicate whether you agree or disagree with each statement. You can agree with some proposals and not others. Any further information on why proposals are supported or not would be welcomed.

|  |  |
| --- | --- |
| **Proposed change** | **Agree/disagree**  |
| **Yes all children**  |  |
| **Yes but only children for children where there are worries about their care and welfare**  |  |
| **Yes but only for children who need to go to a place of safety before going to court**  |  |
| **Yes but only for children who have been remanded**  |  |
| **Yes but only for children who have been sentenced**  |  |
| **No there should be no change**  |  |

**    **

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

Below are different possible options for which children and how long a child could stay in secure care beyond their 18th birthday. This might be completed as an exercise by printing out the sheet below and cutting out the child/young person’s choices to be attached to a separate sheet or using thumbs up or down image to vote for preference. Blank bubbles can be used to reflect other options the child/young person might put forward. Any further information on why these choices were made would be welcomed.

Yes but only for children where there are worries about their care and welfare

Yes but only for remanded or sentenced children

Yes for all children

No

**If yes, how long for?:**

For maximum 3 month remand or sentence

For maximum 1 month remand or sentence

For as long as the child needs this

To maximum age of 19

For maximum 1 year sentence

For maximum 6 month remand or sentence

To maximum age of 21

**    **

**Appendix 2: Children’s Care and Justice – Potential Changes to the Law: Recording Feedback**

Responses can be submitted for all three topics, a single topic or a selection of questions can be answered from each. Please recorded any reasons provided by children and young people for their answers.

**Please do not include any personal details.**

**Organisation:**

**3. The Children’s Hearings System**

**Questions**

1. If you have experience of being harmed by another child and that child went to a children’s hearing (as a result), we want to understand your experience so we can make it better for children and young people in a similar situation in the future. Can you think of any information or support that you would have found helpful, but that you didn’t get?

2. Should more information be able to be shared with a person who has been harmed (and their parents if they are a child) if a child is subject to an order through the children’s hearings system with measures that relate to them?

Yes No

3. Where a person has been harmed by a child and that child has been referred to the Children’s Reporter (as a result), should additional support be made available to the person who has been harmed?

Yes No

If yes, should this be for all people who have been harmed?

If yes, what additional supports should this include?

(See Appendix 1 for additional materials)

4. Should a single point of contact be introduced for each person who has been harmed?

Yes No

If Yes, should this be for all people who have been harmed?

If yes, in what organisation should this person be based? (This will likely be limited to a particular organisation rather than the individual being able to choose who this would be)

5. Should panel members be able to consider other options as part of a child’s order to keep other people safe?

Yes No

If yes, do you have any ideas for other options?

(See Appendix 1 for additional materials)

6. Should children be able to stay within the children’s hearings system after their 18th birthday?

Yes all children

No not all children only some (please explain who)

No

If yes, to what age?

(See Appendix 1 for additional materials)

**4. The Criminal Justice System**

**Questions**

1. Do you think the criminal justice system should be changed for children?

Yes No

If yes, do you have any views on how the system could be changed?

(See Appendix 1 for additional materials)

2. Where a child has been sentenced or remanded, should this always be in secure care rather than a YOI?

Yes No

3. Should we stop using YOIs for children aged under 18?

Yes No

Should there be any exceptions to this?

Yes No

If yes, what should these exceptions be?

4. If you have been in secure care before, can you think of anything that should change if more children who have been remanded or sentenced are going to be placed in secure care?

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

Yes No

6. Should we change the rules on anonymity of children?

Yes No

Are the changes we are thinking of the right ones?

(See Appendix 1 for additional materials)

**5. Secure Care**

**Questions**

1. Should all children aged under 18 be able to be placed in secure care where this has been deemed necessary, and in their best interest?

Yes all children

No not all children only some (please explain who)

No

2. Should there be a more consistent approach across Scotland to considering the needs and circumstances of any child who might need to be placed in secure care?

Yes No

If yes, do you have any ideas about what a new approach could look like?

3. If you have been in secure care before, we want to understand your experience of secure transport so we can make it better for children in a similar situation in the future. Can you think of anything that should change to make secure transport better?

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

Yes for all children

Yes but only for children who are remanded or sentenced

No

If yes, how long for?:

For as long as the child needs this based on their needs

To a maximum length of remand or sentence (and if so what should this be?)

To a maximum age (and if so what should this be?)

**6. Residential Child Care and Cross-border Placements**

**Questions**

1. Should pathways and standards for residential care for children and young people in Scotland be introduced?

Yes No

Can you think of any standards that should be included?

2. 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

3. Should there be more law and guidance on restraint?

Yes No

**Any other feedback?**