

Age of Criminal Responsibility (Scotland) Act 2019: Child Interview Rights Practitioners application guidance

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Title: Age of Criminal Responsibility (Scotland) Act 2019: Child Interview Rights

Practitioners application guidance

Brief description: Expressions of interest are being invited for children's solicitors to support children in investigative interviews by the police when instances involving serious harmful behaviours and circumstances have happened.

Chapter 1 : Overview

The Scottish Government has established and maintains a register of persons authorised to provide advice, support and assistance to children in relation to their involvement in investigative interviews.

Investigative interviews under the Age of Criminal Responsibility (Scotland) Act 2019 are intended for only the most serious cases, and only when interviews are necessary to properly investigate a child's behaviour and the circumstances surrounding it. When the behaviour being investigated relates to when the child was under 12 years of age, the child will have the right to a child interview rights practitioner (ChIRP), even if they are over the age of 12 by the time the interview takes place.

Statutory guidance for investigative interviews was published in accordance with the requirements of this Act (as set out in section 57(4)) reflecting the exceptional nature of investigative interviews, on 2 September 2021. The guidance sets out that in cases of lower

level harmful behaviour, police officers can still speak with children in an age appropriate way without the need for a ChIRP.¹

Background in the law

The Age of Criminal Responsibility (Scotland) Bill as introduced made provision (in section 40) for section 122 of the Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”), which allowed for the extension and adaptation of children’s advocacy services to assist children in relation to their involvement in a children’s hearing. It also introduced regulation-making powers around qualifications, training, expenses, fees and allowances.

Amendments passed at Stage 3 of that Bill essentially removed the references to “advocacy worker” and replaced them with “child interview rights practitioner”. The change to the role’s name was intended to address the views of key stakeholders – prospective children’s hearings advocacy providers and legal representatives already engaged in the Children’s Legal Assistance Scheme – who raised concerns about the use of the term “advocacy worker” because the role as outlined in the Bill as introduced was not consistent with their understanding of advocacy. For example, an advocacy worker will help a child explore their options and rights but will not make recommendations or advise on a particular course of action which is applicable to the role of the ChIRP. The fundamental purpose of the role in protecting children’s rights remains the same, but the changes make clear that protecting rights, age appropriate practice, and building trusted relationships, are at the core of our approach.

¹ [Part 4 – Police Investigatory and Other Powers: statutory guidance on investigative interviews](#)

Section 51 of the Age of Criminal Responsibility (Scotland) Act 2019 (“the 2019 Act”), provides for a child who is involved in an investigative interview either by agreement under section 40(2) or by a child interview order made under section 44 to be supported by a child interview rights practitioner (ChIRP). The ChIRP will provide advice, support and assistance to children in relation to their involvement in these interviews. The ChIRP will be a solicitor enrolled in the roll of solicitors kept under section 7 of the Solicitors (Scotland) Act 1980 and will be drawn from the Children’s Legal Assistance Scheme. This linkage means it may be possible to continue to represent the child at any subsequent children’s hearing. This recognises and respects the fundamental importance of relationships for young children navigating these processes. The provision of “advice, support and assistance” includes the ChIRP:-

(a) helping the child to understand:

(i) the purpose of the interview

(ii) the child's rights in relation to the interview (including the child's right to refuse to answer questions)

(iii) what may happen as a result of the interview

(b) making recommendations to the child about the exercise of the child's rights in relation to the interview

(c) being present with the child in the room in which the interview is being conducted

(d) communicating on the child's behalf with the person conducting the interview or otherwise supporting the child in communicating with that person

(e) questioning whether the interview is being conducted:

(i) in accordance with any child interview order authorising the interview or otherwise fairly,

(ii) in a way that treats the need to safeguard and promote the wellbeing of the child as a primary consideration.

The power to establish and maintain a register is contained in section 56 of the 2019 Act.

This enables regulations to make provision in relation to the:-

- appointment to the register (including period of appointment) and potential disqualification of persons to be known as child interview rights practitioners (ChIRPs)
- training of ChIRPs
- fees (including expenses and allowances)

Applications are invited from individuals, supported by their law firm, to make a national and/or regional application for inclusion on the ChIRPs Register. Individuals must be able to demonstrate the capacity to cover the totality of at least one local authority area and if individuals wish to be considered for more than one local authority area, we need assurances that any constraints on ability to travel would not adversely impact a prospective ChIRP carrying out this role.

Chapter 2: Who can apply

Applications are invited from individuals who have the approval of their law firm to apply for, and to take on, the role of the ChIRP.

Applications are particularly welcomed from individuals who would routinely be willing to cover the following local authority areas: Aberdeen, Aberdeenshire, Argyle & Bute,

Highlands, Inverclyde, Moray, Orkney, Shetland, Western Isles (Eilean Siar). Please make this clear in the additional information section of the Application form.

All individual solicitors must be identified within the application form. A named contact in the law firm must also be provided who will be able to confirm the firm's commitment to supporting individual professionals registering for the service.

Only applications that meet the eligibility criteria will be assessed for inclusion on the ChIRPs register.

Eligibility criteria

The individual must be a solicitor enrolled in the roll of solicitors kept under section 7 of the Solicitors (Scotland) Act 1980 and will be drawn from the Children's Legal Assistance Scheme which is maintained by the Scottish Legal Aid Board.

The Code of Practice for Child Interview Rights Practitioners (ChIRPs), published on 4 June 2021, details the 6 core competences which must be met. [Code of Practice](#)

ChIRP Competency Requirements

Potential ChIRPs' suitability for the role will be determined by way of assurance of registration and practice of the competencies and guidance for the [Children's Legal Assistance Register](#), augmented by specific additional competencies.

A solicitor must notify the Scottish Government in advance or, which failing, within no more than twenty working days (or longer if special reason for exceeding twenty days can be shown) of any changes to information or documentation relevant to that solicitor's registration.

A registered ChIRP shall at all times be in possession of a current valid practising certificate which does not have a restriction preventing the provision of children's legal assistance.

A solicitor in registering certifies that (s)he complies with the terms of the Code of Practice for ChIRPs.

In addition to the registration requirements under the child's legal assistance scheme, a solicitor applying for registration on the ChIRPs register will be required to demonstrate the following additional competences:

Competence 1. A good understanding and detailed knowledge of the provisions of the Age of Criminal Responsibility (Scotland) Act 2019 and associated regulations.

Competence 2. A good understanding of child protection practice and procedures and supports available under Early and Effective Intervention.

Competence 3. A good practical understanding of child development and the principles of communicating with children, and a trauma-informed approach.

Competence 4. A good understanding of the ethos behind the investigative interview and the potential additional consequences that could flow from it.

Competence 5. The appropriate skills and experience of working sensitively with children under 12, including experience of representing children and young people at children's hearings and related court proceedings.

Competence 6. An understanding of children's rights, particularly the rights of children who may be in need of special protective measures, or who come into conflict with the law.

Chapter 3: Training

The Scottish Government will organise and fund pre-registration training for assessment of competences required for the role of the ChIRP for solicitors expressing interest in

registering as a ChIRP. The ChIRP would be expected to renew this training annually running from the date of registration.

The pre-registration training is expected to span 2 days, will be delivered in person, is likely to take place September / October 2022, and will include :

- The role and function of ChIRPs
- The standards expected of ChIRPs
- How ChIRPs may best ascertain the views of a child
- The roles and functions of other persons involved in an investigative interview

The Scottish Government will cover the costs for this training.

Chapter 4: Fee Structure

Fixed appointment fee (£400)

This is a flat fee in respect of an appointment as a ChIRP and covers:

- Reviewing available information (including the child's interview plan)
- Communications with police officers and social workers and other relevant parties such as the child's supporter prior to and following the investigative interview
- Consultation with the child prior to and following the interview
- Preparing for the investigative interview

Consider Interview Plan and liaise with police/social work - £110 fixed fee

If upon receipt of the child's interview plan, a ChIRP realises there is a conflict of interest and needs to withdraw, it is not appropriate to claim a fixed appointment fee. If a ChIRP subsequently becomes aware of a reason why they cannot continue they will be able to claim for the work carried out.

Attendance at the investigative interview: £110.00-£220.00 (per daily attendance)

As the ChIRP must remain on-site and at any time may be requested by the child, we would propose that this is the amount paid regardless of whether the ChIRP is with the child in the interview room or whether they are elsewhere in the building. If the ChIRP attends the interview but the child is not able to attend, we would propose to pay the fee of £110.00 to the ChIRP for making themselves available to attend.

A daily fee of £110 can be claimed for attendance of less than 2 hours with a maximum amount of £220 for attendance that is over 2 hours.

Travel Time

We have recognised travel time in the proposed fee structure which is in line with the rates payable under the safeguarder scheme:

- Anything under 4 hours – Fixed fee of £30
- Anything between 4 – 6 hours (round trip) – Fixed fee of £65
- Anything between 6 – 8 hours (round trip) – Fixed fee of £130
- Over 8 hours (round trip) – Fixed fee of £150 per each day of travel

Travel should be calculated between the ChIRP's base/residence and the place visited. The shortest practicable route should be taken and the most effective form of transport must be considered.

Reimbursement of expenses and allowances

The general principle governing the claiming of expenses and allowances is that reimbursement is not appropriate unless additional expense is actually incurred in carrying out the role of a ChIRP and attending the investigative interview. When this occurs, all expenses and allowances including actual receipted costs and flat rate mileage payments

are payable to ChIRPs. The rate reimbursed for expenses and allowances is as set out for safeguarders.

Where there are items of expenses where it is not possible to obtain receipts (such as paying for parking by phone) then this should be claimed for with an explanation of why the receipt isn't available. A cap of £10 has been set on unavailable receipts.

Expense or allowance type	Rate
Bed and breakfast	Up to £75.00. Receipt required
Car hire	Receipt required
Car Parking	Receipt Required
Staying with friend	£25.00 per 24 hours
Meals allowance	Maximum £23.50 per 24 hours and receipted
Motor mileage rate	£0.45 per mile
Motor cycle allowance	£0.24 per mile
Pedal cycle allowance	£0.20 per mile
Passenger supplement	£0.05 per mile per passenger
Overnight by train or boat	£24.10 per 24 hours
Public transport air	Receipt/ticket required
Public transport bus	Receipt/ticket required
Public transport rail	Receipt/ticket required. Standard class should be used
Public transport ferry	Receipt/ticket required

Expense or allowance type	Rate
Public transport taxi	Receipt/ticket required
Public transport tube	Receipt/ticket required
Toll charges	Receipt/ticket required
Personal incidental expenses allowance	Up to £5.00 per day. Receipt required
Necessary ancillary administrative expenses	Receipt required
Miscellaneous	Receipt Required

Interpretation Fees

Should the services of an interpreter be required, this will be sourced and authorised by the Scottish Government.

Application for Fees and expenses

The ChIRP will provide Scottish Government with a valid invoice for payment of fees and expenses when the investigative interview concludes. Further guidance on this will be provided following registration.

Chapter 5: Delivery criteria

The solicitor shall have the capacity and flexibility to manage delivery to accommodate these operating times:

- the ChIRPs provision shall normally be available from 09:00 to 20:00 Monday to Thursday and 09:00 to 17:00 on Friday, not including public holidays
- in order to meet the needs of children and young people, the provision shall be made available outwith school hours, on Monday to Thursday evenings

The ChIRP provision shall normally be provided on a local basis at appropriate venues identified by the multi-agency meeting.

A ChIRP should preferably be identified during the planning phase to offer views to the police and local authority. A ChIRP will be given a copy of the child's interview plan.

A ChIRP should make arrangements to speak with the child in person prior to the interview, ideally at a date and time not immediately prior to the commencement of the interview. This may be at the same location designated for the investigative interview. A ChIRP may also consult with a child at their home, at a carer's home, at school or within a young person's centre, where it can be demonstrated that the child's best interests would be better served in doing so.

In all cases, investigative interviews shall be provided at locations conducive to encouraging the child or young person to discuss what happened with the police and social worker. Such locations may include the child/young person's family home or place of care, office premises, schools, hospitals and venues for formal review meetings, including Children's Hearings. Please note this is not an exhaustive list.

The ChIRP employed by a firm to provide support shall be based at a location(s) with ready access to all parts of the local authority area in which the service is to be provided.

The provision may include any of the following requirements. Please note that this list is not exhaustive:

- building rapport and trust with the child and explaining the role of the ChIRP in the interview, the purpose of the interview, and the potential consequences which could stem from it;
- communicating with the child/young person taking part in an investigative interview;

- supporting the child/young person or to speak or engage at the investigative interview.

The ChIRP shall ensure adequate provision for communication with:

- children and young people with profound and complex learning disabilities, mental health problems or incapacity
- children and young people from minority ethnic or other cultural groups
- children and young people with other communications issues, such as hearing or speech impairment
- competence in the child/young person's preferred language

The ChIRP shall use a "case management", auditable approach, showing effective case management and closure processes, for monitoring and evaluation purposes.

The ChIRP shall maintain a clear process of recording consents along with accurate and current details of the child/young person's case and all associated documentation, including case management records in line with General Data Protection Regulation (GDPR) requirements.

The ChIRP shall maximise the efficient use of available public resources by terminating cases when the investigative interview process has concluded, or where requested to do so by the child/young person, or where no further action can be taken.

The ChIRP will develop a range of communication routes for children and young people to engage with them safely and privately including access by telephone, email, and other digital applications.

Demand for this service

We cannot guarantee any specific quantity of work and the numbers provided are for guidance only. Some factors that will affect levels of demand are beyond the control of the Scottish Government, such as the number of children and young people whose behaviour becomes subject to police investigation.

Evidence supporting the Age of Criminal Responsibility (Scotland) Bill as it progressed through the Scottish Parliament showed that that, on average, three under 12s each month were being referred to the Principal Reporter for more serious offending concerns. If an investigative interview were required to find out what happened for each incident that would previously have been referred to the Reporter, this would be a total of 36 investigative interviews in Scotland per year. We do not expect all incidents to require an investigative interview, since there will be occasions where there is sufficient information for the police to investigate what happened, without the need to seek to interview the child. This projection is simply illustrative and we need to be prepared to add to the cohort of initial registrants if greater demand presents.

The timescale from receipt of referral to completion and closing of cases will depend on a number of factors, such as the urgency and nature of the issue involved and schedules of any related interviews. It is recognised that the timescale may also be impacted by the complexity of the issue(s) and the availability of resource allocation.

The ChIRP shall use an electronic management information system to manage and retain information about referrals, the nature of the cases and service users to ensure that resources are used efficiently and effectively and that throughput is maximised.

Chapter 6: Application Assessment

How we will consider applications for registration

The applications will need to meet the stipulated criteria. Whether you are interested in working in one local authority, more than one, or in every Scottish local authority area, your application will be considered in the same way.

Once it is established that an applicant meets the eligibility requirements, an evaluation panel will then score applications using evidence provided against the 6 competences.

Scores will be based on evidence submitted in the application template for expressions of interest and will be awarded a mark for each of the criteria between 0 and 4, in accordance with the methodology detailed in the table below:

Score	Definition	Description
0	Unacceptable	Nil or inadequate response. Fails to demonstrate an ability to meet the requirement
1	Poor	Response is partially relevant but generally poor. The response addresses some elements of the requirement but contains insufficient/limited detail or explanation to demonstrate how the requirement will be fulfilled
2	Acceptable	Response is relevant and acceptable. The response addresses a broad understanding of the requirement but may lack details on how the requirement will be fulfilled in certain areas
3	Good	Response is relevant and good. The response is sufficiently detailed to demonstrate a good understanding and provides details on how the requirement will be fulfilled.

Score	Definition	Description
4	Excellent	Response is completely relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full

Once each evaluator has arrived at their own independent scores, a moderation meeting will be held to ensure consistency of approach with regard to quality analysis.

We expect to be able to let everyone who has applied know the evaluation panel’s decisions in July. We will contact every individual to let them know whether, and to what extent, they have been successful. Applicants who are successful at the evaluation stage, will be invited to pre-registration training.

Tailored feedback on your application will be available if requested.

Individuals who are successful through the expressions of interest, and following successful completion of pre-registration training will be added to the ChIRPs Register for an initial period of three years. An annual review will be carried out to ensure the individual still meets the requirement for inclusion on the Register and wishes to remain on it.

Reserve List

In the event that the number of applications surpass the initial estimated demand for 2022-23, and for the purpose of backfilling any potential gaps over the period, we may also retain a reserve list of successful applications made. This list will be proportionate to the coverage and demand anticipated.

Individuals will be asked within the application to indicate their agreement to be included in the reserve list for the Register should they meet the criteria but are not selected for the initial round of registration.

A conditional offer will be sent to successful applicants in September 2022. Formal appointment letters will be issued during October 2022 following successful conclusion of the training requirements.

Chapter 7 : How to apply

The expressions of interest is open to applications until 12 noon on 8 July 2022. We cannot accept late applications.

We will only accept expressions of interest on the application form. If you send us your application in any other format, we will not accept it.

There are word limits on the template and these are there to help you – they give you a good idea of how much information we are looking for.

You should be able to answer the questions within the word-counts that are set and this means we are assessing a similar amount of information for every application.

There is space in the application form to provide information about any other Scottish Government funding the firm receives. However, each of the applications will be assessed on their own merit, while considering the broader requirements of the [Age of Criminal Responsibility \(Scotland\) Act 2019](#).

Everything you want us to consider should be included in the application. If you have any questions about the template form, please get in touch with us and we will be happy to help.

Please email completed application templates to ACRChIRPs@gov.scot.



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