
Summary Report on Responses to Discussion Document :

CHILDREN'S CARE AND JUSTICE – ADVOCACY

i)CHILDREN'S HEARINGS

**ii) ADVICE, SUPPORT AND ASSISTANCE FOR AGE OF CRIMINAL RESPONSIBILITY
(S) BILL INVESTIGATIVE INTERVIEWS**

Summary

Children's Hearings Advocacy

Age of Criminal Responsibility (S) Bill – Advice, Support and Assistance

On 22 January 2019, the Scottish Government issued a discussion paper to the care and justice sectors. An indicative response date of 1 March was set, and 7 responses received, the last being submitted on 21 March 2019.

The Government wished to seek i) views on certain aspects of children's hearings advocacy, and ii) on the proposal to provide specialist legally-trained children's 'advocacy workers' during investigative interviews of certain children, as proposed in the Age of Criminal Responsibility (Scotland) Bill. In particular, the Government wanted to hear from partners, stakeholders and observers on the appropriate terminology, support and governance arrangements to be applied in respect of those practitioners.

This paper consisted of 3 parts:

Part 1 covering children's advocacy services in relation to children's hearings.

Part 2 covering legally-qualified 'advocacy workers' proposed in the Age of Criminal Responsibility (Scotland) Bill.

Part 3 containing 11 questions, and a point of response.

Discussion Document responses

The Scottish Government received 7 written responses to the paper. A full list of respondents is at Annex A. Not all agreed to the publication of their responses, so a summary analysis has been produced.

Analysis of responses

A high-level analysis of responses is presented in the order of the questions raised.

Children's Hearings Advocacy

QUESTION 1

1. Do you think it is important to have agreed consistent principles and standards for all providers within the scheme to ensure the delivery of a quality service?

5 respondents addressed this question, all answering yes. One respondent said 'This is a new national service which builds on pre-existing local provisions which were not always equivalent or consistent. The launch of the new national approach is enhanced by the principles and standards and the expectations of all in relation to the service to be provided can be effectively managed within this approach.' Another stated 'Standards also imply a means of measuring quality assurance and national consistency against set standards and promoting improvement and compliance.'

There were also 2 suggestions to change the name of the national practice model for children's hearings advocacy to avoid/ minimise confusion with the GIRFEC National Practice Model.

QUESTION 2

2. Do you agree with the proposed scope of the children's hearings advocacy scheme –i.e. being open to children aged 5-18 who are referred to the Reporter?

4 respondents addressed this directly. 3 supported the proposed scope of the scheme but with calls for flexibility to be applied for children near the age of 5. One response called for advocacy to be available to any child, while another response noted the important potential role of the safeguarder in respect of younger pre-school children in part answer to that challenge.

QUESTION 3

3. Do you have any other suggestions for the future development of the children's hearings advocacy scheme?

5 respondents answered the question. 3 called for trauma-informed training for advocacy workers. 2 called for rigorous monitoring and annually-updated training

to be made available. CELCIS support the development of a system which allows access to an advocacy worker for siblings of children who are due to attend a Children’s Hearing, and to ensure matters of sibling separation and contact are addressed – SCRA did not favour that at this time. All shared a desire to see an initial Scotland-wide scheme implemented as soon as possible.

Age of Criminal Responsibility (S) Bill – investigative interviews

QUESTION 4

4. Do you agree that the existing title of “advocacy workers” at police investigative interviews should be changed?

4 respondents addressed the question directly – all said yes.

QUESTIONS 5 & 6

5. If yes, The Scottish Government proposes the term ‘interview rights practitioners’ rather than ‘advocacy workers’. Do you agree?

6. Alternatively, it has been suggested that these professionals could be termed ‘child law practitioners’ or ‘independent legal rights workers’. Do you have any comments on those suggestions?

5 respondents answered this question. CYCJ supported the proposal. SCLC suggested further consultation with children. Other respondents had differing suggestions with no clear consensus emerging:

- ‘interview rights solicitors’
- ‘Ensuring Rights Practitioners’
- ‘Child Lawyer’
- ‘Child Interview Rights Practitioner’

QUESTION 7

7. Do you agree that the possible consequences for the child flowing from investigative interviews as identified are accurate and complete?

4 respondents addressed this question. All appeared to agree that the consequences had been identified, but that additional efforts should be made to ensure that these were clarified for children, families and professionals. One suggested the development of a clear and comprehensive flowchart, with another advocating ‘ a running process of collaborative planning around a formal Interview with implications for professional decision making and communication with child/other children/parents/carers/other relevant professionals’.

QUESTION 8

8. Do you agree that Children’s Legal Assistance Scheme-registered solicitors are the most appropriate group of solicitors to attend an investigative interview for children under 12 in terms of the Age of Criminal responsibility (Scotland) Bill?

All 5 respondents who addressed this agreed that CLAS registration with SLAB should be a minimum requirement for solicitors supporting children in these interviews. But there seemed to be a clear desire for individual solicitors to be required to undergo additional accreditation, training and development to ensure child-centred, trauma-informed practice.

QUESTION 9

9. It has been suggested that solicitors registered on both the Children’s Legal Assistance Scheme and the Criminal Legal Assistance Scheme would be best-placed. Would you support a proposal to require dual registration?

4 respondents answered the question. One was concerned about the unwitting introduction of adversarial criminal law practice to child interviews. Others recognised that familiarity with both systems, if supported by further individually-focused training, accreditation and monitoring, might assist both children and other professionals.

QUESTION 10

10. Rather than extending legal aid arrangements via the Scottish Legal Aid Board, the Scottish Government proposes to fund their work via discrete arrangements operated by the Directorate for Children and Families. Do you support that suggestion?

There was limited comment on this – although there appeared to be a recognition that differentiation from wider children’s or criminal ‘legal aid’ might be helpful in positioning the new service.

QUESTION 11

11. An initial proposal on fees and expenses is that these would reflect the rates payable to solicitors under the Police Station Duty Scheme as updated in 2018. Do you support that suggestion?

Most respondents declined to answer this question, with one suggesting that the current payable rates were not sufficiently attractive to solicitors. The disruptive, unpredictable and specialised nature of the work and any additional requirements imposed on solicitors .

Annex A: List of Respondents

Public Bodies

Education Scotland- Inclusion and Equality Team

Scottish Children's Reporter Administration

Other Organisations

Scottish Child Law Centre

Centre for Youth and Criminal Justice

Centre of Excellence for Looked After Children in Scotland (CELCIS)

Social Work Scotland

Comments acknowledged and considered, or incomplete response:

Children's Panel Member

Getting it Right For Every Child SG Policy team

Crown Office and Procurator Fiscal Service

