

**Age of Criminal Responsibility Advisory Group**

**Note of Meeting 2**

**Thursday 9 January 2020**

**MacDonald Holyrood Hotel, Edinburgh**

**In Attendance**

Maree Todd, Minister for Children and Young People (Chair)

Lesley Sheppard, Scottish Government, Care, Protection & Justice Division

Paul Carberry, Action for Children

Alistair Hogg, Scottish Children's Reporter Administration

Lynsey Smith, Includem

Duncan Sloan, Police Scotland

Mike Findlay, Victim Support Scotland

Matthew Sweeney, Convention of Scottish Local Authorities

Anthony McGeehan, Crown Office & Procurator Fiscal Service

Fiona Dyer, Centre for Youth and Criminal Justice

Gerard Hart, Disclosure Scotland

Diane Dobbie, National Youth Justice Advisory Group

Alison Cowper, Social Work Scotland

Belinda McEwan, Social Work Scotland

Elliot Jackson, Children's Hearings Scotland

Mick Doyle, Scottish Community Development Centre

Jordan Docherty, Young People Representative

Liam Slaven, Young People Representative

**Secretariat/supporting officials**

Tom McNamara, Scottish Government, Care, Protection & Justice

Lucy Smith, Scottish Government, Care, Protection & Justice

Melissa Thomas (secretariat), Scottish Government Care, Protection & Justice

**Additional attendees**

Carole Murphy, Centre for Youth and Criminal Justice

Jason Black MSYP, Scottish Youth Parliament

Laura Pasternak, Scottish Youth Parliament

**Apologies**

Elaine Walker, Scottish Courts and Tribunal Service

Dr. Lorraine Johnston, CAMHS Lead Clinicians' Group

**1. Welcome and introductions**

The Chair welcomed the Group, and reminded members of the Advisory Group's dual purpose: to review the operation of the Age of Criminal Responsibility Act (2019) (once implemented) and to consider a future age of criminal responsibility. The Chair set out the issues she considered the Group will need to deal with: to identify the data and evidence that will allow the Group to fully reflect the complexities of raising the age of criminal responsibility beyond 12; to identify existing non-criminal interventions for managing harmful behaviour by children; and to set out the timescales for the Group's work.

**2. Minutes of last meeting and actions**

**ACR/02/01**  
**ACR/02/02**  
**ACR/02/03**  
**ACR/02/04**

The Group approved the minutes of the last meeting.

The Secretariat updated the group on actions issuing from the last meeting specifically:

- amending the terms of reference to reflect comments from the first meeting
- broadening membership of the group to include two young people representatives, an additional representative from Social Work Scotland, and a representative from the Scottish Community Development Centre
- regularly linking with the secretariats of the Youth Justice Improvement Board (YJIB), and the Justice Board to ensure that the Advisory Group is aware of connected work
- updating the Group on implementation of the Act (to-date); communicating potential dates for commencing provisions.

**3. Data gathering and cross-cutting issues**

**ACR/02/05**  
**ACR/02/06**

The Chair emphasised the need for the Group to collect appropriate data to equip itself to undertake a full and detailed evaluation of the legislation and its consideration of a higher age of criminal responsibility, and reminded the Group of the evidence given by the Lord Advocate prior to Stage 2 of the ACR Bill in the Scottish Parliament: *“before we could decide to remove the capacity to prosecute those cases [where children above 12 years of age have committed serious offences], we would need to address with some care how we equip our system as a whole to deal with each of those cases appropriately and confidently—and fairly, because we must always keep that in our minds as well.”*

Alistair Hogg presented a finalised research proposal from SCRA which proposes an in-depth analysis of offences referred to the Children’s Reporter as well offences jointly reported for the 12-15 age group. The Group discussed the proposal and agreed that project should also consider the extent to which the child committing the harmful behaviour is in need of care and protection. With this addition, the Group agreed that the proposal should proceed.

The Group discussed the importance of engaging with various communities in the course of its review and drawing out the various experiences and perceptions people have of children involved in offending behaviour, particularly in relation to victims’ experiences. The Group agreed that this could be part of a wider engagement programme which the Group would undertake as part of its review.

Carole Murphy presented a paper issued by the Youth Justice Improvement Board, setting out data available across Scotland in relation to the patterns and trends in offending behaviour by children and young people, as well as the gaps and challenges that exist in relation to data collection in Scotland.

The Group discussed the paper and in particular whether it would be possible to establish a minimum data set to support reviewing the legislation. The Group discussed the approach taken in relation to the minimum data set for child protection, and recommended that consideration be given to the lessons learned from that process. .

Tom McNamara provided an update on work being undertaken to develop a consultation process which will inform consideration of 16 and 17 year olds in the children's hearing system.

The Group discussed the need to research the supports available to victims and witnesses, and to consider how best to replicate or improve these where cases are considered in the children's hearing system. .

**ACTION:**

- SCRA to proceed with proposed research approved by the Group subject to further discussions with the Secretariat.
- Wider engagement and influencing programme to be developed.
- Scoping exercise on victims' rights in the children's hearing system to be developed.

**4. Presentation from the Scottish Youth Parliament**

Jason Black presented the outcomes of a SYP workshop that focused on participants' experiences of advocacy, and sought views on what child-friendly interview spaces should look like.

Key findings from the workshop, and an online survey taken forward by the Scottish Youth Parliament prior to the workshop, included:

- the importance of ensuring that the interview space:
- the interviewers and others in attendance are not intimidating;
- limiting the use of tables (as a barrier between the interviewers and the child or young person);
- use of soft furnishings (sofas, bean bags) or even sitting on the floor;
- the language and tone used by the interviewer;
- the need to ensure that that child understands the reason they are there;
- interviewers who have the ability to engage and work with children; and
- building rapport and trust, and helping them feel comfortable and reassured.

The Group reflected on and agreed with the importance of these findings.

## 5. Priorities for the Advisory Group

The Group discussed its work priorities and agreed the need to establish work streams on the following 4 topics: (1) data & research; (2) victims; (3) community confidence; and (4) operational implications of moving to a higher age. The four topics will be supported by communications (and engagement), and consideration of human rights (children's rights, victims' rights), which will be taken forward as an integral part of all workstreams.

The Group acknowledged that the learning from implementing the age of criminal responsibility of 12 will underpin its final recommendations to the Scottish Ministers.

**ACTION:** Secretariat to contact members on initial sub-groups to establish.

## 8. A.O.B and date of next meeting

The next meeting will be at 10.00–12.30 on Wednesday 22 April. Venue to be confirmed.