

AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND) BILL: INDICATIVE IMPLEMENTATION TIMESCALES

SUBMISSION FROM SOCIAL WORK SCOTLAND, TO SCOTTISH GOVERNMENT CALL FOR FEEDBACK. *30 April 2019*

Social Work Scotland is the professional leadership body for social work, working closely with our partners to shape policy and practice within social services. We welcome this opportunity to inform the Scottish Government's planning for the implementation of the Age of Criminal Responsibility (Scotland) Bill, ahead of Stage 3.

Over the past year Social Work Scotland has been involved in detailed, technical discussions about how raising the age of criminal responsibility to 12 will be implemented, ensuring that community safety is preserved and the experiences of victims respected. These discussions have underlined the scale of the challenges involved, and while it is absolutely right that the age of criminal responsibility be raised, it must be done so in such a way as to allow professionals and systems to adapt appropriately, shifting to a youth support (rather than a youth justice) model. The Bill should mark a fundamental shift in how we support all children and young people who display harmful behaviour, but where steps towards that goal are taken incrementally, sensitive to the fact that we must get systems and practice right. In this vein, we are supportive of the proposed amendment (No. 145) to review the age of criminal responsibility within three years of commencement of section 1, with a view to raising the age beyond 12 if sufficient progress has been made. We note the intention to reconvene the Advisory Group as a potential vehicle for taking forward the review, and would stress the need for social work partners to be consulted on its scope.

With respect to the proposed timescales for implementation of the Bill, Social Work Scotland is supportive of the proposed timescales to enact sections referring to disclosure of information (Part 2) and victim information (Part 3), insofar as this does not impact on police powers concerns. From a social work perspective, these changes are likely to have limited impact on service delivery and will provide welcome clarity around victim's right to information, as well as strengthening the protections for adults who may be the subject of information disclosed regarding their behaviour before reaching the age of 12. We would stress, however, that in order for implementation of these sections to be successful, strong public messaging will be required to ensure that both communities and professionals are aware of the expected impact of the changes.

Regrettably, we do not find the proposed timescales for the implementation of police powers (Part 4) to be achievable. Indeed we are particularly concerned that a proposed amendment to the Bill would see changes to police powers enacted immediately post Royal Assent; we believe that to do this without careful planning would create significant risk for children and young people. Our assessment is based on three key areas of concern regarding the interface between police and social work services, underlining the need for the development of statutory guidance, relevant training, and consideration of resourcing prior to national implementation:

- 1) The **role of police colleagues in relation to children who display behaviour considered below the threshold of a harmful behaviour investigation** under this Bill. It is our understanding that work has not yet been undertaken to determine what role the police have following initial investigation of a lower level crime involving a child under 12. In addition, there is a need to consider with wider partners, and in line with GIRFEC pathways, how any support should be co-ordinated; rather than simply assuming an extension of existing early and effective intervention (EEI) arrangements. If these matters are not resolved (through clear guidance and implementation support) there is a danger that default positions are adopted.
- 2) The use of **place of safety**. We welcome the Scottish Government's intention to provide guidance in relation to this power, but again note that this work has not yet begun. Identifying and agreeing upon a place of safety for a child is a challenging and complex issue which requires a full understanding of that child's circumstances, and decisions of this nature have to be taken on a case-by-case basis. The guidance which is developed will need to identify principles and informed by current practice experience. For example, we would not want to see children accommodated for purely procedural reasons. The process of developing such guidance will demand time, and the implementation timescales should reflect this.
- 3) The **harmful behaviour investigative interview**. It is our view that significant work requires to be undertaken to address police concerns regarding the number of children who potentially meet the criteria. This risks subjecting more children to formal investigation than occurs at present. A measured, stepped approach to implementing such changes is therefore needed.

Those aspects of the Bill which require significant co-operation between police and social work services (e.g. place of safety and investigative interview) will require more time to implement, allowing for the development of statutory guidance and training. We draw attention to the ongoing revision of related child protection Joint Investigative Interview training, which has taken nearly two years to develop, with three seconded police officers and three social workers working exclusively on the project; with national implementation of the new practice still some way off. Whilst it is not necessarily the case that the training required to facilitate the changes required by this Bill will demand the same length of time, the example provides a sense of both the time and resourcing involved. Indeed, we note that the proposed timescales do not include time taken to

draft and consult on statutory guidance, which would remain the responsibility of the Scottish Government. Overall, therefore, we do not believe that these aspects of the Bill could be delivered within nine months of Royal Assent.

Raising the age of criminal responsibility is very much welcomed by social work, and there is a professional will to make this happen. However, we cannot align ourselves with proposed timescales that may increase risk to children, young people and their communities, and we urge consideration that such changes are informed and proportionate. Careful planning at this juncture will lay the foundation for successful and swift implementation, and bring closer the time when we can raise the age of criminal responsibility beyond 12.

We would of course be happy to expand on any aspect further. To do so, please contact in the first instance:

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