

Position Statement by Social Work Scotland:

Children aged between 15 and 17 in the Children's Hearings System

Social Work Scotland is committed to advancing the 'whole system approach' (WSA) which is underpinned by the principles of [Getting It Right For Every Child](#), [UNCRC](#) and [Child Friendly Justice](#) which view all under 18s as children. This multi-agency approach promotes streamlined and consistent planning, assessment and decision-making processes for children involved in offending behaviour to ensure they receive the right service at the right time or no service where this has been assessed as being in their best interests (minimum intervention). The ethos of WSA centres on [prevention and diverting](#) children from formal systems such as the Children's Hearing System (CHS) and the criminal justice system as far as possible. Further information is available from the [Centre for Youth and Criminal Justice](#).

Research and case practice evidence clearly indicates that children between the ages of [15 and 17](#) years often present with a complex array of issues often compounded by experiences of [adverse childhood experiences](#). This is a significant period of change in their [brain development](#) as they transition into young adulthood and navigate the practical challenges that this brings, which coincide with issues around identity, relationships, maturity and confidence.

Children at Court: consideration should always be given to remitting a child up to age 17.5 years¹ from court to the children's hearings system for advice and disposal where their wider welfare and family needs can be taken into account. If the advice of a children's hearing is an option for the court, the report author should always consider this².

Alternatives to custody must be considered in each case: the report writer and court social worker should ensure that alternatives to custody are understood and explored within the relevant local authority. These options should always be detailed as a priority within all reports to aid decisions making. Where a case is remitted, there should be a clear plan provided as to what interventions can be undertaken.

¹ [Criminal Procedure \(Scotland\) Act 1995 s.49](#)

² [National Standards and Outcomes for Social Work Services in the Criminal Justice System Criminal Justice Social Work Reports and Court Based Services Practice Guidance 2010](#)

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Children should continue to be supported on a compulsory supervision order between the ages of 16 and 18 years, when this is in their best interests: Social Work Scotland is committed to the principle of ensuring that children remain subject to a CSO beyond aged 16 (and up to age 18) when this is appropriate and justified. It is **not appropriate to base a recommendation of termination of a CSO** solely on the following:

- **If the child has outstanding offences.** This will likely lead to them being fast tracked into the criminal justice system and often into the prison system.
- **On the basis of the age of the child** (unless approaching 18 years) in line with current legislation and the United Nations Convention on the Rights of the Child (UNCRC).
- **Because of failure to engage with services** assessed as necessary for the child's safety and wellbeing. Difficulties in sustaining positive engagement with the child and their family can identify increased risk and vulnerability and due regard should be given to ensuring the continued support and protection of childcare legislation rather than a reason for termination.
- **When the child is in the criminal justice system or has been sentenced to detention maintaining CSO ensures their legal position as a child**, which can provide the additional support they require. We would wish courts requesting the advice of a hearing prior to disposing of the case and considering the option of remittal back to the CHS for disposal in all cases. Remaining on a CSO holds their position as a child and responses to their needs within a system, developmental and trauma informed lens.

Alternative services to secure care should be robust. [The Children's Hearings \(Scotland\) Act 2011](#) (s.83) requires the consideration of alternatives before a secure care authorisation is made which may include a Movement Restriction Condition ([MRC](#)). It is vital that panel members are provided with clear care plans that detail the strategies and supports in place to reduce the likelihood of further harmful behaviour, responses to changes in levels of harm and contingency plans informed through a child focussed lens to ensure that a secure care recommendation is only made when it is the most appropriate and proportionate option.

Ends

For more information or advice, please email admin@socialworkscotland.org