



Children (Care and Justice) (Scotland) Bill

Stage 3 Briefing

Summary

- Children 1st support the Children (Care and Justice) (Scotland) Bill, the intention to raise the age of referral to children's hearing system and to end the imprisonment of children and young people in Scotland.
- Throughout this Bill, we have made the case that it is possible to do better by both children whose actions may harm others, and children who are harmed themselves. Children's rights must be at the heart of this work.
- We do feel that there needs to be better support for victims and witnesses when their case is referred to the hearing system, in terms of information sharing and connections to support services, and have made this point throughout the Bill.
- Further work is needed, as part of both the implementation of this Bill and the planning for the Hearing System Redesign, to make sure the children's hearing system is in the best position possible to help children receive the right care, protection, and support. That needs to involve research and consultation with children, young people and their families.

Children 1st support the Children (Care and Justice) (Scotland) Bill, and the extension of the children's hearing system.

- Raising the age of referral to children's hearings is an important next step towards keeping the Promise.
- Extending the children's hearing system is in line with the principles of the UNCRC, including General Comment 24 and the Council of Europe Guidelines on Child-friendly Justice.
- It is also in line with our understanding of trauma, risk taking behaviours and the significant gaps in respecting and upholding the justice, care, protection and recovery rights of 16- and 17-year-olds.
- **We therefore would not support amendments that go counter to the purpose of the Bill, including all amendments in Group 2, and Amendment 2.**

Throughout this Bill, we have made the case that it is possible to do better by both children whose actions may harm others, and children who are harmed themselves. Children's rights must be at the heart of this work.

- In our [written evidence](#) at Stage 1, we said "too many conversations around justice in Scotland are framed as an "either/or" scenario – that is, a system that either protects the rights of a person who has offended or the person who has been harmed." We urged the Committee and the

parliament to avoid this type of framing, and instead to support ways to better protect, support and uphold the rights of all children.

- At Stage 2, we reinforced this point, and wrote to the Education Committee with the support of Scottish Women's Aid, Aberlour, Barnardos and Action for Children where we made clear that with the UNCRC (Incorporation) (Scotland) Act 2024 soon to be in force, there is more reason than ever for the Scottish Parliament and the Scottish Government to take steps to make sure children's human rights are reflected in legislation that it passes.
- **We would support amendments that embed children's rights in the hearing system, including amendments 43, 45, 47, 63, 64, 65, 66 and 67 in the name of Martin Whitfield.**
- **We are not clear about the Scottish Government's amendments 34 and 36, which seem significant changes that could undermine sections of the UNCRC (Incorporation) (S) Act.**

We do feel that there needs to be better support for victims and witnesses when their case is referred to the hearing system, and have made this point throughout the Bill.

- This is a point we would reiterate. The Hearings for Children report said:

"It is vital that there is public and professional confidence in the Children's Hearings System as the most appropriate route for children remitted to a Hearing. This includes confidence in the competence and processes of the Children's Hearings System and in the qualities and skills of decision makers within the system. It should not be seen as a 'soft touch' approach, but rather the most appropriate way to safeguard children, uphold all children's rights, and the rights of any victims involved, and to consider any unmet welfare and wellbeing needs that may result in offending behaviour."

- There's often a lack of clear information about how and why decisions are taken, and support through this. This causes stress and anxiety and can make things like going to school or managing emotions more difficult. The Bill makes some improvements, but we think this should be more fully addressed in the Hearing System Redesign work that's planned over the next year.
- Information sharing can have a powerful role to play in child protection, recovery and rehabilitation, ensuring that children and young people feel listened to, and that their views are being taken seriously. This is what they are entitled to under Article 13 of the UNCRC.
- People need a clear explanation of a complex system. Good information sharing and communication can also help to alleviate many of the anxieties that come with involvement in care, protection or justice systems. Not getting clear information next can lead to anxiety, distrust and an undermining of the effectiveness of the system.

- Better information sharing does not need to stray into sensitive details that would be inappropriate to share. There is a lack of access to clear, basic information about the system and how and why decisions are taken within it, what the timeframes are for cases to be processed and what this might mean for those involved. Too often people are left to look for this themselves.
- It is important that sharing information in and around a hearing is not seen as an administrative task but as an opportunity to help guide those who have been harmed towards meaningful recovery. This means it should be guided by open and transparent trauma-informed protocol, by people who are trained to engage with those who have experienced harm and with the time and capacity to undertake this work.
- **We're supportive of amendments 3, 4, 5, 6 and 7 in the name of Willie Rennie, which amend the information sharing processes proposed at Stage 2.**
- **We are also supportive of amendments 8 – 22 which would introduce new regulations, though there is a real lack of clarity about what the Scottish Government intend to do with this power. This should be clarified during the Stage 3 debate.**

Further work is needed, as part of implementation and the planning for the Hearing System Redesign, to make sure the children's hearing system is in the best position possible to help children receive the right care, protection, and support.

- We are now working with the Scottish Children's Reporter Administration, Victim Support Scotland and others to support research that will look into this further, so that the experiences of the children and families we support are better understood.
- We want to ensure that the voices and experiences of children and young people, and their families, are at the forefront of the work to implement this Bill and plan the Redesign. Our hope is that this research will lead to more concrete changes in the Hearing System Redesign.
- **We would support amendments that would help increase accountability and awareness, including Ruth Maguire's amendment 84.**
- **We feel that this Bill may not be the best place to make more substantive changes and so feel that amendment 58 in the name of Martin Whitfield and amendment 68 in the name of Russell Findlay would be better made following further research and consultation with those with experience, including children and families.**

If you need any further information about our work, or have any questions about this briefing, please contact Policy Manager, Lily Humphreys at lily.humphreys@children1st.org.uk.