

1. Do you agree that the maximum age of referral to the Reporter should be increased to 18?

- Yes - All cases** Yes - Care and protection cases only Yes - Offence cases only
 No change - The existing age criteria should remain

Please provide reason(s) for your answer.

The Scottish Youth Parliament's *#WhatsYourTake* survey received responses from 287 young people aged 12-25 across Scotland in March 2020. Two questions focusing on the Youth Justice Strategy were asked in our survey. In response to the question 'Currently, not all 16 and 17 year olds are able to be considered through the Children's Hearings System. Should the law be changed to allow all 16 and 17 year-olds to be considered in this system?', **over three quarters of respondents (76.5%) agree that the law should be changed to allow all 16 and 17 year-olds to be considered in the Children's Hearings System.**

Of those who agreed, the majority of comments focused on the age at which a young person is considered to be an adult, and the level of support young people would receive through the Children's Hearings System compared to the adult system:

- 37.9% felt at 16 and 17, you are still considered to be a child.
- 20.7% felt young people aged 16 and 17 will get more support through the Children's Hearings System than they would in the adult system.
- 10.3% felt 16 and 17 year olds should have a voice in the Children's Hearings System.
- 6.9% were concerned young people's rights might not be supported if they aren't allowed to be considered in the Children's Hearings System; the same percentage noted young people's brains aren't full developed until they are 25.

The *#WhatsYourTake* survey also asked 'What do you think the main priorities should be for Scottish Government and other partners to support young people who are involved in offending?' Respondents felt **the Scottish Government and other partners should prioritise mental health (73.9% respondents) and children's rights (48.1% respondents) to support young people who are involved in offending. Support for victims (32.4% respondents) should also be prioritised.**

As one Member of the Scottish Youth Parliament (MSYP) noted: "I find the fact that over 75% of young people in Scotland want the law to be changed to allow all 16 and 17 year-olds to be considered through the Children's Hearings System very interesting and very important... I think it's crucial to get young people involved because they are the key people being affected by this, and many are probably not educated around the children's hearing system as much. I think it's great how much they think it needs to be re-looked at." - Lauren Kelly MSYP, Deputy Convener (Education and Lifelong Learning)

Furthermore, in October 2019, SYP carried out a consultation workshop in partnership with the Scottish Sentencing Council. This workshop was attended by 22 young people, and was called 'Sentencing Young People'. The findings were supported by results of a survey with 817 responses from young people aged 12-25 across Scotland, which found that 66.5% respondents felt the age of continued support should continue beyond 18 years old. In most cases, respondents felt support should be provided up to the age of 21 or to 25. Following [this consultation](#), SYP recommends **"For the purposes of sentencing, anyone under the age of 18 should be considered a young person, and consideration should be given to extending this to 25 in the future."**

2. If the age of referral is increased to 18, are the existing grounds of referral to a Children's Hearing sufficient?

Yes

Please provide reason(s) for your answer.

No policy - we won't respond to this Q

What are the grounds of referral to a children's hearing?

3. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for local authorities, Police and other service providers/organisations?

No policy - we won't respond to this Q

4. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for SCRA (the public body which operates the Reporter service)?

No policy - we won't respond to this Q

5. What are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for Children's Hearings Scotland (the body which operates the national children's panel)?

No policy - we won't respond to this Q

6. If the age of referral to the Reporter was increased, are amendments required to ensure sufficient access to information and support for victims harmed by children?

Yes No

Please provide further details for your answer, including any extensions or amendments you would wish to see.

No policy - we won't respond to this Q

7. If there are any further comments you would like to make, which have not been addressed in the questions above, please use the space below to provide more detail.

We are disappointed to note that this consultation has not asked what the impact of increasing the age of referral to the Reporter would be for young people.

As previously noted, young people who responded to SYP's #WhatsYourTake survey in March 2020 strongly agree that the law should be changed to allow all 16 and 17 year-olds to be considered in the Children's Hearings System. It is clear that young people are concerned about young people's mental health and wellbeing, and the potential impact on young people's rights, by not allowing this age group access to the Children's Hearings System.

The United Nations Convention on the Rights of the Child (UNCRC), which applies to all children up to the age of 18, states 'In all actions concerning children... the best interests of the child shall be a primary consideration.' (UNCRC, Article 3.1). By denying 16 and 17 year-olds access to the Children's Hearings System, it is our view that young people within this age group are being denied access to their rights. Given the Scottish Government's commitment to 'fully and directly incorporate the [UNCRC] into Scots law... before the end of this Parliament' (*Protecting Scotland, Renewing Scotland: The Government's Programme for Scotland 2020-2021*) it is critical that this discrepancy is rectified as soon as possible.

Impact Assessments

Are there any data protection related issues that you feel could arise from the proposals set out in this paper?

Are there any children's rights and wellbeing issues that you feel could arise from the proposals set out in this paper?

Are there any equality related issues that you feel could arise from the proposals set out in this paper?

11 Feb
2020

For the purposes of sentencing, anyone under the age of 18 should be considered a young person, and consideration should be had to extending this to 25 in the future.

Recommendation

Justice -

SYP's findings from 'Sentencing Young People' consultation workshop with the Scottish Sentencing Council at SYP70 [October 2019]

11 Feb
2020 and
also on:
justice
crime
sentence
courts
minimum
age

When sentencing a young person, courts should take into account their addiction issues, any adverse childhood experiences, any experiences of being in care, family background, caring responsibilities, mental health and wellbeing, additional support needs, ethnic background (particularly if the young person is from a BME group), financial circumstances (including work status/experience of poverty), living in areas of deprivation, age and maturity.

Recommendation Justice

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SYP's findings from 'Sentencing Young People' consultation workshop with the Scottish Sentencing Council at SYP70 [October 2019]

11 Feb
2020

A courts' main aim when sentencing a young person should be rehabilitation. The aim of sentencing should also be to support those with mental health or addiction issues or who are homeless.

Recommendation Justice

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SYP's findings from 'Sentencing Young People' consultation workshop with the Scottish Sentencing Council at SYP70 [October 2019]