



**COUNCIL EXECUTIVE**

**SCOTTISH GOVERNMENT CONSULTATION ON MINIMUM AGE OF CRIMINAL RESPONSIBILITY**

**REPORT BY HEAD OF SOCIAL POLICY**

**A. PURPOSE OF REPORT**

The purpose of this report is to inform the Council Executive of the Scottish Government's consultation on the Minimum Age of Criminal Responsibility and the proposed response from West Lothian Council.

**B. RECOMMENDATIONS**

It is recommended that the Council Executive considers the draft response to the consultation by the Scottish Government in relation to the Minimum Age of Criminal Responsibility and agrees that the response is submitted to the Scottish Government.

**C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Focusing on our customers' needs.  Being honest, open and accountable.  Making best use of our resources.  Working in partnership.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	None
<b>III Implications for Scheme of Delegations to Officers</b>	No implications.
<b>IV Impact on performance and performance Indicators</b>	None
<b>V Relevance to Single Outcome Agreement</b>	None
<b>VI Resources - (Financial, Staffing and Property)</b>	None

<b>VII Consideration at PDSP</b>	The report was considered at the Social Policy PDSP on 12 <sup>th</sup> May 2016 when it was agreed that the response be submitted to the Council Executive for approval.
<b>VIII Other consultations</b>	None.

#### **D. TERMS OF REPORT**

##### **Background:**

Over the last decade there has been a general reduction in children referred to the children's hearing system on offence grounds. The recent Scottish Government Youth Justice Strategy; 'Preventing Offending: Getting It Right for Children and Young People' published in June 2015 sets out clear priorities to reduce the number of children in the criminal justice system. It is widely acknowledged that children who are involved in the criminal justice system have poorer life chances and opportunities and have a higher likelihood of offending into adulthood.

The current age of criminal responsibility in Scotland is 8 years. This is the lowest in Europe where the average age of criminal responsible is 14 years. The United Nations Committee on the Rights of the Child has suggested that 12 years old should be regarded as the minimum internationally acceptable age of criminal responsibility. This is also in line with GIRFEC (Getting it Right for Every Child) principles.

The Scottish Government set up an Advisory Group in Autumn 2015 to consider the implications of raising the minimum age of criminal responsibility.

The Advisory Group approached the increase in the age of criminal responsibility to 12 years old from the perspective of not if it should happen but when and how to deliver change in a sustainable and responsible manner. The Advisory Group kept their focus around the following key principles:

- Any changes should give better effect to the UN Convention on the Rights of the Child (UNCRC).
- GIRFEC principles apply for all children – including children demonstrating harmful behaviour and children who are victims of that behaviour.

The key recommendations from the Advisory Group are:

- Raise the minimum age of criminal responsibility from 8 to 12 years, accompanied by safeguards to maintain system cohesion and reinforce victim and public confidence;
- No change is required to current Children's Hearings grounds for referral in anticipation of any MACR change, because one or more of the other existing grounds could be applied.
- Police should continue to be able to investigate incidents, and new procedural safeguards - adapted from child protection rather than criminal justice - should support children and families through that process;
- Where children under 12 display harmful behaviour the focus should be on care, protection and wellbeing to address risk as part of a GIRFEC approach;
- Non-conviction information relating to harmful behaviour involving children under 12 can be disclosed in exceptional circumstances, subject to

- independent ratification; and
- Any changes should not adversely affect victims' rights. If needed, new provisions should be created for people harmed by children, including other children.

The full report of the Advisory Group on the Minimum Age of Criminal Responsibility is detailed in Appendix 1.

### **Draft West Lothian Council Response.**

The consultation seeks responses and views under 4 main themes:

- Care, Protection and Risk
- The Role of the Police
- Children's Hearings System
- Disclosure

The draft response supports the principle of raising the minimum age of criminal responsibility to 12 years. This complies with international norms. Many children who are involved in criminal behaviour tend to already be vulnerable and have experienced some form of trauma. They are also developmentally less mature than their counterparts who have had a better start in life. Criminal convictions which are carried through into adulthood is likely to seriously impact on their life chances and opportunities and is likely to lead to further offending into adulthood.

Further points relating to West Lothian's response are outlined in the draft response detailed in Appendix 2.

## **E. CONCLUSION**

The age of criminal responsibility is a significant and complex policy area, which raises sensitivities due to the potential for rare, serious cases involving young children. Dealing with offending behaviour effectively and supporting children and young people to move on is the best way of reducing reoffending and minimising the number of future victims.

## **F. BACKGROUND REFERENCES**

### **Appendices/Attachments:**

Appendix 1:	The Report of the Advisory Group on the Minimum Age of Criminal Responsibility
Appendix 2	2016 Scottish Government Consultation – West Lothian response – Minimum Age of Criminal Responsibility

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Date: 7<sup>th</sup> June 2016