

ANGUS COUNCIL

CHILDREN AND LEARNING COMMITTEE 1 JUNE 2023

CHILDREN (CARE AND JUSTICE) (SCOTLAND) BILL

REPORT BY KATHRYN LINDSAY, DIRECTOR OF CHILDREN, FAMILIES AND JUSTICE

ABSTRACT

This report provides information to members about services in the Children, Families and Justice Directorate, albeit that a decision is not required in terms of the current Scheme of Delegation to Officers and the Order of Reference of Committees.

1. BACKGROUND

The Children (Care and Justice) (Scotland) Bill was introduced on 13 December 2022. The Scottish Parliament has agreed that consideration of the Bill at stage 1 should be completed by 23 June 2023. The Bill makes changes to the law in relation to the care of children and the involvement of children in the criminal justice system. The changes relate to the Children's Hearing system and several parts of the criminal justice system. This includes courts that hear cases relating to children and the places where children can be detained.

The UN Convention on the Rights of Children (UNHRC) states that all people under 18 are children. The Promise advocated maximising use of the Children's Hearing system and ending the detention of children in Young Offenders Institutions.

This report provides information to members about the proposed changes to current legislation contained in the bill and the potential consequences for the Children, Families and Justice Directorate (CFJ). Consultation on the Bill closed in March 2023.

2. SIGNIFICANT INFORMATION – SCHEDULES

The Bill has four main parts:

The first part proposes a change to the definition of 'child' in the children's hearing system from someone under sixteen to someone under eighteen. This part also makes some other changes which include offering more guidance when children turn eighteen. This part of the Bill would increase demand upon the Children, Families and Justice Directorate and consideration will be required as to where resources will best be deployed.

The financial memorandum accompanying the Bill includes some consideration of the additional resource required however at this stage it is difficult to say how realistic this is given the complexities and presenting issues of this age group (16 to 18 year olds). This is the part of the Bill which is likely to have the biggest impact upon resources, specifically workforce capacity, if passed.

The second part proposes changes to criminal procedure as it applies to children, including the kind of accommodation and safeguarding that is used. This includes stopping children under eighteen from going to a young offenders institution or prison. It adds restrictions on what information can be reported in the media about a child suspected of a crime. It also makes changes to court and custody arrangements for children.

This part of the Bill means that children would no longer be placed in Young Offender Institutions and that if required, Secure Units will be used. It also places restrictions on the reporting of Court processes in cases involving children as well as changes to Police and Court processes reflecting that those under the age of eighteen will be dealt with as children.

The third part of the Bill proposes changes relating to the regulation of secure accommodation and how it is used and regulatory requirements around Scottish care placements for children from other parts of the UK.

Currently there are a number of children and young people from other parts of the UK placed in Scottish-based residential and Secure Care placements, the Bill would place additional requirements on placing authorities, as well as addressing matters relating to the transferability of Court Orders from other parts of the UK.

The fourth part of the Bill is about anti-social behaviour orders, named persons and child's plans. The impact would be that anti-social behaviour orders could be applied to those under the age of eighteen, and Movement Restriction Conditions may be used as part of a Supervision Order issued by the Children's Hearing. The planning and management of any such Orders issued by the Children's Hearing is likely to have significant resource implications for the Children, Families and Justice Directorate.

The Bill would also repeal the requirement for every child to have a named person as well as the requirement for a Child's Plan to be in place where a child's wellbeing requires a targeted intervention.

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