

include YOUTH

**Include Youth written submission to the Northern Ireland
Assembly Committee for Justice in relation to the Justice
Bill (NIA Bill 07/22-27)**

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Include Youth is a rights-based charity for children and young people in or leaving care, from disadvantaged communities, or whose rights are not being met. We work to improve their employability, personal and social development enhancing inclusion, integration and good relations. We work with over 800 young people a year aged between 14-25. Our main offices are in Belfast, Armagh, Ballymena, Derry, Enniskillen, Lisburn and Omagh. We also have offices in Tallaght and Cavan, where our Give and Take programme is being delivered in association with TUSLA

The young people we work with and for include those from socially disadvantaged areas, those who have had poor educational experiences, those from a care background, unaccompanied asylum seeking children and young people, young people with mental health issues, young people who have come into contact or are at risk of coming into contact with the justice system, misusing drugs and/or alcohol, at risk or experience of Child Criminal Exploitation/Child Sexual Exploitation. We provide a range of tailored employability programmes for these young people, including programmes delivered in partnership with community-based organisations.

One of our programmes, the Give & Take Scheme, adopts a youth work approach to improving the employability and increasing the self-esteem and confidence of young people aged 16 to 24 who are not yet ready to participate in mainstream training. We work across a number of sites and a number of outreach locations. The core components are personal development, mentoring, training, work experience, essential skills and transitional support.

The Give and Scheme also provides a One to One specialist programme for young people who have experienced or are at risk of experiencing Child Sexual Exploitation (CSE).

Include Youth also delivers an Employability Service on behalf of two of the five Health Trusts for young people aged 16 + who have had experience of the care system. This service is designed to offer tangible and concrete opportunities to assist young people leaving care to prepare for and engage in work.

Strive is a cross community, cross cultural, and cross border programme that engages young people aged 14-24 in good relations, person development and citizenship. We deliver this with our partners Newstart Educational Centre, Northern Ireland Alternatives, Youth Initiatives and Lifford/Clonleigh Resource Centre.

Include Youth also engages in policy advocacy work in a range of areas including employability, youth justice and policing. This work is informed by relevant international human rights and children's rights standards, is evidence based, including that

provided by young people and practitioners and is based on high quality, critical analysis.

We have particular expertise in accessing the views of children and have a long history of amplifying the voices of children in contact with justice and policing. Our participation work has enabled decision makers and relevant stakeholders to access the views and experiences of young people in a number of areas including restorative justice, effective diversion, experiences of policing, reduction of offending and reoffending, age of criminal responsibility, early intervention and the impact of paramilitarism. We have previously conducted participation work with young people on how they believe wider societal issues can be addressed to prevent children from ever entering the justice system.

General Comments

Include Youth welcome the opportunity to submit written evidence to the Committee for Justice, in advance of our attendance at Committee on the 26th June 2025. As an organisation with over 40 years experience of supporting children and young people and providing direct services to improve the life chances of those who are experiencing multiple barriers, we are keen to share our learning and insight on the content of the Bill which we believe will most impact some of the young people we support.

Many of the young people involved in our programmes are at risk of entering the criminal justice system or have had experience of the system. Our Give and Take Core programme, is made up of young people with experience of the care system, who have been referred to us by Health Trusts. We know that young people in care or disproportionately more likely to come into contact with the justice system than their non care experienced counterparts. We have long called for action to address the criminalisation of care experienced children and young people.

Care and Criminalisation

It is our experience that children and young people who have become involved in the criminal justice system have complex needs and experience multiple layers of trauma. This is especially true for care experienced young people. Criminalising children will not address the root causes of offending behaviour. Rather we promote an approach focussed on early intervention, prevention and diversion out of the justice system, alongside tailored community based support which will address challenging behaviour.

Approximately 60% of our young people on the Give and Take Scheme are at risk of offending or have offended. Our one-to-one specialist programme which supports

children at risk of or with experience of CSE/ CCE directly addresses the particularly vulnerable and complex needs of some young people with a care experienced background. This unique specialist one-to-one service focuses on developing and improving protective factors for young people (aged 14+) who have experienced or are at risk of CSE. The programme consists of 5 key elements: training, personal development, one-to-one mentoring, work experience, and transitions. All referrals come from Social Services.

Being in care is a major risk factor for CSE, and many of our young people on the One to One programme having experienced trauma, abuse, or neglect. Survivors of CSE often outwardly display challenging, offending and/or risk-taking behaviour, resulting in them being excluded from mainstream provision, however this risk-taking behaviour is often a key indicator of abuse and/or past trauma. Young people are often reluctant to disclose sexual exploitation due to fear of perpetrators, loyalty to perpetrators, lack of knowledge or acceptance that they are being abused (often the case in peer-on-peer CSE), or lack of trust and fear of authorities.

There is no shortage of research linking the higher risks of young people living with poverty, mental ill health, having experience of being in care or experiencing neglect/abuse, misusing drugs or alcohol, and having learning and behavioural difficulties, coming into contact with the criminal justice system.¹ It is often children who are in greatest social need and have experienced trauma that are swept up by youth justice systems.² It is exactly this cohort of children and young people who Include Youth work with, young people who have already experienced considerable trauma on their young lives.

The recently published Queen's University Belfast research on Prevalence and Impact of Childhood Adverse Childhood Experiences (ACEs) reveals that those with childhood ACEs are 8 times more likely to have been arrested than those with no ACEs. Include Youth's work seeks to break this cycle through trauma informed, strength based personal development support alongside improving education, training and employment opportunities.³

¹ Howard League for Penal Reform, (2011), 'Response to Breaking the Cycle: Effective Punishment, rehabilitation and sentencing of offenders', London: The Howard League for Penal Reform: Prison Reform Trust, (2009), 'Seen and Heard', supporting vulnerable children in the youth justice system'.

² Barry Goldson (2013) Unjust, Unsafe and Harmful to Wider Society, Grounds for Raising the Minimum Age of Criminal Responsibility in England and, Youth Justice Series 2013 13:111;

³ [Impact of Adverse Childhood Experiences - Tagged.pdf](#) C.Walsh et al, 2025, The Prevalence and Impact of Adverse Childhood Experiences in Northern Ireland, QUB.

Children in care are particularly over-represented in figures of children in custody in Northern Ireland. Of the children in custody during 2023/2024, 43.3% were in care. ⁴ Figures obtained from the Youth Justice Agency (YJA), show that approximately 30% of referrals to YJA Community Services in 2023/2024 were for care experienced young people.

In recent Department of Justice funded research on over-representation in the youth justice system in NI, the authors drew attention to the multiple disadvantages and vulnerabilities that the majority of children who come into contact with the justice system have. These included economic disadvantage, under-resourced communities, conflict legacy, parenting stress, educational disadvantage, and family involvement in the criminal justice system. ⁵

The authors state:

Therefore, discussion with representatives across sectors regularly illustrated the complexity of the lives of those who come into contact with the criminal justice system, particularly those who have multiple or sustained system contact. The compounding nature of disadvantage experienced by some children...children with care experiences, children from the Travelling community and migrant or refugee children, some felt, put them at increased risk of criminal justice contact. ⁵

The report draws attention to the criminalisation of children in residential care, with nearly all participants acknowledging that care status influenced responses to children's behaviour, particularly children living in children's homes, with police being called to care homes for minor offences or incidents that would not result in the same action in a family/parenting setting.

Include Youth remain deeply concerned about the numbers of care experienced young people who are currently entering the justice system, even if is just the fringes of the system. We know that many of the young people we support in our programme are experiencing trauma and are presenting to us with increasingly complex needs. Our wrap around, trauma informed and strength based approach succeeds in providing young people at risk with the skills, tools and practical supports they need to achieve a full life which sees them reaching their potential. Our programme provides purpose and stability to lives which are often chaotic and at risk of going down destructive pathways. The young people we support are often those who are more

⁴ Youth Justice Agency Annual Workload Statistics 2023/2024

⁵ McAlister, S., McNamee, C., Corr, M., Butler, M., Over-Representation in the Youth Justice System in Northern Ireland, QUB, DoJ, March 2022, p34,35.

likely to come into contact with the justice system, who have fallen away from mainstream education, and who face the greatest barriers to integration into communities. We are calling for a system which better understands the realities of these young people's lives and one which is not quick to criminalise.

Children's Rights

In our approach to and analysis of the impact of the proposed legislation Include Youth is guided by and founded in international children's rights standards, as set out in the United Nations Convention on the Rights of the Child⁶, which the UK government ratified in 1991. These standards set out the minimum basic human rights which children are entitled to and are a guide for all countries in terms of how they treat children.

We would recommend that the Committee draw on the standards and principles contained within the UNCRC, the associated Statements and Concluding Observations and relevant General Comments when scrutinising this Bill. ⁷ General Comment No.24 on children's rights in the justice system is of particular relevance. ⁸

Specific Comments

We will firstly make comments on Part One and Part Two of the Bill and then move on to areas which we believe should be included as amendments.

We support the Committee's intention to speak to children and young people about the content of the Bill and look forward to the planned youth engagement event.

We have also included in our written submission an overview of some recent consultation sessions we conducted with young people from Include Youth on the content of the Bill, as well as previous sessions we conducted in 2022 to inform our response to the Department of Justice consultation on proposals to increase the age of criminal responsibility.

⁶ United Nations Convention on the Rights of the Child (1989)

⁷ [Convention on the Rights of the Child | OHCHR](#); [Concluding observations on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland :](#)

⁸ [General comment No. 24 \(2019\) on children's rights in the child justice system | OHCHR](#)

Part One: Biometrics

While we support the move away from retaining data for an indefinite period, we are concerned that for young people under the age of 18, data can be retained for a period of 5 years following the commission of a first non-serious minor offence and 25 years for a second non serious minor offence.

It is also worrying that fingerprints and DNA of children can be retained without charge or conviction.

We are also not supportive of retention of data for children who have received a diversionary disposal – it is our understanding that the proposal is to retain biometrics data of a child who has been given a diversionary disposal.

We note that while there are a number of alterations and safeguards within the Bill for children convicted of an offence, we still believe that the proposals within the Bill are not child's rights compliant. They do not align with the principles of international children's rights standards such as the UNCRC Article 40 which clearly state that children should be treated differently and that all attempts should be made to prevent stigmatisation, to not label them but to rather afford every opportunity for children to reintegrate.

Part Two: Bail, Remand and Custody of Children

We welcome the intention to strengthen the existing presumption of bail for children.

International children's rights standards support the practice of a presumption in favour of bail.

In relation to decisions on granting bail we agree that a child's age, maturity, needs and capacity to understand and comply with any conditions of bail should be taken into account – we would like to see the vulnerabilities of the child also being considered – this is especially the case for care experienced young people. Care experienced young people should not be more at risk of having bail refused because of their care status and particular circumstances.

Include Youth have long called for custody only being used as a measure of last resort and for the shortest time possible – that is something we have repeatedly stated as not happening in practice.

Include Youth has repeatedly called for the full implementation of the recommendations of the Youth Justice Review, including those relating to bail, remand and the use of custody (Recommendations 8, 9, 18 and 19).

Recommendation 9d calls for the *strict adherence to the statutory presumption of bail supported by the availability of an appropriate mix of suitable accommodation*.

Recommendation 19 states that *looked after children should not be placed in custody either through PACE, remand or sentenced, where this would not have been an outcome for children in the general population*.

14 years since these recommendations were made and still they have not been achieved.

We remain of the view that custody is not currently being used as a measure of last resort. The proportion of young people admitted to custody with experience of the care system remains high and calls into question whether custody is truly being used as a last resort for these young people.

We were disappointed that changes to the legislation governing bail and remand for children were not brought forward in the previous mandate so we are encouraged to see that these matters are now included within this proposed legislation.

We therefore support amendments to existing legislation to prevent children being detained in custody and being refused bail because of a lack of suitable accommodation. IY have been concerned for some time that children are detained in custody because of a lack of suitable accommodation.

The Youth Justice Agency states that the proportion of individual young people involved with custodial services that were looked after increased to 43.3% in 2023/2024, representing the highest rate in the last five years. The proportion of admissions to the Woodlands Juvenile Justice Centre (JJC) involving children subject to care orders or in voluntary accommodation increased by eight percentage points in 2023/2024 to 58.4% from 50.4%. The proportion of movements within the JJC attributed to looked after children increased by seven percentage points to 56.1% in 2023/2024.⁹

We have repeatedly called for action to address the over representation of young people from the care system within the criminal justice system in Northern Ireland and

⁹ Youth Justice Agency Annual Workload Statistics 2023/2024.

in particular within a custodial setting. Contact with the justice system for young people in residential care is an issue of particular concern. Despite the fact that 14 years ago an independent team of experts commissioned by the Department of Justice to carry out a review of Youth Justice in NI, highlighted the significant over representation of looked after children in Woodland Juvenile Justice detention centre as a pressing problem, latest figures suggest little improvement.

This view was further cemented by the findings of the 2021 ‘Tracing the Review’ report¹⁰, which stated that the overuse of remand and the placement of children into custody under PACE provisions remains an issue of concern and indeed had become more acute. The report notes that respondents who took part in the Tracing the Review research expressed frustration that these aspects of the 2011 Youth Justice Review had not been sufficiently advanced.

The ‘Tracing the Review’ research report revealed the continued concerns that the children’s sector representatives had about the numbers of care experienced young people detained in custody and not sentenced. Respondents in the research were frustrated by the lack of progress in reducing the numbers of care experienced young people being placed in custody due to lack of alternative and suitable accommodation.

Furthermore, the evidence submitted by NGOs to the United Nations Committee on the Rights of the Child in advance of the latest examination of the UK Government’s implementation of the United Nations Convention on the Rights of the Child stated that:

Inappropriate use of remand is a long-standing issue, particularly as the majority of those on remand are subsequently bailed and do not go on to serve a custodial sentence. Some young people are held on remand because they have breached unachievable bail conditions or are unable to perfect bail due to being homeless, despite Social Services’ responsibility to assess and provide such young people with suitable accommodation.¹¹

It is unacceptable that children in care are unable to perfect bail because of a lack of suitable accommodation.

We must stress the totally unacceptable situation, which has been the case for too many years, where children who are under the care of Health and Social Care Trusts are deemed as ‘homeless’ when it is clear that the Trusts have a statutory obligation to ensure these children have accommodation.

¹⁰ Tracing the Review: Developments in Youth Justice in Northern Ireland 2011-2021, May 2021, Nicola Carr and Siobhan McAlister, commissioned by Include Youth, NIACRO, Children’s Law Centre and NIACRO.

¹¹ [Northern Ireland NGO Stakeholder Report 2 - Dec 2022 \(3\).pdf](#)

It is clear, given the continued inappropriate detention of extremely vulnerable young people and the over-representation of looked after children in the youth justice system, that detention is not being used as a measure of last resort and that the recommendations of the Youth Justice Review in this regard have not been implemented.

We are concerned that the accommodation considerations included in Clause 8 will not come to fruition in practice. Assembly Justice Committee members have already heard evidence from DoJ officials on this issue and the impact that the current lack of available and appropriate accommodation will have on the ability to commence this provision.

Include Youth are not supportive of the intention to not commence this Clause.

It is imperative that children in care are not detained in custody, refused bail or are not able to perfect bail because of lack of suitable accommodation.

The sustained issue of lack of appropriate accommodation options is resulting in children being placed in Woodlands Juvenile Justice Centre.

Children should not be held in Woodlands when they have been granted bail.

The onus should be on duty bearers to provide suitable accommodation.

Woodlands was not intended as a holding centre for children who have no other accommodation to go to.

This has been an ongoing breach of children's rights.

The Bill provides an opportunity for the Committee to ensure that this breach is addressed and that action is finally taken to provide suitable accommodation.

We believe that there could be better co-operation between Departments to ensure that no child is ever held in custody unnecessarily. There is a clear need for community-based accommodation options.

We recommend better use of the Children's Services Co-operation Act (NI) 2015 which provides for the pooling of resources between Departments.

We also believe that the recommendations from the Prof Ray Jones Independent Review of Children's Social Care Services are relevant to this discussion. Prof Jones saw a clear need for a dedicated regional children's organisation – a body dedicated to children's services which would remove inconsistent and fractured services and approaches that we see today. We support that recommendation and believe that if

implemented it would result in better responses to extremely vulnerable children caught between the care and justice systems.

Possible Amendments

Minimum Age of Criminal Responsibility

Include Youth have been calling for an increase in the minimum age of criminal responsibility for many years.

NI's low age of 10 is starkly in breach of international children's rights standards and on a global stage is embarrassingly low.

We have one of the lowest ages of criminal responsibility in the world and one of the lowest in Europe. The worldwide trend is to raise the age, generally to at least 14.¹²

There are a number of reasons why we believe the minimum age of criminal responsibility should be raised to 16 years.

Profile of children in the system:

It is not a good reflection on how we respond to children who are themselves often victims and are displaying behaviours which are often a result of trauma, complex needs and adverse childhood experiences. There is an abundance of scientific research regarding the high rates of complex needs of young people in the justice system. As earlier stated, certain children are overrepresented in the justice system, those with mental health issues, learning and speech difficulties, care experienced, experience of neglect and abuse, misuse of drugs and alcohol, learning and behavioural difficulties.

International children rights standards:

The United Nations Committee on the Rights of the Child has repeatedly called out countries with low ages of criminal responsibility - calling for them to increase the age to at least 14 and commending those countries who have gone to 15 or 16 years of age.

There have also been calls for an increase in the minimum age of criminal responsibility in England and Wales and calls for the UK government to fall in line with international

¹² 3 Hazel, N (2008) 'Cross national comparison of youth justice, London: Youth Justice Board and Howard League for Penal Reform (2008) Punishing Children: a survey of criminal responsibility and approaches across Europe', London: Howard League.

standards. A number of Parliamentarians, academics, NGOs and civil society have made a strong case for change. Lord Dholakia has repeatedly introduced bills into the House of Lords aimed at raising the age.¹³ Lord Thomas of Cwmgiedd, the former Lord Chief Justice of England and Wales has also called for an increase stating:

*There are better ways to deal with children than criminalising them. The current age of criminal responsibility is too young. It does not comply with the United Nations Convention on the Rights of the Child.*¹⁴

As the Tracing the Review authors, referring to the need to increase the MACR stated:

This issue cannot, however, be sidelined or softened. The NI Executive have a duty to comply with UNCRC obligations. (p 28)

The United Nation's Committee on the Rights of the Child recommendation that the minimum age of criminal responsibility should be 16 years is based on extensive global evidence on the harm having a low age of criminal responsibility has,¹⁵ the ineffectiveness of such an approach and on the improved understanding of child and adolescent development.

*'States parties are encouraged to take note of recent scientific findings, and to increase their minimum age accordingly, to at least 14 years of age. Moreover, the developmental and neuroscience evidence indicates that adolescent brains continue to mature even beyond the teenage years, affecting certain kinds of decision-making. Therefore, the Committee commends States parties that have a higher minimum age, for instance 15 or 16 years of age.'*¹⁶

In General Comment No.24, the UN Committee on the Rights of the Child also recommend that there should be one minimum age only.

'Systems with two minimum ages: Several States parties apply two minimum ages of criminal responsibility (for example, 7 and 14 years), with a presumption that a child who is at or above the lower age but below the higher age lacks criminal responsibility unless sufficient maturity is demonstrated. Initially devised as a protective system, it has not proved so in practice. Although there is some support for the idea of

¹³Brown, A. and Charles, A. (2021), Minimum Age of Criminal Responsibility: The Need for a Holistic Approach, Youth Justice, 2021, Vol.21 (2), 153-171

¹⁴ The Guardian, Monday 4th November, 2019, Age of Criminal Responsibility Must be Raised Says Experts

¹⁵ UN Committee on the Rights of the Child, (2008), Concluding Observations: United Kingdom of Great Britain and Northern Ireland, Geneva: United Nations, paragraph 78; UN Committee on the Rights of the Child (2016), Concluding Observations: United Kingdom of Great Britain and Northern Ireland, Geneva: United Nations; UN Committee on the Rights of the Child (2010) General Comment No. 24 on Children's Rights in Juvenile Justice, United Nations; UN Committee on the Rights of the Child, Concluding Observations on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland, p20.

¹⁶ UNCRC, 2019, General Comment No.24 on children's rights in the justice system

individualized assessment of criminal responsibility, the Committee has observed that this leaves much to the discretion of the court and results in discriminatory practices. States are urged to set one appropriate minimum age and to ensure that such legal reform does not result in a retrogressive position regarding the minimum age of criminal responsibility.

Scientific evidence on child development:

One of the key reasons the UNCRC Committee has made this call and has doubled down on the need to increase the age is the recent and ever growing body of research on adolescent brain development – namely that children under 16 do not have the cognitive ability to fully understand the consequences of actions, demonstrate impulse control or to understand legal proceedings.¹⁷

Evidence also suggests that children who have experienced trauma, abuse or neglect are particularly poorly developed in the required capacities for criminal responsibility and are more likely to come into conflict with the law. The science is showing us that we need a different approach for children.

Voices who are aware of this field of neuroscience and who are experts in child development and child psychiatry are backing calls for an increase.

As Dr Phil Anderson, NI Consultant Psychiatrist in Child and Adolescent Mental Health, states:

The relevance of these brain findings to youth justice is that the adolescent population is demonstrably and substantially different to the adult population. Legislative approaches to issues, such as MACR, needs to reflect the current scientific understanding of the brain.¹⁸

Dr Anderson goes on to say:

The complex needs of these young people need to be met through health and social care responses, rather than criminal justice.

A low MACR that seeks criminal justice solutions to what are health and social care issues, impacts all of us by consolidating vulnerable children with complex needs into the justice system.

¹⁷ Enys Delmage, (2013), The Minimum Age of Criminal Responsibility: A Medico Legal Perspective, Youth Justice, 2013 13:102 ; Children and Young People's Commissioner for Scotland, Age of Criminal Responsibility(Scotland) Bill, Evidence to the Equalities and Human Rights Committee, 2018

¹⁸ Dr Phil Anderson, <http://qpol.qub.ac.uk/minimum-age-of-criminal-responsibility-macr-why-it-should-be-raised-in-northern-ireland/> [Minimum Age of Criminal Responsibility \[MACR\] - Why it should be raised in Northern Ireland - Queen's Policy Engagement](#)

In giving evidence to MPs on the Justice Committee, Dr Alexandra Lewis, Chair, Adolescent Forensic Faculty Special Interest Group, Royal College of Psychiatrists, stated:

Previously, it was thought that the most significant period of brain maturation was in the first five or possibly eight years. We now know that a second critical period takes place in adolescence and is a very dramatic development of the frontal lobes, which are, essentially, responsible for decision making, planning, consequential thinking, getting ideas about ourselves and social interaction... We have reached a point where nobody is saying any different, and everybody understands that brains are not mature by the age of 10. They are not mature by the age of 13 or 15. It is a much longer process than anybody thought, so it does not make sense to treat somebody at 10 the same as an adult, because they are fundamentally quite different in their decision-making abilities.¹⁹

Growing support:

IY along with NIACRO, VOYPIC, Children's Law Centre and the Centre for Children's Rights in QUB have been making concerted efforts to call for change in this area and have been active in bringing along other voices to join the call. Part of this has been inviting other influential voices along to contribute to a blog/vlog series on the topic, hosted on the QUB Policy Engagement website.²⁰ To date we have secured the support of representatives from adolescent child adolescent and forensic psychiatry, victims groups, organisations working to tackle trafficking and CSE/ CCE, leading children's organisations such as Barnardos, community based restorative justice and globally recognised academics in the field of youth justice.

These are voices that are at the coal face of working with the children who come into the justice system. They know the profile of the children who are impacted by such a low age of criminal responsibility. And they have said loud and clear that change needs to happen – how we deal with these children is not acceptable and there is no excuse for not taking action.

¹⁹ Justice Committee Oral evidence: Children and young people in custody, HC 306
<https://committees.parliament.uk/oralevidence/621/pdf/>

²⁰ [Children and Young People Archives - Queen's Policy Engagement](#)

Criminalising children does more harm than good:

We know that bringing children into even the edges of the justice system can do more harm than good. Criminalisation increases the risks of children engaging in further offending, it stigmatises and alienates and presents barriers to education and employment.

Criminalising from an early age stigmatises the child and alienates them from society, creates problems of self-esteem and forms barriers to education and future employment.

The Edinburgh Study of Youth Transitions and Crime (ESYTC), led by Professors Lesley McAra and Susan McVie, was instrumental in Scotland's decision to raise the age of criminal responsibility. This longitudinal study tracked approximately 4,300 young people from the age of 12, beginning in 1998, to understand the pathways into and out of offending.²¹

Key findings include:

- **Early Criminalisation:** The study found that criminalising children at a young age increased the risk of repeat offending and long-term involvement with the justice system.²²
- **Diversions Policies:** Evidence-supported policies that diverted young people away from formal criminal justice measures, emphasising educational inclusion and social justice interventions.²³
- **Youth Justice Strategy:** Findings from the ESYTC informed Scotland's 'Youth Justice Strategy 2015-20', which aimed to improve outcomes for young people up to age 21 by addressing vulnerabilities and promoting school inclusion.²⁴
- **Impact on Convictions and Imprisonment:** Following these initiatives, there was a 34% reduction in youth convictions and a 45% decrease in youth imprisonment between 2014/15 and 2019/20, reaching the lowest numbers since 1972.²⁵

²¹ [Edinburgh Research Explorer+8UK Research and Innovation+8Edinburgh Law School+8The University of Edinburgh+4Edinburgh Law School+4UK Research and Innovation+4](#)

²² [UK Research and Innovation](#)

²³ [Edinburgh Law School](#)

²⁴ [. impact.ed.ac.uk+2Edinburgh Law School+2UK Research and Innovation+2](#)

²⁵ [Edinburgh Law School+1impact.ed.ac.uk+1](#)

The ESYTC provided compelling evidence that early criminalisation is counterproductive and that supportive, diversionary approaches are more effective in reducing youth offending. These findings were central to legislative changes in Scotland and offer valuable insights for other jurisdictions considering similar reforms.

The authors contributed to our MACR blog series on the Queen's University Belfast Policy Engagement website and commented on how involvement with formal systems can be criminogenic and inhibit desistance.

There is strong evidence across all years of our Study that formal system contact begets further and more intensive forms of contact – that being charged, referred into the juvenile justice system, being convicted and being made subject to intervention, all heighten the risk of labelling and being sucked further into the system in later years.²⁶

There are better ways to deal with it – better for children and better for communities:

Evidence demonstrates that punitive measures increase the likelihood of reoffending.

A key issue in deciding on the age of criminal responsibility is what we want the aim of the process to be. If the aim is to prevent offending, to encourage rehabilitation and the reintegration of the child into playing a constructive role in society then dealing with the child through the criminal justice system does not offer the best chance of success.

Our reoffending rates demonstrate this. Government figures from the Department of Justice, reveal that the one year proven re-offending rate of young people for

- Custody release was 4 out of 5 young people
- Non-custodial disposal with supervision was 39.4%
- Non-custodial disposal without supervision was 34.3%

²⁶ McAra, L. and McVie, S. Raising the minimum age of criminal responsibility: the research evidence, Queen's Policy Engagement Blog Series on MACR. Raising the minimum age of responsibility: the research evidence - Queen's Policy Engagement (qub.ac.uk) [Raising the minimum age of responsibility: the research evidence - Queen's Policy Engagement](#)

➤ Diversionary disposal was 22.9%²⁷

We are not suggesting that there should be no intervention or response to behaviour which would be deemed as harmful to others and themselves – of course there has to be a response – but they will be welfare interventions and will not criminalise children. It is not a case of whether children will be held accountable for harmful behaviour but how they will be held accountable.

Rather the focus should be on assessing the child's problems and needs and attempting to meet those needs. In a children's rights compliant approach, children in conflict with the law are defined as 'children in need' and the responsibility of children's services (e.g. education, health, social care). The emphasis is on care, protection and diversion from the criminal justice system through providing support to families and helping them to access services and support. In a rights-based environment the emotional and mental health issues can be addressed without labelling the child as criminal or putting an already vulnerable child through the justice system.

This type of approach would focus more on the well-being and rehabilitation of the child; it will address the difficulties the young person has experienced which has led them to engage in behaviour which is potentially harmful to themselves and to others, and ultimately risks them becoming involved in the justice system. It will also ensure less children end up in the justice system.

It is a more effective approach and will lead to better outcomes for children and families and safer communities for all.

The Edinburgh Study of Youth Transitions and Crime included in depth interviews with members of the cohort who had been involved in the criminal justice system in their teenage and adult years. It found that the key factors that helped people stop offending were loving partners, children and jobs which they valued. This points to the importance of educational inclusion and training and employment pathways for young people.

Younger children who are engaged in criminal activity should be supported to realise the consequences of their behaviour. We are not suggesting that no action should be taken, nor are we condoning unacceptable behaviour.

²⁷ [Adult and Youth Reoffending in Northern Ireland \(202122 Cohort\)](#)

The evidence tells us that solutions for these issues are rarely found in criminalising very young children but in non-criminal justice interventions such as, community development, universal family support and early intervention and prevention services.

Such interventions would also recognise that many children who display unacceptable behaviour have in fact been victims themselves. This connection was recognised by some respondents to the consultation in Scotland to raise the age of criminal responsibility. Proposals to increase the age of criminal responsibility in Scotland were broadly welcomed by victims' groups due to the close link between childhood victimisation and offending.²⁸

A low age of criminal responsibility that seeks a criminal justice solution to welfare issues, poverty and adverse childhood experiences, simply accelerates already vulnerable children further into the system and ultimately custody.

Countries that have a higher age of criminal responsibility adopt welfare based approaches rather than punitive justice responses. Countries that have higher ages, such as Finland and Norway have demonstrated that a welfare based approach has reduced rates of youth offending.²⁹

There is a body of work which has examined and provided guidance for what the alternatives are to managing children who display harmful behaviour who fall under the minimum age of criminal responsibility.

A UNICEF³⁰ report states:

Therefore, children under the MACR should not be considered (alleged) child offenders but, first and foremost, children in need of special protection. Offending behaviour by children under the MACR is often the result of poverty, family violence and/or homelessness. As mentioned above, their involvement in offending behaviour is an indicator of potential vulnerability that has to be addressed by the social welfare system. Special protection measures for children under the MACR should address the root causes of their behaviour and support their parents/caregivers. The measures should be tailored to the child's needs and circumstances and based on a comprehensive and interdisciplinary assessment of the child's familial, educational and social circumstances; social support system; motivation for her/his offending or problematic behaviour; and particular characteristics and special needs.

²⁸ Houses of Parliament, Postnote Number 577, June 2018, Age of Criminal Responsibility

²⁹ [Punishment or Rehabilitation? Comparing Two Countries – Is Norway Succeeding where the UK is Failing?](#)

³⁰ UNICEF, Systematic Responses to Children under the Minimum Age of Criminal Responsibility who have been (Allegedly) Involved in Offending Behaviour in Europe and Central Asia, p5

The United Nations Committee on the Rights of the Child promotes evidence-based interventions, including early interventions, for children under the MACR. General Comment No.24 states that:

early intervention for children who are below the minimum age of criminal responsibility requires child-friendly and multidisciplinary responses to the first signs of behaviour that would, if the child were above the minimum age of criminal responsibility, be considered an offence.

UNICEF have outlined the following family-based and community-based programmes or services that are promoted as evidence-based secondary prevention strategies, which could be considered for use for children under the MACR:

- Supplementary educational tutoring (e.g. study skills, homework support, support with specific subjects (writing, mathematics, reading, etc.), preparation for tests or exams, one-on-one support for specific learning problems)
- Structured recreational and leisure activities and programmes (e.g. sports, culture, music, arts, religion)
- Participation in activities and programmes of a day centre (e.g. education, vocational training, recreation, individual or group counselling, life skills)
- Participation in life skills and competency development programmes (e.g. resisting peer pressure, anger management, dealing with emotions and stress, problem solving, health and hygiene skills)
- Individual or group counselling (e.g. focussing on traumatic events, problems at home or school or with friends, better understanding of thoughts, feelings and emotions, dealing with concerns around relationships and sexuality)
- Mentoring by peers or (young) adult volunteers, also called 'buddy' or 'big brother/sister programmes', (e.g. focussing on self-esteem and confidence, friendship and relationships, communication, trust and resilience, goal setting and decision making, school attendance)
- Treatment for behavioural problems or disorders (e.g. sexual harassment, bullying (online or in person), aggression, disruptive behaviour, attention-deficit/hyperactivity disorder (ADHD), autism spectrum disorder, eating disorders)
- Treatment for abuse and addiction problems (e.g. drugs, alcohol, smoking, gambling, excessive gaming, thrill seeking behaviour)
- Participation in restorative programmes (e.g. verbal apology, apology letter, peer mediation, victim empathy courses).

Solutions for the root causes of harmful behaviour are rarely found in criminalising very young children but in non-criminal justice interventions.

We cannot arrest our way out of a broken system which is failing to support vulnerable and traumatised children with complex needs.

Importance of victim and community voice:

The voices of communities and specifically victims cannot be ignored and are central to this discussion. It is vital that we listen to what communities are telling us and find ways to address issues of concern.

Victim Support who also contributed to the QUB Policy Engagement Blog Series on MACR has expressly said that what they want most is fewer victims, and that they support an increase in the age of criminal responsibility to at least 14 yrs. They have explicitly said that they recognise that children caught up in the justice system are often victims themselves of neglect, abuse and adverse childhood experiences – and that harmful behaviour displayed by children is actually the consequence of a failure to safeguard and protect children – it is not the child’s fault.

Opportunity for change:

We have an opportunity to go beyond the bare minimum of what a children’s rights compliant age of criminal responsibility should be. Our health and social care agencies and our voluntary and community sector are mature and developed, meaning that we are able to provide an alternative pathway for children, that does not necessitate branding them as a criminal from a young age. We should not aspire to just meet the lowest age threshold of what is acceptable in terms of the age of criminal responsibility. Rather we should aim for a position which sets us out as exemplary in terms of how we treat our vulnerable children. When the UN Committee on the Rights of the Child ‘commends’ State parties that have a higher minimum age such as 16 we should be aiming to reach a point of commendation rather than just the ‘at least’ option.

Young People’s Views

In response to the Justice Minister’s introduction of the Justice Bill, Include Youth held consultation sessions over the last few months with young people affected by or at risk of coming into contact with the justice system. These sessions focused on the two sections of the Bill that directly affect children and young people:

1. Retention of Biometric Data

2. Bail, Remand and Custody

We also spoke to young people about the minimum age of criminal responsibility.

This is a summary of the feedback and key messages from those sessions, grounded in the real experiences and insights of young people involved.

1. Retention of Biometric Data

Key Issues:

- The Bill proposes holding biometric data (e.g. fingerprints, DNA) for set periods depending on the offence:
 - 5 years for minor offences (e.g. shoplifting)
 - 25 years for mid-level offences (e.g. ABH)
 - 50+ years for serious offences
- Data can also be retained for 3 years even where no conviction is secured.

Young People's Perspectives:

- **“Not fair – 5 years for shoplifting?”** This was a common reaction. Young people saw this as **disproportionate and excessive**, especially where the offence was minor and resulted in a caution or no formal charge.
- Several felt that **collecting and storing biometric data should be reserved for over-16s only**, recognising a difference between adult accountability and childhood behaviour.
- A consistent message was that **data retention should not follow a child into adulthood**, especially when the child has accepted a **diversionary disposal** (e.g. Youth Conference). Keeping data past 18 in such cases was viewed as **punitive**, not rehabilitative.

“If you're not charged, why keep it at all?”

Key Message from Young People:

The young people felt that the Bill needs to **differentiate between conviction and contact** with the system. Keeping personal data for years after non-convictions or cautions undermines young people's right to move on.

2. Bail, Remand and Custody

Key Issues:

- The Bill aims to make bail the default for children, and requires justification when bail is refused.

- Courts must also ensure bail conditions are **realistic and appropriate**, especially in light of a child’s maturity, support, and understanding.
- Critically, the Bill states that a child cannot be refused bail **just because there is no accommodation** — though this still happens in practice.

Lived Experiences Shared by Young People:

- One young person was granted bail, but their placement **broke down after a police visit**, leading to them being held in a **police station for a week**, then being detained in custody.
- Several young people reported being held in **B&Bs with adults** who had committed crimes. One shared that they felt unsafe and **had to isolate themselves in shared spaces** like the kitchen.
- One young person had a **mental health crisis**, including **suicide attempts while in custody**.
- Another young person was **under the influence** during police bail checks and as a result **did not understand their bail conditions** — no support was offered to help them comply.
- Strip searches at **Woodlands** were described as **traumatising**. One young person refused and was **pinned down**, then had a **spit hood** used on them.

“I didn’t care about bail. I was off my face and no one explained it to me.”
“Woodlands? No one should have to go there just because there’s nowhere else.”

Care-experienced young people were consistently identified as most at risk of being held in custody due to **failures in social care**, not criminal risk.

- Young person shared that when they were kicked out of supported accommodation, they were **placed on an emergency housing list** and may be sent to **any hostel in Northern Ireland**, regardless of suitability.

“If you’re clean going into (supported living accommodation), you’ll come out on drugs.”

“We need a PA — someone consistent. Not someone who disappears once you trust them.”

Key Messages from Young People:

The Bill **does not go far enough**. Until social care and housing failures are addressed, courts will continue to **remand children simply because there’s nowhere else to put them**.

Children Should Never Be Remanded to Custody Due to Lack of Accommodation
Young people consulted by Include Youth were unanimous: **custody should never be used as a substitute for proper care, housing or support.**

Yet many of them, especially those who are care-experienced, have either experienced or witnessed this happening.

They have been **remanded in custody not because they pose a serious risk, but because there was no suitable accommodation available.**

“I got bail but had nowhere to go. So, I went to jail.”

The **remand system is supposed to be about risk, not housing failures.** The Justice Bill acknowledges this in principle, but it fails to go far enough to stop the practice in reality.

Key problems identified by young people:

- When placements break down (often after police visits), young people are left with nowhere to go.
- In those moments, courts are left with no choice but to remand – **not for justice, but for lack of options.**
- Children are being held in **Woodlands Juvenile Justice Centre** simply because social care has not stepped up.
- This is especially true for young people who are **in care or known to social services.**

“If the Trust doesn’t give you a place, you just go to jail.”

Young people made it clear that this approach is **traumatising, unjust, and sets them up to fail.** Remand becomes a punishment for being vulnerable or unsupported — not for committing a crime.

What Young People Think Needs to Change

1. **Absolute legal protection:** The Justice Bill must make it **explicit and enforceable** that no child may be remanded solely due to a lack of accommodation.
2. **Emergency placement alternatives:** Properly funded, **24/7 youth-appropriate accommodation options** must exist and be available across Northern Ireland — especially for care-experienced children.

3. **Duty on social care and health trusts:** There must be a **legal obligation** on Trusts to provide suitable bail accommodation — for children not to leave courts and face custody.
4. **Data and accountability:** The number of young people remanded due to lack of housing should be **publicly reported** to expose how often this is still happening.

Young people firmly believe that remanding a child to custody for being homeless or unsupported is a system failure, not a lawful response.

3. Minimum Age of Criminal Responsibility (MACR)

The Bill does **not include any proposal to raise the Minimum Age of Criminal Responsibility**, which remains at **10 years old** — among the lowest globally.

Reaction from Young People:

- Most believed the age was **already higher (15-16)** and were shocked to learn it was 10.
- Most young people agreed the MACR should be **raised to at least 14**, with several calling for 16 as standard.
- A minority accepted that serious offences like **murder or drug supply** might require earlier intervention, but only with exceptional safeguards.
- There was a shared view that children at 10 are **not equipped to understand the legal system**, and that criminalisation at this age is **unjust and harmful**.

“You’re just a victim of your circumstances.”

“The system doesn’t listen to young people.”

Key Message:

Raise the MACR. The current threshold is indefensible and out of step with international standards.

Young People’s feedback on MACR from DoJ consultation in 2022: As part of Include Youth’s submission to the Department of Justice consultation on proposals to

raise the minimum age of criminal responsibility in 2022³¹, we consulted with a range of young people across our programme specifically on the topic.

Below is the feedback from those focus group sessions and one to one sessions which were conducted in 2022.

During group discussions with young people in all offices, all young people agreed that the age of criminal responsibility should not be 10 years old and should be raised.

Some young people had experienced PSNI involvement from ages 12-13 years old. All of the young people explained that this contact with the police was extremely negative, with a few explaining that some officers were 'horrible' and some were 'nice'. Such was the experience that one young person stated that they would find it hard to go to the police if they needed help due to their negative interaction with police from a young age.

Young people discussed their experiences of the PSNI coming into children's homes and mental health units, saying that when police enter in full uniform it can be very **intimidating**.

They explained that if they came without uniform and 'tried to understand what was going on' without trying to be 'scary', they would be more willing to engage with them.

One young person stated:

'once they know you and know you are in care they always stop you'.

Case Studies: 19-year-old male, first experience with PSNI was at 13 years old

What was your experience?

The police say they are there to help and protect but they don't do that for everyone, I have never felt help or protection from them. I have a real anger when dealing with the police. I was 13 the first time I had dealing with the police and at the time I was in kinship care. I was told I was in a lot of trouble, but no one asked me what was going on or why I did what I did. It was just horrible, anytime I have had contact with them it makes me angry, once they knew me it was like they were always on my case. Its 10 times harder if you are in care.

How has this impacted you?

³¹ [Include-Youth-Response-to-DoJ-Consultation-on-MACR-Dec-22.pdf](#)

My mental health, this was the start of my mental health getting bad. I was in consistent fear of being stopped by the police and everyone from where I am from thinking I was a bad kid, because from when I was 13 they would just stop and search me all the time, so I was always worrying when I went out that I would be stopped.

It was like they knew me from then and would just think I was always getting up to something bad. It was as if they had their minds made up about me.

Living in a small community and being stopped by the police for nothing, just because I made a mistake when I was 13, is really embarrassing. They ask me lots of questions, tell me to empty my pockets and pat me down for no reason, it makes me really angry and sometimes I didn't want to leave the house because of it. Once the police know you you're a target.

Who is best placed to help young people if they find themselves in a situation like you did?

Social services or someone who works for the police but they don't come in a uniform.

At that age you do stupid things you don't realise the impact.

If someone who was nice and could understand and help kids learn what would happen if they did these things or find out why they did do them and help them so they don't do it again.

Case studies: 18 year old male, first experience with PSNI was 13 years old

What was your experience?

Peer pressured, I didn't know right from wrong at that young age. I was threatened from 13 to be put on a tag. Male officer, tone of voice and threatening and angry using vocabulary that I didn't understand, quoting what he said to me "good luck finding a job". After the female officer was looking at him. I could see she wasn't happy with what he said. She was nice, she would have checked in to make sure I was doing ok. He annoyed me because he was so threatening towards me and it scared me.

I didn't mean to do what I did. I would have like to have had a better experience, I was peer pressured and they didn't draw me away from that, they should help with that instead of having such a harsh look on young people.

How has this impacted you?

At that age I believed I wouldn't get a job, going to school it stuck with me, I didn't want to go out for a few months. He came from such a threatening manner it didn't just affect me. I was doubting myself and I don't think any 13 year old should feel threatened because they are not educated on policing and law and orders.

Who is best placed to help young if they find themselves in a situation like you did?
Family support if they have family. Youth justice system helped my sister and me, I can't give any other recommends because it is all I know.

Overall Recommendations from Young People on Justice Bill:

1. **Shorten biometric retention periods**, especially for non-convictions, cautions, and children under 16.
2. **Prohibit remand solely due to accommodation issues** — and fund **real alternatives** like:
 - a. Bail fostering
 - b. Community-based housing with trained staff
 - c. Youth-specific supported accommodation
3. **Ban unregulated placements** for children (hostels, B&Bs).
4. **Invest in consistent support workers** — not agency staff who dip in and out.
5. **Raise the Minimum Age of Criminal Responsibility to at least 14**, with most recommending 16.

Concluding Comments

We welcome the opportunity to provide written evidence to the Committee and are happy to elaborate further on any of the issues raised in this submission. We hope the evidence we have provided will support the Committee as they scrutinise the legislation.

We do believe that this piece of legislation presents an opportunity to take a new approach to how we respond to children who come into contact with the criminal justice system and are at risk of coming into the system. We appreciate that there have been issues raised in our submission which do not fall neatly under the responsibility of Justice but rather involve many other government departments, and especially Department of Health. But we know from our direct experience of working with children

and young people that the issues and complex needs they present with demand and deserve a better response than one dictated by a silo mentality.

Include Youth, along with our colleagues in the children's sector, are frustrated that change has not happened sooner and that recommendations from previous reviews and reports have not been fully implemented.

We look forward to engaging with the Committee and to contributing to future discussions.