

**Abolition of Unruly Certificates:
Section 51(1)(bb) and 51(3) Criminal Procedure**

Consultation Response

Introduction

Barnardo's Scotland is a national voluntary organisation providing over 60 services throughout Scotland, working in partnership with Scottish local authorities. We provide a wide range of services to more than 10,000 children, young people and their families. This includes services to looked-after and accommodated children and community support services to: persistent young offenders; young people with sexually harmful behaviour; and a range of preventative services to young people and families.

Barnardo's Scotland welcomes the opportunity to respond to the proposal on the abolition of unruly certificates and offers comments on the basis of the organisation's policy and practice.

What in your view are the implications of this change in legislation?

Barnardo's Scotland welcomes the intention of the proposed abolition of unruly certificates and believes that it is consistent with the principles of the UN Convention of the Rights of the Child. In particular, it complies with Article 37(c) which stipulates that 'every child deprived of liberty shall be separated from adults.'

What in your view are the implications for criminal procedure matters?

The removal of section 51(1)(bb) will place some increased pressure on secure accommodation, although Barnardo's Scotland believes that this can be accommodated when all existing units are fully functional. It will be important to ensure that secure accommodation within Scotland can be utilised at very short notice for those occasions where the Sheriff would have previously used section 51(1)(bb).

What, if any, are the implications for your organisation's current procedures and practice?

None.

Barnardo's Scotland does not play any active role in the process of section 51(1)(bb) or section 51(a)

What, if any, are the issues relating to the availability of secure places or an alternative place of safety?

The Scottish Government is currently working with stakeholders to provide better information for accessing and allocating secure accommodation. What, if any, concerns does your organisation have about the availability of suitable accommodation and how would you like to see this improved?

Barnardo's Scotland does not place young people in secure accommodation as this is a local authority responsibility.

What, if any, are the issues relating to the availability of alternative community services?

Barnardo's Scotland believes that it is important that community services are appropriately resourced to reduce the chances of young people being inappropriately placed in secure accommodation. Where a young person's needs can be met in a community setting with the appropriate level of monitoring and support, it should be provided.

What, if any, are the issues you wish to highlight relating to transportation of young people to a secure place or a place of safety?

Where a young person is remanded under section 51(bb), the Scottish Prison Service has responsibility for transportation to and from the court. Where a young person is remanded under section 51(a), transportation is the responsibility of the local authority.

There will be occasions where young people will present an immediate risk to themselves or others. This will require the local authority to assess the risk and make appropriate arrangements for the assistance of the Police or possibly Reliance, should this be required. Staff employed on this basis should receive appropriate training and checking for these duties. It is essential that the new arrangements ensure that the young person is safely transported to and from secure accommodation, or whatever alternative has been identified.

What, if any, are the implications for risk assessment and risk management that you wish to highlight?

The Scottish Government plans to publish good practice for agencies on meeting the needs and managing risks of children and young people who pose a risk of serious harm to themselves or others. It is expected that agencies will work together to identify and manage risks.

The assessment of risk, noted above in terms of transport arrangements requires to take account of all aspects of risk to the young person or others and the suitability of accommodation arranged.

Are there any alternative proposals that you wish to be considered?

Do you already use, or are you considering, community based alternatives to manage the risks posed by young people?

Please provide any additional information here