

Rehabilitation of Offenders Act 1974 – Consultation Paper

Appendix B

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RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Barnardo's Scotland

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Ballard

Forename

Mark

2. Postal Address

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Phone 0131 446 7000

Email

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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

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(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Are you content for your **response** to be made available?

Please tick as appropriate

Yes **No**

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

CONSULTATION PAPER QUESTIONS

Questions – Rehabilitation of Offenders Act 1974 – Consultation paper

QUESTION 1

Do you agree with the proposal that the scope of the new legislation should be increased from 30 months?

Yes No

Comment

We are persuaded by the Scottish Government's statistics on the 'sentence inflation' over the last 40 years since the Act was brought in and we agree with the logic behind this particular proposal for change.

The Act has not kept up with trends in sentencing meaning that more individuals are now not getting the chance to be rehabilitated in their lifetime. The type of crime being committed has not necessarily changed, yet individuals for whatever reason, are being given longer custodial sentences. This means that there is a lack of parity in the way perpetrators are punished for similar crimes.

As acknowledged in the consultation paper, this has major ramifications for offenders, particularly young offenders who can be punished for the rest of their life for a one off offence committed in their youth. We therefore support this proposal.

QUESTION 1a

If you have answered yes, should the scope be;

48 months longer than 48 months shorter than 48 months

Comment

Based on provisions laid out in existing legislation, predominantly the Prisoners and Criminal Proceedings (Scotland) Act 1993 it seems logical to keep the two pieces of legislation in line, if a long-term prisoner is defined as anyone serving a sentence of over 48 months (4 years) this seems an appropriate cut-off point for protection under the 1974 Act as well.

The average sentence length in Polmont YOI for example is between 2 and 4 years,¹ extending the scope from 30 months to 48 months would hopefully mean that the majority of young men in Polmont would get the chance to become rehabilitated in their lifetime if they are not convicted of any further offences.

Barnardo's Scotland does a wide range of work with young men in Polmont, including parenting programmes; youth work, and work to address bereavement, trauma and loss. Having something to 'desist to' is much more important than 'desisting from' offending. It is vitally important that these young men are allowed hope for a better life

¹ <http://www.gov.scot/Publications/2013/02/3127/3>

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on the outside, current provisions block many of them from aspiring to something better on their release. Having to disclose a criminal record for the rest of your life means many of the young men can feel like there is no point in trying because they will always be labelled as a criminal and may never be able to get a decent job or a house. As noted by Recruit with Conviction, starting work and stopping crime is not easy, yet it is made even harder by the stigma and shame associated with being an ex-offender.

Employment, housing and family relationships are key. Extending the scope of the Act will give a larger number of these young men these life chances, particularly when it comes to employment and housing.

QUESTION 2

Do you agree that the length of the rehabilitation period should be determined by whether an individual gets a custodial sentence, a non-custodial sentences or an alternative to prosecution?

Yes No

Comment

N/A

QUESTION 3

Do you agree with the proposal that no AtPs should be self-disclosed by a person in circumstances when a basic disclosure check is requested?

Yes No

Comment

We agree that AtPs are generally used for non-serious offences; we agree that it should not be necessary for an individual to disclose an AtP for a basic disclosure check as this can have an impact on future employment etc. for what may have been a minor incident or offence. Again this is particularly pertinent when considering young offenders and the likelihood of minor offences or incidences of anti-social behaviour which do not lead on to more serious crime.

This is backed up by strong evidence from the Edinburgh Study of Youth Transitions and Crime which highlights that the majority of young people will transition out of offending on their own, any contact with the justice system is likely to be detrimental.

QUESTION 4

Do you agree with all the proposals to reduce the time periods for disclosing non-custodial sentences as set out in Table A?

Yes No Some but not others

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Comment

No additional comments.

QUESTION 4a

If no, do you think all the rehabilitation periods should be shorter or longer than proposed?

Shorter Longer

Comment

N/A

QUESTION 4b

If shorter, what lengths of time would you like to see?

Comment

N/A

QUESTION 4c

If longer, what lengths of time would you like to see?

Comment

N/A

QUESTION 4d

If some but not others, what sentences are you referring to and what lengths of time would you like to see?

Comment

N/A

QUESTION 4e

Do you think it is still appropriate for the rehabilitation periods to be halved when the person committed an offence under the age of 18?

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Yes No

Comment

Yes, we strongly agree with this.

However, as noted in the document and highlighted by other respondents in the previous discussion paper we would like to see these provisions extended to all young people in the criminal justice system up to the age of 21. This would mean all young offenders would be given the opportunity to move on quicker from their offending behaviour and start to build a positive life on the outside.

In HM YOI Polmont 16-18 year olds and 18-21 year olds are offered the same programmes, they eat together and take part in activities together, they are integrated in most areas bar where they are housed.

The Scottish Prison Service (SPS) is moving towards a less restrictive ethos in terms of the age of the young people in their care, above and beyond the prescribed age of 21. We are currently involved with 2 young men in Polmont who have been offered support within Polmont up to age 23. Historically the norm has been to move young offenders out of Polmont and into an adult prison at the age of 21; however this culture seems to be shifting. If the young men are getting on well, attending courses and making progress there seems to be a more flexible approach to continuing to work with them based on what works and is not restricted by age. By housing young offenders up to 21 in a different establishment to adult offenders, SPS is acknowledging that there is still a difference between a 'young offender' and an adult.

The age and stage of development of these young men can also vary hugely and many will have been in and out of care and custody for a large part of their lives. Although technically adults within the law 19,20 and 21 year olds in custody will often have particular vulnerabilities which mean they do not have the capacity and resilience of similar men their age on the outside. They will therefore continue to need help and support on the outside to move on from offending.

We are involved in the Moving On partnership with Action for Children (funded by the Scottish Government reducing reoffending change fund) which works with young male offenders, this project combines the expertise of our Works services which help young people into employment. Our staff in this project often work with young men up to 21 who can often struggle to access employment on release from custody due to having to continue to disclose their previous offences.

We would therefore like to see rehabilitation periods halved for young offenders up until the age of 21.

QUESTION 4f

If no, please provide details below.

Comment

N/A

QUESTION 4g

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Do you have any other comments/views in relation to the proposed rehabilitation periods for non-custodial sentences?

Comment

See comment on question 4e.

QUESTION 5

Do you agree with all the proposal that the rehabilitation periods for custodial sentences should be reduced as set out in Table B?

Yes No Some but not others

Comment

We welcome the Scottish Government's commitment to dramatically reducing rehabilitation periods which can too often cause severe and significant barriers to young people trying to move on from offending. In particular we welcome the repeated statement in the consultation that 'disclosure' is a consequence of the offence and should not be used as a further punishment', as it stands many young people continue to be punished for many years after release by being denied access to housing and employment opportunities.

However we would highlight our concern with the proposal for a rehabilitation period of 2 years and 3 months for 3 month custodial sentences. The Criminal Justice and Licensing (Scotland) Act 2010 legislated for a presumption against short-term sentences of 3 months or less. We should avoid offenders being given 3 month sentences for relatively minor offences, simply because there is no alternative. Short-term sentences are particularly problematic for young offenders; the proposal for a rehabilitation period of 2 years and 3 months does not therefore seem proportionate.

Although outwith the scope of this consultation we would urge the Scottish Government to revisit extending the presumption against short-term sentences up to 6 months as was originally intended. Sentences of 6 months simply perpetuate the revolving door for many young offenders who get into a never-ending cycle of short sentences and spells on remand.

Young people can often feel disconnected and alienated from their communities often leading to becoming involved in criminal behaviour. Simply removing these young people from this situation for 3 or 6 months at a time will not solve the underlying issues.

QUESTION 5a

If no, do you think all the rehabilitation periods should be shorter or longer than proposed?

Shorter Longer

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Comment

N/A

QUESTION 5b

If shorter, what lengths of time would you like to see?

Comment

N/A

QUESTION 5c

If longer, what lengths of time would you like to see?

Comment

N/A

QUESTION 5d

If some & not others, what sentences are you referring to and what lengths of time would you like to see?

Comment

See comment on question 5.

QUESTION 5e

Do you think it is still appropriate for the rehabilitation periods to be halved when the person committed an offence under the age of 18?

Yes No

Comment

Please see response to question 4e, same response and rationale applies to this question.

QUESTION 5f

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If no, please provide details below.

Comment

N/A

QUESTION 5g

Do you have any other comments/views in relation to the rehabilitation periods for custodial sentences? For example, do you think there should be more distinct sentence ranges within which distinct rehabilitation periods operate?

Comment

N/A

End of Questionnaire

We would like to add some additional comments for the consideration of the Scottish Government based on the proposals for future reform in the consultation document. In particular we would support further discussion around holding employers to account for discriminating on the basis of offending behaviour which was not required to be disclosed.

As noted in our above response, we work with lots of young people who remain furthest away from the job market through our employability programmes and our Barnardo's Works services.

"Barnardo's Works provides unemployed young people (aged 16-24) with a unique blend of personal support and accredited training, matched with quality work experience placements and the opportunity to access independent employment. The support package is tailored to meet the needs of the young person, and all individuals are allocated a key worker to support them throughout the duration of the programme.

Intensive support is provided at the beginning of the programme to help young people adjust to the world of work. An allocated key worker will also support young people to overcome any barriers such as homelessness and the impact of poverty. This is achieved by working alongside a range of specialist agencies and service users will be signposted for additional support as required. This element of the Barnardo's Works programme is crucial to enable young people to sustain placements. The Barnardo's Works project effectively addresses issues such as unemployment and poverty, and enables young people to become an active member of their community"

We would like to see more of a focus on encouraging employers not to discriminate against young people with an offending past, potentially through incentive schemes similar to the Living Wage accreditation. Companies such as Timpsons have been very successful at employing ex-offenders and campaigns such as Ban the Box, supported by Recruit With Conviction seek to raise awareness and provide training to employers and recruiters in order to prevent discrimination.

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Employment is the key for many of the young people we work with, a supportive employer willing to give a young person a chance can often be the crucial factor in helping them turn their life around.