

Key Points

- Barnardo's Scotland welcomes the introduction of the Children's Care and Justice Bill and the Stage 1 report on the Bill by the Education, Children and Young People Committee, and we urge MSPs to **support the principles of the Bill** at Stage 1.
- Reforms proposed by the Bill are an important step towards keeping The Promise, but in order to do this effectively the changes made to criminal justice processes for children **must be properly resourced**; with full consideration given to child-rights budgeting and sustainable funding models.

Overview of Barnardo's Scotland services

We engaged with Scottish Government during the consultation on its initial policy proposals for the Bill in addition to providing written evidence to the Education, Children and Young People Committee, **using evidence from our services to inform our position.**

Barnardo's Scotland delivers a wide range of care and youth justice support related services across Scotland, and we use information and experience from those services, and from the children and young people we work with, to seek positive change in policy and practice based on what matters to the people who use our services and what we see working in communities.

Many of the young people we support across many different services are care experienced. Barnardo's Scotland provides fostering and adoption services, residential care services and support accommodation services for young people who are over 16 and leaving the formal care system but who need ongoing support.

Barnardo's Scotland services also include:

- The provision of **advocacy** for looked after children and children involved with the children's hearing system;
- **Prison-based supports**, such as those within HMP Polmont Young Offenders Institution and the HMP Edinburgh visitor's centre;
- **Community-based youth justice services** including Stirling and Clackmannanshire; and women's justice services which include Shine women's mentoring and Ayrshire Court screening.

Views on Part 1 of the Bill: Children's Hearing System

Barnardo's Scotland strongly supports the reforms to the Children's Hearings System, particularly the inclusion of 16- and 17-year-olds.

Many of the children, young people and families we work with have experienced trauma, loss and abuse, which can have significant lasting impacts upon their lives.

We are pleased the [Stage 1 Committee report](#) recognises the point made by Barnardo's Scotland in written evidence that young people can end up in the criminal justice system when

what they particularly need is support with their mental health and wellbeing, as well as other holistic, intensive supports(paragraph 39, p.8).

The Stage 1 report also acknowledges that extending the Children’s Hearing System to all children under the age of 18 will have **significant resource implications**, given that the reforms will likely lead to a sharp increase in the number of cases being heard by the Hearings System and that many of these new cases will be more likely to be on offence grounds.

Barnardo’s Scotland welcomes the contribution of the [Children’s Hearing System Redesign Report](#), which contains many recommendations for reform of the Hearings System.

Many of these recommendations will have to be adopted and properly resourced if the legal changes proposed by the Bill are to succeed in producing better outcomes for young people. Ultimately the focus of the Children’s Hearing System should remain on early intervention and provision of support, and we do not want to see the Bill resulting in unintended consequences resulting in a move away from the welfare-based principles of the Children’s Hearing System.

In particular, we agree with, and wish to draw MSPs’ attention to, this statement in the redesign report: *"There are a number of areas upon which the success of the redesign is entirely dependent... (including) ensuring equitable availability of, and access to, early and ongoing help and support for children and for their families."*¹

There is also likely to be an increased demand upon the National Advocacy Service for the Children’s Hearing System for those 16- and 17-year-olds who would wish to take up the support of an independent advocate.

Advocacy for children and young people is a powerful support in helping make sure their voices are heard in processes which can often be intimidating. **Access to independent advocacy must be protected through proper resourcing of the system.**

Verbal feedback from a young person supported by a Barnardo’s advocacy worker, following a short-term piece of work for their Children's Hearing:

"Having you there helped me because it took the pressure off me, so I didn't need to speak myself."

Views on Part 2 of the Bill: Criminal Justice and Procedure

We strongly support the Bill’s intention to remove all children under the age of 18 from Young Offenders Institutions.

While the numbers of children being detained within prisons has drastically reduced in recent years, as of June 2023 there are still a small number of children under the age of 18 who remain in residence at HMYOI Polmont.

For both children and young people based at HMYOI Polmont, Barnardo’s Scotland provides a range of trauma-informed services. One young person told us: "I feel this service has helped me while being in Polmont. I was able to talk about my issues knowing I wouldn’t be judged, and it helped my anger."

¹ [Children’s Hearing System Redesign Report, p25-26](#)

There should be no loopholes in the system allowing for children aged 17 and a half years old to be included within the remit of the adult criminal justice system – we share the concerns recognised by the Committee that this loophole remains open and hope this can be addressed at the Bill’s next stage².

On the detail of the provisions in Part 2 of the Bill, we direct MSPs to evidence from organisations with specialist knowledge in this area such as CYCJ, the office of the Commissioner for Children and Young People and Together (Scottish Alliance for Children’s Rights), of which Barnardo’s Scotland is a member and which is referenced throughout the Stage 1 committee report.

Views on Part 3 of the Bill: Residential and Secure Care

We believe that the rights of children and young people in all cross border residential and secure care placements should be promoted, protected, and fulfilled through accessible locally-based advocacy support.

In addition to advocacy support, rights representation should be available for complex cases and those where competing rights are evident.

We fully agree with the evidence by Who Cares Scotland³ that **the section of the Bill relating to the definition of secure care be amended to specify that, “therapeutic services are part of the care, education and support provided; and the right to advocacy and legal representation is provided”**.

Finally, Barnardo’s Scotland is clear that **all children resident in secure care within Scotland are entitled to have the entire spectrum of their rights protected, respected, and fulfilled**, regardless of whether they are ordinarily domiciled in Scotland or subject to cross-border placement.

About Barnardo’s

Barnardo’s is the UK’s leading national children’s charity. Barnardo’s Scotland works with thousands of children, young people and families every year, delivering a wide range of support across over 100 services.

We use information and experience from our services across Scotland, and from the children and young people we work with, to seek positive change in policy and practice based on what matters to the people who use our services and what we see working in communities.

We work collaboratively across all sectors and political parties to achieve the best outcomes for children and young people.

For more information, please contact Kirsty-Louise Hunt, Barnardo’s Scotland Senior Policy and Public Affairs Lead, on 07842634357 or at kirstylouise.hunt@barnardos.org.uk

² [Stage 1 Report on the Bill, paragraph 392](#)

³ [Stage 1 Report on the Children’s Care and Justice Bill, paragraph 494 p.66](#)