

Barnardo's Northern Ireland

Department of Justice – Public Consultation

Increasing the Minimum Age of Criminal Responsibility in Northern Ireland from 10 Years to 14 Years

Barnardo's NI is the largest children's charity in Northern Ireland. Every year we work with more than 18,000 children, young people and families across more than 45 different services and programmes. We are a leading provider of schools-based support, reaching more than 32,000 children in schools across the UK and Ireland through our NI-managed social and emotional literacy programmes.

We deliver a wide range of services, from providing family support and early intervention, to working directly with children and families who have experienced adversity and need our support. Our goal is to achieve better outcomes for more children. To achieve this, we work with partners to build stronger families, safer childhoods and positive futures.

Barnardo's NI welcomes the publication of the consultation on raising the minimum age of criminal responsibility. For too many years, Northern Ireland has languished at the bottom of tables reviewing international progress on raising the minimum age of criminal responsibility. While we welcome the consultation, Barnardo's NI believes that the minimum age of criminal responsibility should be set at 16 years old, not 14 as proposed in the consultation document.

Futhermore, it is important that we also look at how we ensure children receive the support they need, particularly in the early years, to ensure that they do not come into contact with the youth justice system. Our experience reflects that once a child has contact with the youth justice system, even to receive early intervention or support, this can result in further contact in later years. Where children do display offending behaviour, it is important that they are supported in the community by organisations outside the youth justice system. We also need to invest in early intervention to prevent children from ever coming into contact with the youth justice system. Help Kids Talk is a strong example of this a community-led approach in practice in Northern Ireland which aims to improve outcomes for children and communities.

1. Change is needed

- 1.1. Over a decade ago, 'A Review of the Youth Justice System in Northern Ireland'¹ highlighted the need for fundamental change in many areas of the youth justice system, including the importance of raising the age of criminal responsibility. Sadly, little action has been taken to implement the recommendations from this review, and in 2022, as highlighted in the Department's consultation, the age of criminal responsibility in Northern Ireland still remains among the lowest in the world.
- 1.2. The cost of this to Northern Ireland has been much more than a financial one. The impact on children, families and communities on criminalising children from such a young age can be lifelong and have ripple effects beyond any incident itself². It is imperative that we do not only look at the legal context of the minimum age of criminal responsibility; we should also examine the support we provide to children that come into contact with the youth justice system in Northern Ireland, and how we need to rethink and reshape our approach.
- 1.3. Crucially, children should be supported outside of the justice system. Evidence has shown that once children have had contact with the justice system, to any extent, they are much more likely to be caught in a cycle which can continue to circle back to the justice system throughout their life.³ This is not only detrimental for the child and their life, but their family and the community they live in. Our strong community and voluntary sector is well positioned and equipped to provide this support.
- 1.4. As highlighted by the Children's Law Centre, Include Youth, VOYPIC, and NIACRO in their Joint Briefing⁴, the community and voluntary sector in Northern Ireland, and statutory support through health agencies, is well established and equipped to support children, that would normally be caught up in the youth justice system, through alternative pathways.
- 1.5. The 2011 Youth Justice Review noted the complex lives of children who come into contact with the justice system at an early age. The review highlighted that care experienced children are overrepresented in the justice system, as well as children with mental health concerns and

¹ Youth Justice Review Team, 2011, 'A Review of the Youth Justice System in NI', Department of Justice NI

² Children's Law Centre, Include Youth, VOYPIC, and NIACRO, 2022, Joint Briefing – 10 Reasons Why 10 Is Too Young. <https://childrenslawcentre.org.uk/stop-criminalising-our-children/>

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/185936/breaking-the-cycle.pdf

⁴ <https://childrenslawcentre.org.uk/stop-criminalising-our-children/>

those with substance use concerns. In 2021, 'Tracing the Review'⁵ examined the implementation of the 2011 recommendations, and it highlights that this has not changed in the past decade.

- 1.6. Where children display harmful or offending behaviours, it is essential that they receive the support they need to ensure that underlying issues are addressed. These can include the impact of Adverse Childhood Experiences⁶ (ACEs), including domestic abuse, parental substance misuse, or sexual or physical abuse which can impact development from a young age and the relationships that we form with others.
- 1.7. As set out in the Joint Briefing, there are more effective ways of supporting children who display offending behaviour than engaging them in the youth justice system. By focusing on wellbeing and rehabilitation, less children will end up in the justice system both in the short and long term, which will lead to better outcomes for children, families and communities.⁷

2. Raising the age to 16

- 2.1. The Department's consultation document clearly sets out the rationale for raising the minimum age of criminal responsibility, and we agree with the reasoning behind this move. However, Barnardo's NI believes that the minimum age of criminal responsibility in Northern Ireland should be raised to 16 years old, not 14 as set out by the Department.
- 2.2. While we commend the Department in bringing forward this consultation, and clearly setting out the general principles of raising the age, in only raising the age to 14, Northern Ireland would fall short of the international human rights standards as recommended by the United Nations Committee on the Rights of the Child. The joint briefing developed by Children's Law Centre, Include Youth, VOYPIC and NIACRO sets out the strong evidence as to why the minimum age of criminal responsibility should be raised to 16.⁸
- 2.3. The Department's own consultation document highlights that the Committee's 2019 report states that the age should be raised to "at least 14 years". The language here is important, the Committee is stating that

⁵https://pureadmin.gub.ac.uk/ws/portalfiles/portal/263877347/TRACING_THE_REVIEW_PDF.pdf

⁶ <https://www.justiceinspectors.gov.uk/hmiprobation/wp-content/uploads/sites/5/2021/11/Academic-Insights-Gray-et-al.pdf>

⁷ <https://childrenslawcentre.org.uk/stop-criminalising-our-children/>

⁸ <https://childrenslawcentre.org.uk/stop-criminalising-our-children/>

the bare minimum age is 14, however, this is not the recommended target or best practice. In fact, that same 2019 report goes on to state:

“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.”⁹

- 2.4. If Northern Ireland is taking steps to protect children’s rights and to give all children the opportunity to have the best start in life, it is imperative that we meet the standards of international best practice for our children. Using the Department’s own sources of evidence, this means increasing the minimum age of criminal responsibility to 16.

3. Community led early intervention

- 3.1. Additionally, many children, and later adults, in our justice system have had a poor experience of education. The Department’s website highlights the “strong correlation between offending behaviour and issues such as poor literacy, language and numeracy skills”¹⁰. Information from the Northern Ireland Prison Service in their ‘2020 Prisoner Needs Assessment’ states that 69% of prisoners left school aged between 14 and 16, and 45% have no qualifications.
- 3.2. While the Department focuses on support provided in the justice system to improve speech, language and communication skills for those who are in prison, we must also invest in early intervention and prevention to ensure that children are supported to stay in school and continue their education. Supporting children throughout their journey in education is key to this, including in the early years.
- 3.3. It is essential that children who experience delays in the development of their communication and language skills are supported at the earliest possible stage. Through our partnership with Early Intervention Lisburn, the ‘Help Kids Talk’ programme has a focused early intervention approach to improving communication and language skills and thereby improving outcomes for children and young people in Lisburn. Help Kids Talk was also endorsed by the Royal Society for Public Health as an

⁹ United Nations (2019) – Committee on the Rights of the Child: General comment No. 24 (2019) on children’s rights in the child justice system - CRC/C/GC/24

¹⁰ <https://www.justice-ni.gov.uk/topics/prisons/learning-and-skills>

example of best practice and innovation on improving public health and wellbeing.¹¹

- 3.4. **We encourage the Department to ensure that when examining the minimum age of criminal responsibility, we take this opportunity to understand the needs of our children and invest in their early years to prevent contact with the youth justice system.**

Help Kids Talk

Barnardo's NI, through the Resurgam Trust, works in partnership with statutory agencies, like the South Eastern Trust and the Public Health Agency, the local community and private partners to deliver Early Intervention Lisburn (EIL).

EIL is based on the knowledge that the early years of a child's life shape the people we become, and that experiences in our formative years have a lifelong impact. As part of its work to improve outcomes, EIL identified 'Help Kids Talk' as a top priority.

Help Kids Talk was co-designed following the 'Best for Every Child' report, published in 2012. This report investigated the needs of the local community, the challenges they faced, but also the potential to make Lisburn the best place to raise children through investment in early intervention. At that time 74% of young people were leaving post-primary education without the government target of 5+ GCSEs (including English and Maths). In 2013, 32% of children entering Primary One in nine schools in Lisburn had a mild to severe speech, language, and communication problem, and 74% of those were boys from disadvantaged areas.

These statistics highlighted the need to focus on supporting children with their speech, language and communication development as a key tool to engaging children in education and thereby improving their longer-term life outcomes.

The aim is that by supporting children with these important skills, their life outcomes will be improved in the long term,

¹¹ <https://www.rsph.org.uk/our-work/resources/allied-health-professionals-hub/case-studies.html>

thereby reducing or completely eliminating any contact with the youth justice system.

The programme adopts two approaches: universal and targeted. The universal delivery is available for anyone with a responsibility for children 0-6 years of age including staff, parents, carers and extended family members. This is delivered through a mix of key messages via social media and training sessions aimed at increasing awareness of speech, language and communication needs, as well as strategies to promote children's development.

The targeted approach is split into three elements:

- **Early Talk Boost** programme is an intervention for children at foundation stage which improves their attention and listening, their understanding of words and sentences, and their speaking and communication.
- **Talk Boost** programme is aimed at supporting children at Key Stage 1 and can boost children's ability in conversations, sentences, storytelling, and social interaction by an average of 9 - 18 months.
- **Talk for Work** is a programme for 14-18-year-olds with poor communication skills and supports their development to be ready for the workplace.

A pre- and post-evaluation of the Help Kids Talk programme found that of the 98 completed assessments, 49.3% of children closed the attainment gap, and were now meeting the target level for their age group; 29.6% closed the gap by more than 50%; 12.7% closed the gap by less than 50%; with the remaining 8.4% either staying the same, or the gap had widened.

These results demonstrate that over 90% of children who took part in Help Kids Talk saw an improvement in their communication and language skills, with the majority of these closing the attainment gap completely.

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