

SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE

DATA PROTECTION FORM

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Date:	27 June 2018
Organisation: (if required)	Educational Institute of Scotland
Topic of submission:	Age of Criminal Responsibility (Scotland) Bill

I have read and understood the privacy notice about submitting evidence to a Committee.

I am happy for my name, or that of my organisation, to be on the submission, for it to be published on the Scottish Parliament website, mentioned in any Committee report and form part of the public record.

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EQUALITIES AND HUMAN RIGHTS COMMITTEE

AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND) BILL

SUBMISSION FROM

Educational Institute of Scotland

The EIS, Scotland's largest teaching union with over 50,000 members, supports raising the age of criminal responsibility from eight to 12, as proposed in the Age of Criminal Responsibility (Scotland) Bill. We believe that no child under 12 should receive a criminal record.

We note that the Bill aims to further embed the principles of the UN Convention on the Rights of the Child into Scottish life and consider that this is to be welcomed. The EIS strongly supports the development of public policy founded on children's rights. We further note that the UN Committee on the Rights of the Child has stated that setting the age of criminal responsibility below 12 is considered 'not to be internationally acceptable' (and that eight is the youngest age of criminal responsibility in Europe) and so commend the Scottish Government for bringing forward this Bill.

The EIS has a long-standing position that children should be able to exercise some rights in relation to key decision making from around the age of 12, for example rights to opt out of participating in religious observance at school, or to be involved in discussions about one's own additional support for learning. We would suggest that this is the age at which most children are able to take greater responsibility for their decisions, though we would always stress the need for them to be supported in the process of doing so.

This is in line with evidence around brain development, which shows that good judgment is something that develops over time, as the development and maturation of the prefrontal cortex (the rational part of the brain, which allows for an awareness of long-term consequences) occurs primarily during adolescence.

At age eight children are ordinarily in Primary 4 and for the most part, are working at First Level in Curriculum for Excellence. Between ages eight and 12, children are still very much in the early stages of learning about rights and responsibilities, which they do in a range of ways across the curriculum. Becoming a responsible citizen is one of the four capacities of Curriculum for Excellence. However, this concept would be introduced in an age-appropriate way, and developed over time. The concept of criminal responsibility specifically would be deeply unfamiliar to most children between the ages of eight and 12. It would not be appropriate - indeed it would be absurd - to criminalise very young children, working at First Level, when they are still learning about behaviour, citizenship, etc. and are unable to fully comprehend what they may have done wrong and why it is so wrong as to be considered criminal.

Children under the age of 12 who commit offences need to be helped to stop offending, by adequately resourced supports, and child-centred infrastructure such as children's

panels. Giving them a criminal record at such a young age could seriously damage their life chances, which will, most likely, already be compromised. Barnardo's Scotland has reported that children in the youth justice system are predominantly drawn from the poorest and most disadvantaged families and communities and have multiple problems, including over half with significant speech, language or communication difficulties; around a quarter with a learning disability; mental health disorders at a higher level than the general population; and many with a history of abuse, bereavement, or care-experience. To criminalise young children whose offences are borne out of profound disadvantage is unjust.

We note that 95% of consultation respondents supported this change so there is clearly an overwhelming majority in support of and a clear mandate for this new law.

Ends
