



BRIEFING PAPER

Number 7687, 15 August 2016

The age of criminal responsibility

By Terry McGuinness

PHOTO REDACTED DUE TO THIRD PARTY RIGHTS OR OTHER LEGAL ISSUES

Contents:

1. The ages of criminal responsibility in the UK
2. Criticisms and calls for change
3. The Governments' position

Contents

Summary	3
1. The ages of criminal responsibility in the UK	4
1.1 In England and Wales	4
1.2 In Scotland	4
1.3 In Northern Ireland	5
2. Criticisms and calls for change	6
2.1 The UN Committee on the Rights of the Child	6
2.2 Children's Commissioners	7
The Children's Commissioner for England	7
The Children and Young People's Commissioner for Scotland	8
Northern Ireland Commissioner for Children and Young People	8
2.3 Law Societies	9
The Law Society of England and Wales	9
The Law Society of Scotland	9
2.4 All Party Parliamentary Group for Children	10
2.5 The Royal Society	11
2.6 The Centre for Social Justice	11
2.7 All Party Parliamentary Group on Women in the Penal System	12
3. The Governments' position	14
3.1 At Westminster	14
3.2 At Holyrood	15
3.3 At Stormont	15

Summary

The age of criminal responsibility - the age below which a child is deemed not to have the capacity to commit a crime - is currently set at 10 years in England and Wales and in Northern Ireland. Scotland has the youngest age of criminal responsibility in Europe at 8 years of age.

Calls for an increase in these ages of criminal responsibility are not new. Those who argue that reform is urgently needed point to international standards such as the UN's *Convention on the Rights of the Child* and the higher ages applied in other European states, to the impact on recidivism rates of early entry into the criminal justice system and to ongoing research in neuroscience that shows huge individual variability in the timing of development of children's brains.

Successive Governments have resisted calls for an increase in the age of criminal responsibility, arguing that the current age allows for flexibility in dealing with children in the criminal justice system and is needed so that children may understand that criminal actions are serious matters.

However an increase of the age of criminal responsibility may happen soon in Scotland following the recommendation of an expert advisory group tasked by the Scottish Government with considering the implications of raising the age from 8 to 12 years. The responses to the subsequent consultation into the advisory group's recommendations show support for reform.

In Northern Ireland change is not likely given the Democratic Unionist Party's longstanding opposition to an increase from 10 years of age. Whilst a higher age of criminal responsibility was recommended by the 2011 Review of the Youth Justice System in Northern Ireland, the DUP views cases such as the murder of Jamie Bulger as evidence of the need for a younger age.

1. The ages of criminal responsibility in the UK

1.1 In England and Wales

The current age of criminal responsibility in England and Wales is ten years.¹ No child under this age can be found guilty of a criminal offence.

Until 1998, there was also a legal presumption (known as '*doli incapax*') that children aged under 14 did not know the difference between right and wrong and were therefore incapable of committing an offence. This presumption was rebuttable if the prosecution could satisfy the court that the child knew that what he was doing was seriously wrong, not merely naughty or mischievous.² However, the *doli incapax* presumption was abolished by section 34 of the *Crime and Disorder Act 1998* and so is no longer in operation.³ Criminal law therefore now treats children aged 10 to 13 in the same way as those aged 14 or over.

The rebuttable presumption that a child under 14 did not know the difference between right and wrong was abolished in 1998

1.2 In Scotland

The current age of criminal responsibility in Scotland is eight years.⁴ This is the lowest age of criminal responsibility in Europe.⁵

In 2010 the Scottish Executive legislated to provide that no child under the age of twelve may be prosecuted for an offence. Neither may an older person be prosecuted for an offence committed whilst under the age of twelve.⁶ Children aged between eight and eleven years can still be referred to the Children's Hearings System on offence grounds. Where a child admits or has an offence ground established by a Children's Hearing or Sheriff, they then acquire a criminal record. This will appear on a higher level disclosure certificate in the event of a criminal record check or on the Protection of Vulnerable Groups Scheme record.

Scotland has the lowest age of criminal responsibility in Europe

¹ Section 50 of the *Children and Young Persons Act 1933* (as amended). The Act as introduced set the age at eight and this was increased to the current age of ten by section 16 of the *Children and Young Persons Act 1963*.

² *JM v Runneckles* (1984) 79 Cr App R 255

³ See the Home Office consultation paper *Tackling Youth Crime*, June 1997 (in particular paragraphs 3 to 18) and the subsequent white paper *No More Excuses: a New Approach to Tackling Youth Crime in England and Wales*, CM 3809, November 1997 (in particular chapter 4) for background to the abolition of the *doli incapax* presumption. The presumption was abolished in Northern Ireland by the *Criminal Justice (Northern Ireland) Order 1998*, article 3.

⁴ Section 41 of the *Criminal Procedure (Scotland) Act 1995*.

⁵ [The Report of the Advisory Group on the Minimum Age of Criminal Responsibility](#), March 2016, paragraph 1.1. See too [Child Rights International Network](#) website (accessed on 15 August 2016)

⁶ A new section 41A was inserted into *Criminal Procedure (Scotland) Act 1995* by section 52 of the *Criminal Justice and Licensing (Scotland) Act 2010*.

1.3 In Northern Ireland

The current age of criminal responsibility in Northern Ireland is ten years.

2. Criticisms and calls for change

2.1 The UN Committee on the Rights of the Child

The UN Committee has repeatedly expressed the view that the minimum age of criminal responsibility should be 12 years. In 2007 it issued a General Comment on children's rights in juvenile justice, which included the following comments on the age of criminal responsibility:

32. Rule 4 of the [Beijing Rules](#) recommends that the beginning of MACR [minimum age of criminal responsibility] shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity. In line with this rule the Committee has recommended States parties not to set a MACR at a too low level and to increase the existing low MACR to an internationally acceptable level. From these recommendations, it can be concluded that a minimum age of criminal responsibility below the age of 12 years is considered by the Committee not to be internationally acceptable. States parties are encouraged to increase their lower MACR to the age of 12 years as the absolute minimum age and to continue to increase it to a higher age level.

33. At the same time, the Committee urges States parties not to lower their MACR to the age of 12. A higher MACR, for instance 14 or 16 years of age, contributes to a juvenile justice system which, in accordance with article 40 (3) (b) of CRC [[the Convention on the Rights of the Child](#)], deals with children in conflict with the law without resorting to judicial proceedings, providing that the child's human rights and legal safeguards are fully respected. In this regard, States parties should inform the Committee in their reports in specific detail how children below the MACR set in their laws are treated when they are recognized as having infringed the penal law, or are alleged as or accused of having done so, and what kinds of legal safeguards are in place to ensure that their treatment is as fair and just as that of children at or above MACR.⁷

In 2008 the Committee recommended that the UK raise its minimum age of criminal responsibility in accordance with the Committee's General Recommendation No.10, in particular paragraphs 32 and 33 as quoted above.⁸

In its [Concluding observations on the fifth periodic report of the United Kingdom](#) the Committee expressed concern that the minimum age of criminal responsibility remains 8 years in Scotland, but noted the Scottish Government's willingness to address this and its formation of the advisory group.⁹ It again recommended that the UK raise the

The Committee has repeatedly called for the age of criminal responsibility to reflect children's emotional, mental and intellectual development

⁷ UN Committee on the Rights of the Child, *General Comment No. 10 (2007) - Children's rights in juvenile justice*, CRC/C/GC/10, 25 April 2007

⁸ UN Committee on the Rights of the Child, *Forty-ninth session – Consideration Of Reports Submitted By States Parties Under Article 44 Of The Convention – Concluding Observations: United Kingdom Of Great Britain And Northern Ireland*, CRC/C/GBR/CO/4, 20 October 2008, para 78

⁹ See section 3.2 of this briefing paper

minimum age of criminal responsibility 'in accordance with acceptable international standards'.¹⁰

2.2 Children's Commissioners

In their [joint submission](#) to the UN Committee on the Rights of the Child in May 2016, the UK Children's Commissioners called for the UK and devolved governments to raise the minimum age of criminal responsibility 'as a matter of urgency'.¹¹

The Children's Commissioner for England

In an interview with *the Times* in March 2010 the Children's Commissioner Maggie Atkinson called for the age of criminal responsibility to be raised to 12:

The age of criminal responsibility in this country is ten – that's too low, it should certainly be moved up to 12. In some European countries it's 14. People may be offenders but they are also children. Even the most hardened of youngsters who have committed some very difficult crimes are not beyond being frightened.¹²

Going on to discuss the case of Jon Venables and Robert Thompson, convicted of the murder of James Bulger, she expressed the view that they should not have been tried in an adult court "because they were still children".

James Bulger's mother Denise Fergus criticised these comments:

This woman owes James and me an apology for her twisted and insensitive comments. Then she should resign or be sacked. To say that his killers should not have been tried in an adult court is stupid. They committed an adult crime – a cold-blooded murder that was planned and premeditated – and they were tried accordingly.

[...]

It is a shock to people like Dr Atkinson that children can be truly evil by 10. But it is a fact and I fear there will be more of them and we need laws to be tightened up so we can deal with them.¹³

In December 2012 the Commissioner was a signatory to a letter sent to the *Guardian* that called for a raise in the age of criminal responsibility to protect children's rights. It argued:

...the attribution of full culpability at such a young age runs counter to all the available evidence on children's cognitive and emotional development. The pre-frontal cortex of the brain, for instance, which is important for impulse control and decision-making, continues to develop into the early 20s, more than 10

The trial of the killers of Jamie Bulger is invoked by those on both sides of the debate

Maggie Atkinson drew attention to the continuing physical development of a young person's brain

¹⁰ UN Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*, CRC/C/GBR/CO/5, 12 July 2016, paragraph 79

¹¹ UN Committee on the Rights of the Child, *Examination of the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland - UK Children's Commissioners' Recommendations*, May 2016

¹² "Even Bulger killers were just children, says Maggie Atkinson, Children's Commissioner", *The Times*, 13 March 2010

¹³ "James Bulger's mother calls for sacking of children's commissioner", *the Guardian*, 14 March 2010

8 The age of criminal responsibility

years after the point at which children are considered by the criminal law to be as responsible for their actions as a mature adult.¹⁴

The Children and Young People's Commissioner for Scotland

Scotland's children's commissioner also backs reform. Speaking to *the National* newspaper Tam Baillie called for cross-party consensus on raising the minimum age of criminal responsibility to at least 12:

"Scotland's age of criminal responsibility is a matter of long-standing concern. The country has been criticised on quite a number of occasions by the United Nation's Committee on the Rights of the Child. We know that criminalising children at a young age when they are still at a very early stage of their development is damaging, stigmatises many of them for life and reinforces negative behaviour," he said.

"I welcome the moves by the Lib Dems [*a motion at the party's conference backing an increase to 12*]. I would like to see the age to be increased to at least 12 and I would like to see cross-party support on the issue as the parties go into the election."¹⁵

The Commissioner is of the view that Scotland should work incrementally towards a minimum age of criminal responsibility of 14 or 16 years.¹⁶

Northern Ireland Commissioner for Children and Young People

Immediately prior to commencing work as the children's commissioner, Koulla Yiasouma addressed common concerns that raising the age of criminal responsibility would send the wrong message to troubled children or would result in a large number of offences going unpunished:

It's baffling that as a society we choose to criminalise 10 year olds rather than get to the root cause of their offending behaviour. We'd rather see a handful of troubled primary school-aged children with a criminal record than support them to achieve in education or overcome the disadvantages they face.

[...]

If a child is considered to be a risk to themselves or others it would be negligent to suggest that they are not held securely regardless of their age, in a way that ensures they recognise the impact of their behaviour and decreases the likelihood of reoccurrence. You do not need a low age of criminal responsibility to do this.

Very few children of this age commit crime, despite public perception, and most are convicted of minor offences such as petty theft or criminal damage.

The development of children was also stressed by Tam Baillie

Koulla Yiasouma denied that a low age of criminal responsibility is needed to reduce risk

¹⁴ ['Age of criminal responsibility must be raised to protect children's rights'](#), *the Guardian*, 5 December 2012

¹⁵ ['Age of criminal responsibility must be increased', says Scotland's children's commissioner](#), *The National*, 25 February 2016

¹⁶ Children and Young People's Commissioner Scotland, [Briefing: The Age of Criminal Responsibility in Scotland](#) (accessed on 15 August 2016)

A child is always a child regardless of their behaviour and must be treated as such. Evidence from around the world supports us when we say there are more meaningful and effective ways of dealing with 10 and 11 year olds that is good for families, good for communities, good for public safety and just good common sense.¹⁷

In a presentation in Westminster to the All Party Group on Children she argued that raising the age is not akin to turning a blind eye to criminality:

Raising the age is not about “letting young people get away with it” but ensuring that they are not sucked into a system that labels them and despite its best effort is not overly successful in diverting from further offending.¹⁸

2.3 Law Societies

The Law Society of England and Wales

In its submission to the Law Commission’s 2010 consultation on unfitness to plead, the Law Society stated:

We believe that the age of criminal responsibility is a very considerable factor in relation to the issue of decision-making capacity in youth trials. The Law Society is of the view that the age of 10 years is far too low, and that there is a strong case to be made for raising it to 14 years, with a system in place for diverting those under that age from the criminal justice system entirely. However, there would still have to continue to be a court system in place to decide whether those under the age of 14 years were guilty or not, and where a child lacked decision-making capacity the same procedure should apply as in an adult court.¹⁹

The Law Society of England and Wales identified a continuing need for a court to determine whether or not an alleged act was done

The Law Society of Scotland

The Law Society of Scotland also favours reform. Ian Cruickshank, convener of the Law Society of Scotland’s Criminal Law Committee, said:

Scotland’s age of criminal responsibility is currently the lowest in Europe and we fully support the advisory group’s recommendation to raise it from age eight to 12. The interests of the child must be paramount and it is crucial that their welfare is the focus of attention even in the difficult circumstances of offending behaviour. We do not think that children under the age of 12 should have their actions recorded as criminal.

There are also inconsistencies in our law in that the age of criminal responsibility is currently eight years, but the age at which a child can be prosecuted is 12. This creates confusion in people’s understanding of criminal law and how it relates to children.

The Scottish Law Society welcomes reform to address inconsistencies in the law

¹⁷ Website of Include Youth, ‘[Youth Advocates say ‘Ten is too young’](#)’, 9 February 2015

¹⁸ Presentation by NI Commissioner for Children and Young People, Koulla Yiasouma, to Westminster All Party Group on Children, 23rd November 2015 (accessed on 15 August 2016)

¹⁹ Law Commission consultation paper no 197 ‘Unfitness to plead’, *Law Society response to the Law Commission’s Summary of provisional proposals and questions*, January 2011

The current age of criminal responsibility is out of kilter with the United Nations Convention on the Rights of the Child. While the convention does not specify an age of criminal responsibility, which ranges from age seven or eight to 16 across different countries, the UN Committee on the Rights of the Child made its position clear when it said that setting the age below 12 was 'not to be internationally acceptable'.²⁰

2.4 All Party Parliamentary Group for Children

During the 2009-10 session, the All Party Parliamentary Group for Children held a series of seminars on the theme of "Children in the Youth Justice System in England and Wales". One of these seminars considered the age of criminal responsibility. The Committee's report of the debate at this seminar included the following comments:

There are two broad consequences of having a lower age of criminal responsibility [than other countries – see section 4 of this note for a comparison]. The first of these is the level of youth custody. England and Wales lock up more children than any other country in the rest of Europe. We imprison four times more young people than Portugal, 25 times more than Belgium and 100 times more than Finland. The earlier a child is drawn into the system the greater the chance that they will re-offend, the greater the chance of creating an antecedent history that will lead to further custodial sentences.

The second consequence of a lower age of criminal responsibility is society's attitude towards young people. An elevated age of criminal responsibility indicates a society viewing problematic behaviour through a welfare lens of disadvantage and need. A lower age indicates a society that views young people as criminals. This is self-reinforcing. Where a 14-year-old cannot be prosecuted, services are developed to respond to their problematic behaviour. Where there is an option of arrest and conviction, mainstream services do not have to deal with children over the age of criminal responsibility. The issue of problematic behaviour is a welfare issue, not a criminal justice issue.

Other countries look for alternatives to prosecution. In France, educational intervention is given priority and proceedings do not take place. In Italy, pre-trial supervision is used and where successful, prosecution does not ensue. Where a young person is involved in criminal activities we should be asking how and why this young person has fallen through the welfare net – not criminalising them. Adults are not paying sufficient attention to the needs of the young or identifying early warning signs.

This debate is not about right and wrong. A six-year-old will know the difference between right and wrong but this does not make them criminally responsible. The debate needs to move away from issues of right and wrong and focus on the question of what is the right thing for us to do in relation to children of this age.²¹

The APPG report highlighted the impact of an early age of criminal responsibility on recidivism rates

The APPG felt the focus on a child's knowledge of right and wrong was misleading

²⁰ Law Society of Scotland news release, '[The Society supports recommendation to raise age of criminal responsibility](#)', 10 June 2016

²¹ All Party Parliamentary Group for Children, *Children and Young People in the Youth Justice System: Report of seminars organised by the All Party Parliamentary Group for Children 2009/10*, 2010, pages 10-11

The Committee's concluding observation was that the age of criminal responsibility should be raised to at least 12 years, the absolute minimum recommended by the UN Committee on the Rights of the Child.²²

2.5 The Royal Society

In December 2011 the Royal Society published a report that looked at the legal applications of neuroscience. One issue the report considered was the role of neuroscience in determining an appropriate age of criminal responsibility. It said that neuroscience was "providing new insights into brain development, revealing that changes in important neural circuits underpinning behaviour continue until at least 20 years of age".²³

The report drew the following conclusion:

...it is clear that at the age of ten the brain is developmentally immature, and continues to undergo important changes linked to regulating one's own behaviour. There is concern among some professionals in this field that the age of criminal responsibility in the UK is unreasonably low, and the evidence of individual differences suggests that an arbitrary cut-off age may not be justifiable.²⁴

The research suggested 10 years of age is an unreasonably low cut-off age given the variance in the development of children's brains

Professor Nicholas Mackintosh, who chaired the working group that compiled the study, stressed that the Royal Society was simply presenting the scientific evidence rather than calling for a change in the law: it was "for policy makers" to decide on any changes to the age of responsibility.²⁵

2.6 The Centre for Social Justice

In January 2012 the Centre for Social Justice, a think tank established in 2004 by Iain Duncan Smith, published a policy report on youth justice. The report called for the age of criminal responsibility to be raised from 10 to 12, arguing that "robust responses ... delivered outside of the youth justice system would better serve justice and be a more effective means of addressing criminality". It said that the decision in 1963 setting the age of responsibility at ten was "somewhat arbitrary" and had become "increasingly questionable as our neuropsychological understanding of child development has advanced considerably".²⁶

The CSJ argued that tackling crime would be better served by diverting young people from the criminal justice system

The report went on to make the following recommendations:

Our recommendations on the MACR [*minimum age of criminal responsibility*] include:

²² Ibid, page 15

²³ Royal Society, [Brain Waves Module 4: Neuroscience and the Law](#), December 2011, page 13

²⁴ Ibid, page 14

²⁵ "[Age of criminal responsibility 'too low', experts say](#)", BBC News, 13 December 2011

²⁶ Centre for Social Justice, [Rules of Engagement: Changing the heart of youth justice](#), January 2012, page 201

12 The age of criminal responsibility

- Raising the MACR to 12 for all offences in the long term. Alongside this reform, the youth and family court should be integrated to achieve a whole-family approach to offending. Implicit in this recommendation is that an inquisitorial approach be adopted. However, such a reform is currently implausible as the capacity of welfare services to provide support needs to be developed and public opinion remains uncertain on the issue. Therefore we recommend:
- Raising the MACR to 12 in the immediate term for all but the most grave offences (murder, attempted murder, rape, manslaughter and aggravated sexual assault). This reform should be implemented alongside the other proposals of this review which aim to address the weaknesses in the system, such as investment in early intervention services and development of custodial facilities to become more rehabilitative environments.

We are conscious that in continuing to hold children who have committed the most heinous crimes responsible for their behaviour one likely criminalises those most in need of help. However, we think this solution offers the best prospect of improving outcomes for children in the immediate term.
- Developing a connection between the youth and family court in the medium term to allow young people's offending to be responded to in the context of their families. We recommend that this be achieved by affording to the youth court the power (under s.37 Children Act 1989) to order the local authority children's service to investigate whether a child is at risk of suffering significant harm, and whether the local authority should intervene to safeguard and promote the child's welfare (s.47 investigation under the Children Act). This power would be available in cases where there were welfare concerns.²⁷

The report acknowledged children in the criminal justice system are often those most in need of help

2.7 All Party Parliamentary Group on Women in the Penal System

In March 2012 the All Party Parliamentary Group on Women in the Penal System published the results of a year-long inquiry it had conducted into girls in the penal system. The report made the following recommendation:

Raise the age of criminal responsibility in England and Wales in line with the European average age of 14 years. The United Nations Committee on the Rights of the Child has stated that an age of criminal responsibility below 12 is not acceptable.²⁸

The report made the following arguments in support of this proposal:

Girls can be drawn into the penal system at a much earlier point in their lives than is the case in many other countries. This increases their chances of coming into contact with the penal system again, thus increasing the penalties they are likely to incur for their behaviour and drawing them further and further

The impact on recidivism was also a factor for the APPG

²⁷ Ibid, pages 24-25

²⁸ All Party Parliamentary Group on Women in the Penal System, [Keeping girls out of the penal system](#), March 2012, page 6

into the penal system. The decisions made by local authorities as to how to respond to girls has led to an increase in number of girls brought into contact with criminal justice agencies such as youth offending services.

(...)

Girls' problematic behaviour is often a signifier that they have welfare needs which need addressing, including poverty, substance misuse or domestic violence and abuse. The argument that criminal justice agencies are best placed to support these girls however is misguided. The outcomes for children brought into contact with the penal system, however well-meaning, are poor.²⁹

The APPG also expressed concern about the welfare needs of such young people

²⁹ Ibid, pages 2-3

3. The Governments' position

3.1 At Westminster

The Coalition Government repeatedly stated that it would not raise the age of criminal responsibility.³⁰

Responding for the present Government during the Second Reading of Lord Dholakia's *Age of Criminal Responsibility Bill*, Lord Faulks confirmed the Government has no plans to raise the age of criminal responsibility from 10 to 12 years. He stated:

Although at the moment we are not able to accept that there should be a change, we none the less share the concern of the noble Lord, as indeed do all noble Lords who spoke, about the proper way to deal with young offenders. The Government believe that children aged 10 and above are, for the most part, able to differentiate between bad behaviour and serious wrongdoing and should therefore be held accountable for their actions. Where a young person commits an offence, it is important they understand that it is a serious matter. The public must also have confidence in the youth justice system and know that offending will be dealt with effectively.

The Jamie Bulger case casts a shadow over all our considerations in this area. That case was, I am glad to say, very unusual. The noble and learned Lord, Lord Brown, referred to the principle of *doli incapax*. There was a rebuttable presumption in 1993, at the time of the hearing, which was then removed in 1998. The court in that case specifically considered *doli incapax* and decided that both boys clearly knew that what they had done was wrong, and so the presumption was rebutted.

A number of points were made during the debate about whether or not the full panoply of a trial at the Old Bailey was really appropriate for boys of this age. I entirely understand that point. We have to bear in mind that this was an issue of national concern and, of course, an absolute tragedy for those connected to Jamie Bulger. It is difficult for a country somehow to balance the fact that we are dealing with very young people with, at the same time, acknowledging the seriousness of something of that sort.

[...]

Having the age of criminal responsibility set at 10 years allows flexibility to deal with young offenders. If particular needs are identified in a youth offending team's assessment of a child or young person, the multiagency youth offending team, which includes representatives from health, housing, children's services and education, can refer the child on to other statutory services, such as children's services departments and child and adolescent mental health services, for further investigation and support. That support can include addressing attendance and attitude to school, referral to speech and language therapy and, where appropriate, referring parents to parenting courses. A youth caution can also be given for any offence where the young offender admits an offence and there is sufficient

The Government emphasised the importance of ensuring children understand that their actions are serious

Lord Faulks recognised the impact of the murder of Jamie Bulger on the debate

³⁰ See, for example, [HL Deb 20 December 2010 cc815-7](#), [HC Deb 20 July 2011 c1107-8W](#) and [HC Deb 11 August 2011 c1086](#)

evidence for a realistic prospect of conviction, but it is not in the public interest to prosecute.³¹

3.2 At Holyrood

In September 2015 the Justice Secretary, Michael Matheson MSP, tasked an expert advisory group with examining the policy, legislative and procedural implications of raising the age of criminal responsibility from 8 to 12 years of age. The advisory group recommended that the Scottish Parliament raise the age of criminal responsibility to 12 years. A consultation on making this change ran from 18 March to 17 June 2016. Whilst the Scottish Government is yet to publish its response an increase in the age is seen as 'inevitable'.³²

Following the recommendations of an expert advisory group and consultation responses, change seems to be imminent in Scotland

3.3 At Stormont

An independent review, commissioned in 2010 by then justice minister David Ford MLA, recommended that the minimum age of criminal responsibility be raised to 12 with immediate effect and that consideration be given to raising the age to 14.³³ The consultation on this proposal (and the others set out in the review) closed on 30 December 2011. Whilst Mr Ford and a majority of respondents to the consultation agreed on the need for change, opposition by the Democratic Unionist Party prevented an increase to 12 years.³⁴

The independent review acknowledged that the minimum age of criminal responsibility is, in Northern Ireland, a 'sensitive and controversial issue on which people's views are often quite polarised'.³⁵

In a press release the DUP chair of the NI Assembly's Justice Committee, Alastair Ross MLA, explained his party's opposition:

There are however other proposals that will not achieve political consensus. The proposal around raising the age of criminal responsibility has been debated many times before, and whilst in the vast majority of cases children as young as ten would not be criminalised, sadly events such as the horrific murder of Jamie Bulger illustrates perfectly why the safeguard in the law is required.³⁶

The DUP see the Jamie Bulger case as evidence of the need for a young age of criminal responsibility

³¹ [HL Deb 29 January 2016 c1574-5](#)

³² See '[Change in age of criminal responsibility looks inevitable](#)', *the Herald*, 13 May 2016; '[Human rights review shows areas governments need to consider](#)', *The Scotsman*, 8 August 2016

³³ [A Review of the Youth Justice System in Northern Ireland](#), September 2011, page 107

³⁴ BBC News, '[Age of criminal responsibility could rise says David Ford](#)', 23 October 2012

³⁵ [A Review of the Youth Justice System in Northern Ireland](#), September 2011, page 101

³⁶ DUP press release, '[Ross responds to youth justice statement](#)', 14 March 2016

About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publicly available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email hcenquiries@parliament.uk.

Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).