

# **Standards for those working with children in conflict with the law 2021**

**June 2021**

# Standards for those working with children in conflict with the law 2021

## Ministerial foreword



I am delighted to introduce these standards which are intended to guide both strategic and operational services' understanding of what is expected at each stage of a child's journey through the justice system.

Preventing offending is integral to our vision of Scotland as the best place to grow up – Getting it Right for Every Child in Scotland. Our vision of Scotland as the best place to grow up extends to all of our children.

In Scotland, we have a proud record of taking a holistic approach to the needs of our children. For those in conflict with the law we remain committed to tackling the causes and impact of offending behaviour together with addressing wider needs. As far as possible children should be kept away from formal measures, whether that be through the Children's Hearings System or the Criminal Justice System, with proven alternative interventions used to address the behaviour and causes. Interventions must be timely, proportionate and credible to ensure victims and communities have confidence that unacceptable and harmful behaviour is being challenged.

There has been significant progress made over the last 12 years since the introduction of the Whole System Approach to preventing offending by young people and the shift towards prevention. However, there is still more we can do to ensure that the rights of children in Scotland are protected. We need to continue to work together in a partnership approach to build on achievements.

The new Rights-Respecting Approach to Justice for Children and Young People: Scotland's Vision and Priorities and accompanying action plan outline a shared foundation between the Scottish Government and key partners to work together, to prevent children and young people from being involved in behaviour which leads them to be in conflict with the law and to ensure that those already involved in such behaviour are fully supported throughout their journey.

These standards complement the vision and replace those published in 2012. A public consultation took place between November 2019 and February 2020, the results of which were independently analysed and changes have been reflected in these new standards. Additions include support for victims, rights and participation and core principles and data sets to support local and national data collection to help monitor progress, service improvement and evidence improved outcomes.

I hope these standards will support improvements in practice, which in turn will deliver better outcomes for Scotland's children.

I would like to thank all who have been involved in developing these standards.

Clare Haughey MSP  
Minister for Children and Young People

## **Introduction**

These standards outline the minimum expectations for all strategic and operational services delivering youth justice in the community, secure care and young offender institutions (YOI) and fit within the Scottish Government's [A Rights-Respecting Approach to Justice for Children and Young People: Scotland's Vision and Priorities](#).

Article 40 of the [United Nations Convention on the Rights of the Child](#) (UNCRC) gives all children under 18 who have been accused of committing a crime or offence the right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and assuming a constructive role in society.

These standards must influence how services are designed and delivered to ensure the state meets the human rights of all children in conflict with the law. They focus on duties and functions, offering the opportunity for flexibility to meet local needs. These standards have been developed by key partners and agencies working directly and indirectly with children and are endorsed by the Scottish Government, Youth Justice Improvement Board (YJIB) and National Youth Justice Advisory Group (NYJAG).

## **Aims**

The aims of these standards are to:

- Ensure that the rights of children are upheld and underpin justice for children in Scotland in line with international human rights standards, and in particular the [UNCRC](#).
- Provide a framework for best practice and ensure that quality is maintained.
- Encourage and support innovation and best practice to improve outcomes for children.
- Ensure that every child in Scotland in conflict with the law has positive outcomes.

## **Focus**

The standards focus on:

- Children's Rights and Participation
- Prevention and Early Intervention
- Children's Hearing System
- Alternatives to Prosecution
- Court and judicial proceedings
- Deprivation of liberty
- Assessing, Reducing and Managing the Risk of Harm
- Transitions
- Victims
- Improving Outcomes

## Who are they for

These standards are aimed at practitioners and professionals working with all children up to the age of 18 who are in conflict with the law or on the edge of such behaviour.

Organisations include:

- Local Authorities
- Third Sector
- Crown Office and Procurator Fiscal Service (COPFS)
- Police Scotland (PS)
- Scottish Courts and Tribunal Service (SCTS)
- Scottish Children's Reporter Administration (SCRA)
- Children's Hearings Scotland (CHS)
- Private or Non-Governmental Organisations fulfilling public functions (including Scottish Prison Service and secure care centres)

Whilst the standards are not directly aimed at children, it is expected that all those providing services uphold their responsibility to ensure that the children they are working with are made aware of these standards and importantly speak to the child to ensure that they understand them and know what to expect. This is important for all children but particularly those with disabilities, protected characteristics, care experience, young carers or those with additional wellbeing needs (including speech, language and communication needs). Additional support may need to be offered by the professional in line with Getting It Right For Every Child (GIRFEC) policy assessment and planning framework.

## Background, Research and Policies

Scotland's unique approach to supporting children in conflict with the law builds on [Lord Kilbrandon's report](#) (1964) by responding to deeds in the context of needs. The view of Lord Kilbrandon, which led to the creation of the Children's Hearings System, was that it was not useful to categorise children based on their offending behaviour alone, but to look behind the presenting problems to find the underlying causes in the life of the individual child. He concluded that children who offend and children in need of care and protection all shared a common experience - a lack of support at one or various points in their life, and that evidence tells us that they are often the same children.

There is an ambition that Scotland is the best place in the world for a child to grow up. Recognising, respecting and promoting the rights of children is essential to achieving this. The UNCRC sets out the fundamental rights of all children under 18. The report [Rights Respecting? Scotland's Approach to Children in Conflict with the law](#) highlights how to ensure Scotland complies with UNCRC for these children.

Article 12 clearly outlines that children who are capable of forming their own views have the right to express their views freely in all matters affecting them and those views must be taken into account in all decision making. It follows that children must be supported to be heard at all stages of any interventions. Participation and engagement with children and families is fundamental in this process and should be adhered to throughout all of the following standards to ensure that those children

feel valued and receive the most appropriate supports possible. It is important that their voices are heard and the views of children and families are considered throughout. This also includes during service design.

Those working with children in conflict with the law must uphold their rights and promote their wellbeing, ensuring their work is underpinned by GIRFEC principles. Approaches adopted must be in partnership with child protection, health and educational services. Many children who display offending behaviours are also highly vulnerable and may have experienced crime and trauma in their own lives. An assessment of their vulnerability as well as the risk of harm they may present to others must be taken into account. Whilst this can be complex and challenging, it is critical to the wellbeing of the child, the people they have (or may potentially have) harmed and the confidence the community has that harm will be reduced and addressed effectively whilst protecting the child's rights and best interests.

There are a number of areas of policy development to which these standards have been aligned, such as [Children's rights](#) and the recommendations of the Independent Care Review in [the Promise](#). They should also be read alongside relevant wider standards and guidance such as:

- [Community Payback guidance](#)
- [Court Social Work Standards](#)
- [Secure Care Pathways and Standards Scotland](#)
- [Health and Social Care Standards](#)
- [How Good Is Our School](#)
- [HMIPS Standards for Inspection and Monitoring](#)

Integration and sustainability of the Whole System Approach to offending behaviour is part of the strategic planning landscape including Community Planning, Children's Service Planning and Community Justice. Local and national partners have a key role to play.

The Children and Young People (Scotland) Act 2014 ("the 2014 Act") outlines the duties for corporate parents across Scotland. These duties aim to ensure that collectively we focus on the task of safeguarding and promoting wellbeing, to ensure children and young people up to the age of 26 do not face additional barriers because of care experiences. Organisations who are listed as "[corporate parents](#)" for the purposes of Part 9 of the 2014 Act, and their practitioners who support children who engage in offending behaviour, must be clear on their corporate parenting responsibilities, fulfil these responsibilities and recognise their accountability if this is not achieved.

In Scotland we are committed to a safer, stronger Scotland by supporting everyone's right to feel safe in their home and community. Whilst there is a focus on supporting those children in conflict with the law and where possible keeping them out of formal systems and custody, the needs of victims must also be recognised and supported. There is a specific need to support child victims, who are usually those harmed by other children. The use of restorative justice is one area of practice which may offer assistance and support to victims. The [Scottish Government Restorative Justice](#)

[Action Plan](#) aims to have Restorative Justice available across Scotland by 2023 to all those who wish to access it, and at a time appropriate to the people and case involved.

All children should be included, engaged and involved in education and only ever excluded for the shortest period necessary as a last resort to protect the child or others from significant harm. There is an expectation that education authorities and schools use the policy frameworks of GIRFEC and [Included, Engaged and Involved](#) guidance when developing policies and procedures on exclusion, ensuring all children's rights to education are fulfilled.

Promoting children's positive mental health and wellbeing is also crucial to supporting them to realise their potential. Children and their families must be supported to enable them to have good mental and physical health and wellbeing in accordance with Articles 23 and 24 of the UNCRC. The [Children and Young People's Mental Health Taskforce](#) was jointly commissioned by the Scottish Government and COSLA in June 2018. The aim of the Taskforce was that children, young people, their families and carers should know that they are supported in good mental health and be able to access services which are local, evidence based, responsive and delivered by people with the right skills.

[Research](#) relating to brain development highlights that it is not until the mid-20s, and possibly later, that the brain is fully developed. Early experiences can also promote or inhibit children's ability to learn and build the skills they need to engage and interact with others. Given this, it is crucial that children are supported to understand and retain important information, particularly their rights. As stated above children's voices must be heard in relation to matters that affect them and they must be supported to be heard at all stages within the youth and criminal justice system. Identifying children with additional support needs at an early stage is essential to ensure that they are treated fairly, that they are clear what their rights area and that they are included in decision making. This is particularly important given the high number of children in conflict with the law who experience some form of speech, language and communication needs or disability.

Details around specific policy, practice and legislation which supports youth justice practice in Scotland is detailed under each standard. Further details can also be found in the [Children and Young People's Centre for Justice \(CYCJ\) practice guide and Youth and Criminal Justice in Scotland: the young person's journey](#).

### **National Performance Framework**

In Scotland we have a [National Performance Framework](#) which aims to create a more successful country, give opportunities to all people living in Scotland, increase wellbeing, create sustainable and inclusive growth, reduce inequalities and give equal importance to economic, environmental and social progress. This is underpinned by core values - to treat all our people with kindness, dignity and compassion, respect the rule of the law and act in an open and transparent way. The framework sets out national outcomes with progress being measured against 81 national indicators.

The outcomes which are specifically relevant to youth justice are:

- We grow up loved, safe and respected so that we realise our full potential.
- We live in communities that are inclusive, empowered, resilient and safe.
- We are well educated, skilled and able to contribute to society.
- We are healthy and active.
- We respect, protect and fulfil human rights and live free from discrimination.

The standards outlined in this document are aimed to complement the National Performance Framework.

### **Monitoring the delivery of the standards**

The Youth Justice Improvement Board will provide governance to oversee the implementation of the standards. In anticipation of the changes in practice, approaches, experiences and outcomes which the standards will bring, they will be subject to ongoing monitoring, review and updating.

The delivery of the standards will be monitored through mechanisms such as self-evaluation, internal organisation discussions and survey, discussions and surveys with children and through formal inspection processes.

The standards will be reviewed two years after publication, by the Scottish Government and key partners, to ensure they are still relevant. Whilst reviewing the standards engagement will take place with young people to ensure their views are considered.

## Standards

### Standard 1 - Children's Rights and Participation

Children in conflict with the law often have some of the most hidden voices. It is everyone's responsibility to ensure their voices are heard and their rights are upheld.

1.1 Children must be continually supported to understand all of their rights under the [UNCRC](#). Information must be presented in child friendly language and in an accessible way. Children must be reminded of their rights and entitlements throughout their care journey and at all stages of the justice system.

1.2 All children's participation and engagement rights must be prioritised and upheld.

1.3 Children and their parents/carers have a right to have a say in all matters which affect them, their views must be considered and taken into account in any decisions which directly affect them.

1.4 Children must be able to access a range of developmentally appropriate participation opportunities that meet their needs. This includes individual, group and collective participation opportunities to help shape the decisions, services and supports that affect them.

1.5 All public bodies must ensure that the services put in place in the justice system for children comply with international human rights standards and are compatible with the UNCRC. Children and their parents/ carers must be involved in the planning, design and evaluation of any services that they receive. This should be developmentally appropriate and feedback should be recorded and used to positively influence service change.

1.6 Decisions, process and outcomes must be fully explained to children and their parents/carers in a language and format which they can understand.

1.7 Children and their families have the right to complain and appeal and should have support to do this. The processes must be accessible and relevant to children and their families. Advocacy and legal advice should always be made available.

1.8 When children and their families share their views through feedback, evaluation, appeal or any other consultation they have participated in, they must receive feedback on how their views have been acted on and taken into account.

1.9 Children and their parents/carers must receive accessible information and support to understand what they should expect from developing practice, policy and legislation including the implementation of the Youth Justice Standards. It is everyone's responsibility to do this from strategic duty-bearers, to the front facing workforce. This includes information on the standards of care, rights, restrictions, processes and services they are entitled to.

## Standard 2 – Prevention and Early Intervention

Prevention and Early Intervention is available to every child in Scotland who is involved in or at risk of coming into conflict with the law.

Guidance and legislation: [The Children \(Scotland\) Act 1995](#), [Children and Young People \(Scotland\) Act 2014](#), [Early and Effective Intervention Core Elements](#), [Whole System Approach to Offending Behaviour by Young People](#) ; [Responses to Offending in Residential Childcare](#)

Preventative measures play an important role in supporting children, recognising where additional supports may be effective and meaningful in preventing their behaviour escalating and coming to the attention of the police. Early and Effective Intervention (EEI) processes aim to respond to the needs of children who have come to the attention of the Police for alleged offending behaviour, which may be concerning or problematic. However, ensuring responses through EEI are also available as part of prevention, as appropriate, ensures a child-friendly and multi-disciplinary response to children who are at risk of coming into conflict with the law.

The overall aim is to improve the outcomes for children by ensuring proportionate responses, which are individualised to the needs and context of that child and provided at the right time. It must be acknowledged that not all referrals to EEI will require a response as concerns may have been appropriately addressed following referral.

EEI provides opportunities to respond to and support children who have engaged in alleged low level offending behaviour, concerning or harmful behaviours. Where intervention is deemed appropriate (in collaboration with the child and family) to meet the needs of the child it must be timely and proportionate whilst ensuring communities see unacceptable behaviour is being addressed. The [EEI Framework of Core Elements](#) sets out best practice for the effective delivery of EEI, providing a shared language and a commonality of processes.

2.1 Preventative measures should be adopted and considered at a local level to seek to prevent children's negative behaviours escalating.<sup>1</sup>

2.2 Local multi-agency partnership arrangements are in place to support consensual lawful and proportionate information sharing, planning, decision making and review mechanisms to reduce risk and meet needs.

2.3 Children and their parents should be included, and consent sought, in all the decisions being made under EEI, and in the best interests of the child.

2.4 Children must have access to supports on a voluntary basis and not require a referral to a formal system to receive the support they need. Initial denial of the alleged offence or behaviour should not prevent the child being considered for EEI. A child who is not already subject to a compulsory supervision order (CSO) in the

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<sup>1</sup> Suggested actions are set out in [Rights Respecting: Scotland's approach to children in conflict with the law](#)

Children's Hearings System should only be referred to the Children's Reporter if it is considered that they may require compulsory measures.

2.5 Support and interventions with children who are referred to the Children's Reporter are offered at the earliest opportunity and not delayed awaiting the outcome of a referral. Supports must be rights-based, holistic and consider the circumstances of the whole family.

2.6 Prevention and early intervention supports are underpinned by [Human Rights law](#), the [UNCRC](#), [GIRFEC](#), and Child Protection processes with agreed pathways for escalation where required.

2.7 Systems are in place locally to identify outcomes for individual children to support the measurement of how effective the supports and interventions are.

2.8 All organisations should have systems in place to collate data at a local and national level in line with the Human Rights Act 1998 and GDPR processes. As a minimum, data should include the number of children charged with an offence, those dealt with via voluntary measures and those referred to the children's reporter and/or the Crown Office and Procurator Fiscal Services. This will provide a clear overview of the scale of alleged offending behaviour by children and support effective targeting of resources.

2.9 Children should not have increased contact with the police as a result of being cared for within a residential placement. However, if contact is required then the contact should be positive.

### **Standard 3 – Children's Hearings System**

Children referred to the Children's Reporter receive support at the earliest opportunity and those who are subject to a Compulsory Supervision Order (CSO) have a child's plan in place which is reviewed in line with relevant guidance and supported by appropriate risk and needs assessment tools.

Guidance and legislation: [Children's Hearings \(Scotland\) Act 2011](#), [Lord Advocates Guidelines](#), [Framework for Risk Assessment Management and Evaluation](#)

3.1 [Guidance on referral to the Reporter - Information for Partners](#) must be followed when referring a child, taking into consideration the child's rights, best interests and the GIRFEC wellbeing indicators.

3.2 Decisions around referrals must be made timeously taking in to account the rights, needs and best interests of the child. Any delays to proceedings should be minimised and cases dealt with as efficiently and effectively as possible.

3.3 Panel members' decisions should be timely, legally competent and in the best interests of the child or young person.

3.4 All children in the Children's Hearings System, where there are concerns about offending behaviour, have their needs and risks assessed using the [GIRFEC national practice model](#) and appropriate structured professional judgment risk assessment tools for behaviours which may pose a risk of harm to others such as START:AV. The evidence base in the [Risk Management Authority](#) (RMA) Risk Assessment Tools Evaluation Directory (RATED) can be utilised to inform the use of appropriate tools.

3.5 Behaviour which poses a risk of harm to others must be assessed, managed and reviewed following the [Framework for Risk Assessment Management and Evaluation](#) (FRAME) for local authorities and partners - for children aged 12-17 years. The Guidance and Operational standards for risk practice with children aged 12-17 years must be followed, of which Care and Risk Management (CARM) is an example.

3.6 It is important that only cases that fall within the [Lord Advocate's Guidelines](#) are jointly reported, to prevent the inclusion of children who should be dealt with in the Children's Hearings System entering the criminal justice system. Guidance on [Decision Making in Cases of Children Jointly Reported to the Procurator Fiscal and Children's Reporter](#) must be followed.

3.7 When a child continues to be in need of care and protection a CSO must not be terminated due to their non-engagement alone, or due to there being an outstanding matter or order via the Criminal Justice System in place (or pending)<sup>2</sup>.

#### **Standard 4 – Alternatives to Prosecution**

Where appropriate, children must not enter formal systems. Where that is not possible consideration must be given to the use of alternatives to prosecutorial action, which includes diversion. Any decisions should be compliant with Human Rights legislation.

Guidance and legislation: [COPFS Prosecution code](#), [Diversion from Prosecution guidance](#), [Whole System Approach to Offending Behaviour by Young People](#), [Criminal Procedure \(Scotland\) Act 1995](#); [Human Rights Act 1998](#)

4.1 Reports submitted by Police Scotland to the Crown Office and Procurator Fiscal Service (COPFS) must include all relevant information available to support the Procurator Fiscal to mark the case and make a decision.

4.2 Decisions made regarding children referred to COPFS should be made timeously. Any delay in criminal proceedings involving the child accused should be minimised and cases dealt with as efficiently and effectively as possible.

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<sup>2</sup> [SWS Position Statement: WSA for children aged 15-17 in the Hearings System](#)

4.3 Local services must be available to ensure person centred approaches so that children's needs can be effectively responded to through alternatives to prosecutorial action, which includes diversion, where appropriate.

4.4 COPFS must advise children on the final outcome of the case.

4.5 National [guidance on diversion](#) must be followed taking a human rights based approach.

## **Standard 5 – Court and Judicial Proceedings**

All children must have access to support when going through the judicial processes. Criminal court proceedings should only be engaged in exceptional cases and as a last resort in the public interest.

Guidance and legislation: [Criminal Justice \(Scotland\) Act 2016](#), [Criminal Procedure \(Scotland\) Act 1995](#), [Summary Justice System Reform Model](#), [Victims and Witnesses \(Scotland\) Act 2014](#), [National Outcomes and Standards for Criminal Justice Social Work Reports and Court Based Services 2010](#); [A guide to Youth Justice in Scotland: Supporting Children in the Court System](#)

5.1 Effective partnership working arrangements are in place between Scottish Courts, COPFS, Children's Reporter, Police Scotland, court based social work services, third sector and local authorities to enable timely information sharing to ensure children involved in the court process are supported and included in decision making at the earliest opportunity.

5.2 Where a child is at risk of entering custody or being deprived of their liberty (either by virtue of being remanded or sentenced) their case should be heard as early as possible in the court day to support their transition into custody.

5.3 The support provided to children in the court or judicial processes should be holistic and individualised. This includes practical supports to address identified needs, process and procedural guidance, links between justice system professionals and support until completion of the court process. This must include children's rights-based legal advice, advocacy and representation. Once concluded additional support should be available for the child in relation to any court disposal, and rights of appeal, review or complaint.

5.4 [National Outcomes and Standards](#) for Criminal Justice Social Work Reports (CJSWR) and Court Based Services (2010) must be followed in the preparation of all CJSWRs for under 18s. Reports must be informed by relevant risk and needs assessment tools and in accordance with GIRFEC and the requirements of child-friendly justice standards. All reports must comment on the option of advice/remittal to a children's hearing, restriction of liberty orders and of the [responsibility of Scottish Ministers](#) if sentenced via section 205 or 208 of the Criminal Procedure (Scotland) Act 1995.

5.5 Children made subject to Court orders must receive developmentally appropriate support to understand any specific requirements and the potential consequences of not complying with these. National practice guidance on [Community Payback Orders](#) should be followed.

5.6 All Scottish Courts should have arrangements in place for children appearing from custody and minimise the use of cells, handcuffs or any adult facilities. Courts must have access to information about the child, and where possible that should include their views, protected characteristics, capacity, wellbeing needs, risks and vulnerabilities and best interests to inform judicial decision making.

5.7 Children going to or held in secure care or YOI or appearing from police custody must be transported to and from Court using transport which is appropriate for children, minimises delays and does not put them in contact with adult prisoners or accused.

## **Standard 6 – Deprivation of liberty**

Article 37 of the UNCRC states that the deprivation of liberty of a child shall be in conformity with the law. Children should be arrested, detained or imprisoned only as a measure of last resort and for the shortest appropriate period of time. This includes secure care, police or court custody and Young Offender Institutions (YOI).

Guidance and legislation: [Children's Hearings \(Scotland\) Act 2011](#), [Criminal Procedure \(Scotland\) Act 1995](#), [Secure Care Pathways and Standards](#), [Looked After Children \(Scotland\) Regulations 2009](#)

6.1 Before authorising a deprivation of liberty or secure care placement all community-based alternatives including a [Movement Restriction Condition](#) (MRC) must be explored and the potential suitability for this shared with the child, family and key decision makers. Where these alternative options are not pursued, the reasons must be human rights compliant and should be clearly recorded and explained to the child. The child should be advised of their rights to appeal against the decision to deprive them of their liberty.

6.2 The [Secure Care Pathway and Standards](#) must be adhered to.

6.3 Children under the age of 16 or aged 16 or 17 and subject to a Compulsory Supervision Order (CSO) who cannot be supported in the community and require to be deprived of their liberty by the court should be cared for within the secure care centres.

6.4 On entering secure care or custody, an assessment of needs should be completed in collaboration with the child and any relevant person such as parents or carers. Work should be undertaken to meet the rights, needs and risks identified in the Child's Plan, via the provision of comprehensive, holistic and individualised support from a range of services.

6.5 All relevant information must be sent to the secure care provider or YOI the day the child enters. The first stage in this will be an [initial custody review](#) or a review via the [Looked After Children \(Scotland\) Regulations 2009](#). All children who enter secure care or custody via court will be supported at the earliest opportunity to start planning for their transition back to the community.

6.6 All children under 18 who are deprived of their liberty, have the rights to private and family life and to maintain regular and direct contact with their families in accordance with Articles 9 and 16 of UNCRC. Guidance and legislative requirements on support to, contact with children, review arrangements and upholding children's rights throughout their stay in secure care or custody must be followed.

6.7 Corporate Parents must provide support for children returning to the community following any period where the child has been deprived of their liberty and must prioritise their reintegration, rights and best interests. This includes support with legal advice, accommodation, finances, education, training and employment, health and substance use and family support and should be detailed in a Transition Plan within the Child's Plan.

## **Standard 7 - Assessing, reducing and managing the risk of harm**

Risk assessment and formulation is a crucial step to identify which children require services, the type and intensity of service provision required and in guiding appropriate care planning. Undertaking proportionate assessment to understand and reduce the risk of harm posed by aspects of a child's behaviour is essential and must actively include the child and their views.

Guidance and legislation: [Framework for Risk Assessment Management and Evaluation, Management of Offenders etc \(Scotland\) Act 2005](#)

7.1 The selection of appropriate risk assessment tools, which support a structured professional judgement approach, is the responsibility of the practitioner and the agency. The assessment tool must be appropriate for the age and developmental level of the child and guided by the evidence base outlined by the Risk Management Authority (RMA) in the Risk Assessment Tools Evaluation Directory (RATED). Tools designed to be used with adults must not be used with children under 18.

7.2 Interventions and services to reduce the risk of harm must address the specific strengths and vulnerabilities identified by assessment and formulation. They must be developmentally informed, proportionate, timely and delivered by practitioners with the appropriate skills to do so. All risk management plans must be regularly reviewed to ensure strategies and interventions continue to be appropriate and proportionate.

7.3 The [Framework for Risk Assessment Management and Evaluation](#) (FRAME) for children aged 12-17 must underpin practice when assessing, managing, reducing

and evaluating the risk of harm which may be posed by aspects of a child's behaviour. FRAME outlines proportionate risk practice which recognises children's rights and their inclusion as critical to reduce the risk of harm and support them to realise their potential. Any formal risk management process must adhere to the guidance and operational standards of risk practice with children 12-17 years of which Care and Risk Management (CARM) is an example.

7.4 Local partnerships must have clear protocols in place to ensure formal risk management processes, such as CARM, are initiated and followed where there has been actual or potential serious harm from a child's behaviour. The type of harm considered may include harmful sexual behaviour and/or behaviour involving violence or where a pattern of significant escalation of lesser behaviours suggests that an incident of a serious nature may be imminent (irrespective of the legal status of the incident).

7.5 Systems must be in place to collate data at a local and national level on all children supported through formal risk management processes such as CARM or local equivalents. As a minimum, this must include number of referrals, type of risk concerns, gender, legal status, age, decision making as to whether CARM meeting is necessary, number exiting the CARM process, reasons for this and the length of time in the process. This will provide a clear overview of the effectiveness of processes and interventions to reduce the risk of harm and will support effective targeting of resources.

7.6 All formal risk management processes whether CARM or equivalent must be human rights based, approved and have clear pathways of governance and oversight by local child protection committees and community planning partnerships.

## **Standard 8 – Transitions**

Transitions can be stressful and challenging. In order to help children in conflict with the law prepare and understand the transitions they may go through - whether that is in and out of placements or when moving between support services and systems - it is essential that they are supported before during and after the transition process following [principles of good transitions](#) published by the Scottish Transitions Forum.

Guidance and legislation: [Whole System Approach to Offending Behaviour by Young People](#), [Principles of Good Transitions](#)

8.1 Local community planning partnerships have arrangements in place to support partnership working and ensure delivery of smooth and gradual transitions which are child centred, planned and appropriately paced, and fully meet identified needs and risks. Children should be supported before, during and after any transition.

8.2 Local systems are in place to ensure continuity of assessment, planning, key relationships and interventions for children transitioning and align with the statutory

requirements for transition planning in continuing care, corporate parenting, and additional support for learning educational services.

8.3 Children transitioning to adult services must have an identified professional contact to take over from the lead professional.

8.4 All relevant information, including the child's views, plans, risk assessments, formulations and risk reduction plans must be shared as part of the transition planning.

## **Standard 9 – Victims**

Victims must have access to information, supports and opportunities to access restorative justice, where appropriate.

In providing support and information to victims, services should recognise that many children who are in conflict with the law have been victims themselves and children have rights to support and help for recovery from trauma and abuse in accordance with Article 39 of the UNCRC.

Guidance and legislation: [Victims and Witnesses \(Scotland\) Act 2014](#)

9.1 Services have arrangements in place to ensure victims have access to relevant and appropriate information:

- about the system dealing with the child responsible for harming them; and
- about the outcome of the case of that child, whilst also recognising the right of that child to privacy.

Where information cannot be provided, victims should be informed of the reason why.

9.2 Local partnerships have arrangements in place to ensure support for victims of crime regardless of the age of the person responsible or the outcome of the case. Support needs to be tailored to the needs of the recipient.

9.3 Services should consider whether measures are required to ensure the safety of a victim.

9.4 The use of restorative justice should be considered where available and appropriate.

## **Standard 10 - Improving Outcomes**

To support improving outcomes it is expected that the quality of service provision for children in conflict with the law or at risk of coming into conflict with the law will be measured using the standards outlined in this document.

10.1 Scottish Government will analyse and publish data from a range of sources including SCRA, Scottish Courts, Police Scotland, Crown Office and Procurator Fiscal Service and Local Authorities, annually to support local and national evaluation of youth justice.

10.2 Local partnerships have mechanisms in place to measure the impact of supports to children at risk of or who come into conflict with the law.



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