

Children's Interview Right's Practitioner: Island Communities Impact Assessment

October 2022

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DEVELOP A CLEAR UNDERSTANDING OF YOUR OBJECTIVE

- 1. What are the objectives of the policy, strategy or service?**
 - 2. Do you need to consult?**
 - 3. How are the islands identified for the purpose of the policy, strategy or service?**
 - 4. What are the intended impacts/outcomes and how do these potentially differ in the islands?**
 - 5. Is the policy strategy or service new?**
1. Section 51 of the Age of Criminal Responsibility (Scotland) Act 2019, when commenced, provides for a child who is involved in an investigative interview either by agreement under section 40(2) or by a child interview order made under section 44 to be supported by a ChIRP to provide advice, support and assistance to children in relation to their involvement in such interviews. The regulations will specify how ChIRPs are appointed, trained, supported, paid and monitored etc. They will also make provision requiring, so far as reasonably practicable, the views of the child involved in the case as to the appointment of a particular ChIRP to be ascertained and, taking account of the child's age and maturity, are considered.
 2. Potentially with the relevant local authorities and stakeholders.
 3. The islands are not specifically identified in the regulations.
 4. The intention is that a child under the age of 12 who is subject to an investigative interview will be supported by a ChIRP. The only potential difficulty in the islands would be the lack of suitably qualified solicitors. However, there is a pool of over 700 specialist solicitors registered on the Children's Legal Assistance Scheme so there should be no issue with any child in any part of the country being unable to access a ChIRP.
 5. Although the ChIRP is new, the Criminal Justice (Scotland) Act 2016 makes provision for legal representation to be made available to children when being interviewed by the police. Raising the age of criminal responsibility to 12 will remove children under 12 from the scope of that Act. However, police and other agencies will still have to investigate incidents of significant harm. If a child is to be interviewed, their rights and interests must be protected. Although investigative interviews will be non-criminal, such interviews could have serious consequences for the child. The 2019 Act therefore provides for a child to be supported by a ChIRP during any investigative interview.

GATHER YOUR DATA AND IDENTIFY YOUR STAKEHOLDERS

- 1. What data is available about the current situation in the islands?**
- 2. Do you need to consult?**
- 3. How does any existing data differ between islands?**
- 4. Are there any existing design features or mitigations in place?**

1. Information from Police Powers Team.
2. No further consultation is considered necessary. The Age of Criminal Responsibility (Scotland) Bill as introduced to the Scottish Parliament made provision for section 122 of the Children's Hearings (Scotland) Act 2011, which allows for (a) the establishment of children's advocacy services to assist children in relation to their involvement in a children's hearing and (b) regulations to make provision for or in connection with the provision of children's advocacy services, qualifications to be held by, training of, and the payment of expenses, fees and allowances to, persons providing the children's advocacy service to be amended to allow those children's advocacy services to provide support and assistance to a child in connection with or during their participation in an investigative interview. The amendments passed at Stage 3 of the Bill essentially removed the references to "advocacy worker" and replaced them with "child interview rights practitioner". The change to the nomenclature of this role was intended to address the views of key stakeholders – prospective children's hearings advocacy providers and legal representatives engaged in the Children's Legal Assistance Scheme – who raised concerns about the use of the term "advocacy worker" because the role as outlined in the Bill as introduced was not consistent with their understanding of advocacy. In developing the policy for ChIRPs, we consulted and engaged with representatives of the legal profession in Scotland, including: the Scottish Legal Aid Board, Clan Childlaw, the Law Society of Scotland, Millard Law, the Child Law Centre, Livingstone Brown, the Faculty of Advocates, Keegan Smith, and McCarry's Solicitors. We have also engaged with the Children's Legal Assistance Scheme peer review group. We have used feedback from stakeholders to refine the conditions of registration and the standards of practice, as well gathering views on the fee structure and the overall management of the ChIRPs scheme.
3. We plan to ask for expressions of interest from firms and solicitors who would wish to be on the register. There will be a 4 week period for firms and solicitors to express an interest. In the expression of interest form, we will seek confirmation of the local authority areas that solicitors and firms are available to cover. At the end of the 4 week period we will know whether there is sufficient geographical coverage in the successful submissions. If the initial trawl does not identify sufficient provision, we will consider alternative approaches.
4. Officials in the Youth Justice & Children's Hearings Unit will establish and maintain the register when the 2019 Act fully commences. The number of investigative interviews that take place will be monitored and demand will be aligned with the number of ChIRPs required to be on the register. Guidance has been developed to support Police Scotland and local authorities in the application of their operational duties in relation to investigative interviews. In particular, the guidance makes clear that decisions about the location of interviews should consider any geographic challenges in relation to the practicalities of transporting

the child and / or others, to identified location as this is especially important when considering children who reside in rural areas, particularly those in the remote and island locations where there may be limited options.

CONSULTATION

- 1. Who do you need to consult with?**
- 2. How will you carry out your consultation and in what timescales?**
- 3. What questions will you ask when considering how to address island realities?**
- 4. What information has already been gathered through consultations and what concerns have been raised previously by island communities?**
- 5. Is your consultation robust and meaningful and sufficient to comply with the Section 7 duty?**

1. As noted above, consultation has already been carried out and there is no immediate need to consult further on the regulations. It is considered that previous consultations have been robust and meaningful and sufficient to comply with the Section 7 duty.

ASSESSMENT

- 1. Does your assessment identify any unique impacts on island communities?**
- 2. Does your assessment identify any potential barriers or wider impacts?**
- 3. How will you address these?**

1. The Scottish Government's assessment has not identified any potential barriers or wider impacts on island communities which is significantly different from its effect on other communities. This includes the mainland and other island communities.
2. The policy memorandum which accompanied the Bill indicated that the Bill has no differential impact on island communities and that the provisions will apply equally to all parts of Scotland.
3. It is Scottish Government's conclusion that a full Island Communities Impact Assessment is not required.

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