

# Children's Parliament

## ***"It shouldn't follow you forever"***

Age of Criminal Responsibility  
Children's Views on Proposed Legislation  
February 2018



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## Acknowledgements


Thank you to MCPs and staff from our partner schools:  
Sciennes Primary School, Edinburgh  
Calderside Academy, South Lanarkshire  
Dalneigh Primary School, Highland



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 We acknowledge the support of the Scottish Government through a CYPFEIF and ALEC Fund Grant

# Introduction

At present, children under 12 cannot be prosecuted in court in Scotland, but those aged 8 and over can be referred to the children's hearing system on offence grounds, and convictions can stay on the child's record into adulthood. However, at 8 years old, the age of criminal responsibility in Scotland remains below the rest of Europe and contradicts UN and other international standards. In the most recent UNCRC Committee's Concluding Observations in 2016, it was once again recommended that Scotland raise the age of criminal responsibility to be in line with acceptable international standards. It also noted Scotland's openness to raising the age of criminal responsibility as a welcome step.

In 2016, Scottish Government facilitated a public consultation about the age of criminal responsibility in Scotland. This consultation process aimed to gather the views of children, young people, professionals and agencies about raising the age of criminal responsibility and to develop the proposed safeguards that would be put in place to support this change in legislation. As part of this wider consultation, Children's Parliament was commissioned to consult with children aged 8-13 about this issue and the children's views and ideas were shared with the Scottish Government in a report, which can be found here: <https://www.childrensparliament.org.uk/crim-resp/>

Following the full public consultation, the Minister for Early Years and Childcare made a statement in Scottish Parliament committing to raise the age of criminal responsibility to 12 years old in Scotland. Since this announcement, Scottish Government have been in the process of drafting a bill to raise the age of criminal responsibility to go before Scottish Parliament in early 2018.

As part of the process of drafting this bill, Scottish Government was keen to follow up with children about issues and questions that have arisen since the initial consultation. We facilitated creative workshops that addressed the following questions:

- What is human dignity? How is your dignity respected or disrespected?
- What worries or questions might children have if they become involved in the youth justice system?
- What kind of relationship should the police have with children? How should they speak to and behave towards children?
- What information is recorded on a 'child's record' if they've been involved in the youth justice system? Should it be cleared at any point?

Members of the Scottish Government Youth Justice Team working on the Age of Criminal Responsibility Bill engaged in each of the workshops in order to hear directly from children about their views and ideas about raising the age of criminal responsibility to 12.

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# About the children

The consultation workshops involved a total of 47 Members of Children's Parliament (MCPs)<sup>1</sup> between the ages of 9 and 15 years old. 21 boys and 26 girls took part in this consultation. We worked in three schools – primary schools in Edinburgh and Inverness and a secondary in South Lanarkshire. We sought to work with children from diverse backgrounds, including children from areas of multiple deprivation and children with learning difficulties.

Number of children per year group:

P5 – 11 children

P6 – 11 children

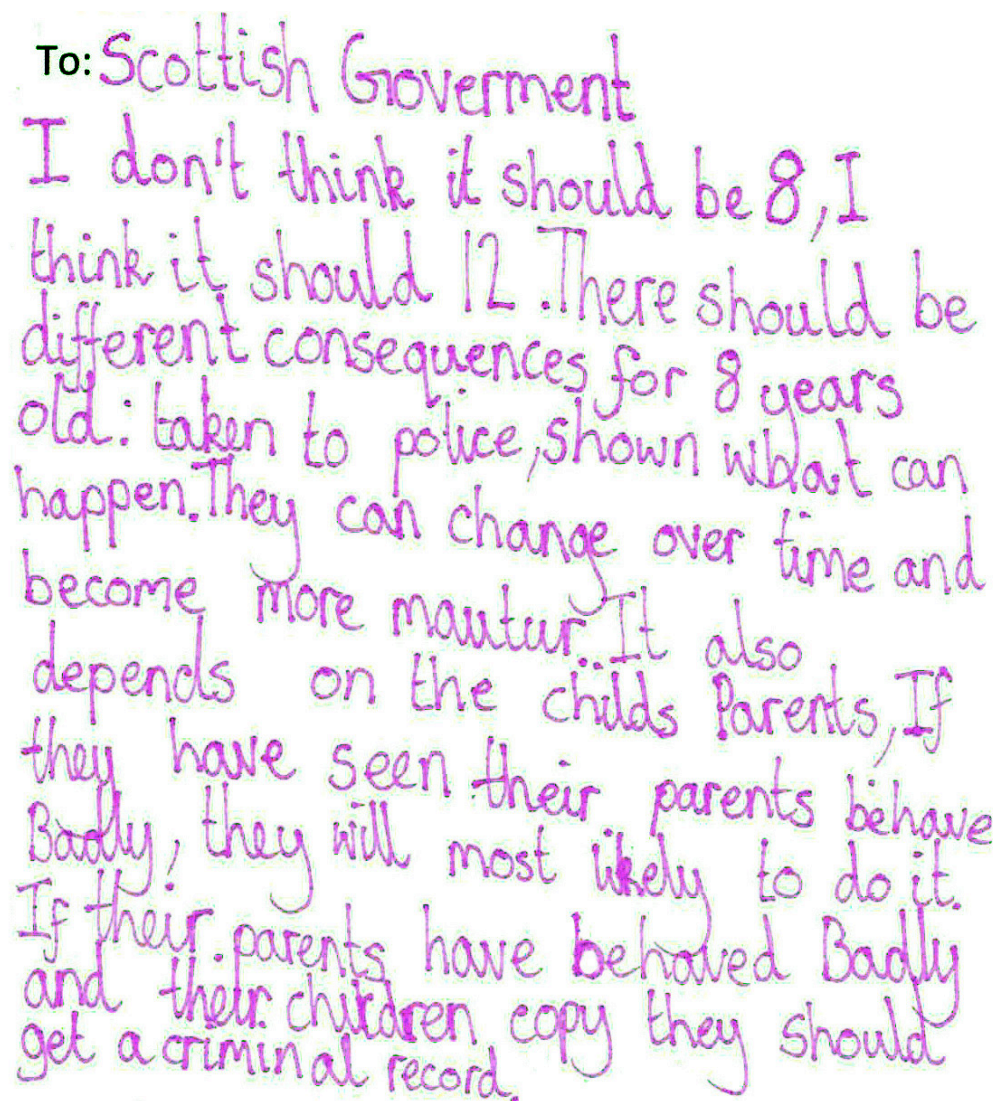
P7 – 11 children

S1 – 7 children

S3 – 4 children

S4 – 5 children

The quotes and artwork in this report come directly from the children.



To: Scottish Government

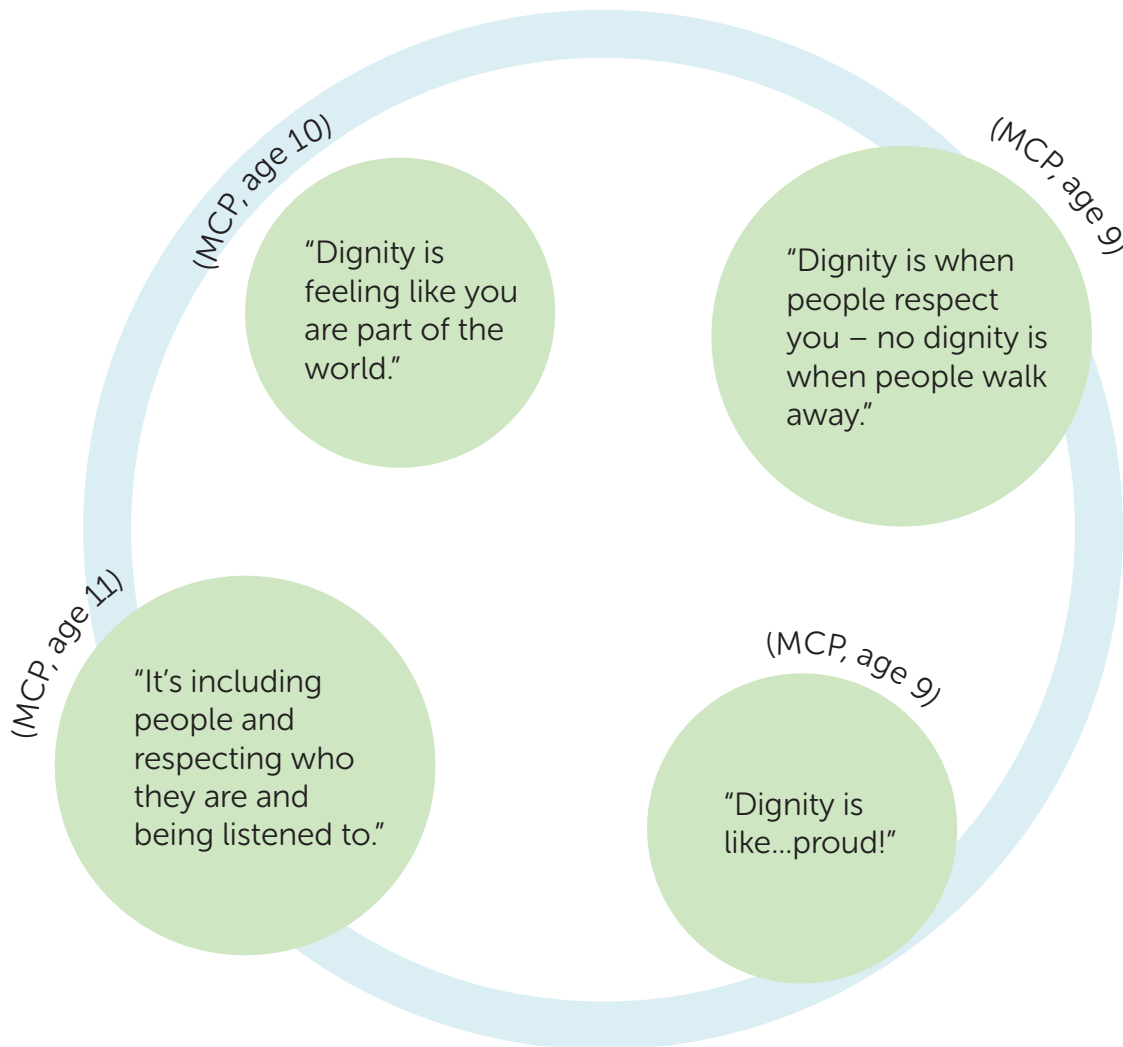
I don't think it should be 8, I think it should be 12. There should be different consequences for 8 years old: taken to police, shown what can happen. They can change over time and become more mature. It also depends on the child's parents. If they have seen their parents behave badly, they will most likely to do it. If their parents have behaved badly and their children copy they should get a criminal record.

<sup>1</sup> All children who participate in our projects and consultations become Members of Children's Parliament. Unlike other parliamentary bodies, Children's Parliament is not an elected body. Rather it is a participatory one, engaging with children across a range of settings in order to include as many children as possible.



# What is human dignity?

To begin this series of workshops, the children explored the idea of human dignity. Some children were familiar with the concept or had at least heard the word before. To others, it was completely new. When asked to describe what human dignity means, children said:



At Children's Parliament we describe human dignity as:

*"Every human being is important and special. Respect for human dignity means that we should be friendly and kind to others and it is wrong to hurt other people or make them feel bad about themselves. When you learn what human dignity means to you, you are less likely to accept when other people hurt, discriminate against or put someone down. No one has the right to try to take away your human dignity."*

In small groups, the children then explored what can happen in children's lives that might impact on their sense of dignity, either positively or negatively. The children organised their ideas into 'dignometers'.



### Having Dignity

The children identified the following things as having a positive impact on their sense of dignity:

#### Being Appreciated

Being praised and celebrated  
Encourage you to improve at school  
Someone says well done or thank you  
Compliments  
A simple smile  
Hugs  
Laughing  
Having good manners and being polite  
People saying you are good at your hobbies

(MCP, age 10)

"You deserve certain things in your life."

#### Having a voice, being listened to and taken seriously

Given your say  
Being listened to  
Not being interrupted or people changing your words  
People acknowledge your ideas  
Being taken seriously  
People trusting you  
Someone to share your ideas  
People taking into account what you're saying  
Being respected

## Being protected and cared for

Being supported  
Having shelter  
Being safe  
Knowing you are safe  
When people help you  
Getting help  
People care about you  
People love you for who you are (friends, family, teachers, staff)  
Being loved  
Someone looks after you



# Being Loved

## Feeling Included

People include you  
Getting involved with our community  
Sharing  
Being invited to a party  
Seeing other people happy  
Being valued  
Someone who gives up time to help you  
A good community  
People who share  
Loyal friends

## Lack of Dignity

For children, the things that impacted negatively on their sense of dignity included:

### Bullying

Getting bullied by peers  
When people make fun of you and call you names  
Being picked on  
Talking behind your back  
When your friends do something they think is funny but it really hurts the person's feelings  
Discrimination - racism, sexism, sectarianism, sexual orientation  
Family saying mean things

*"Your family should be where you go when things go wrong, but if they don't treat you right then that is the greatest loss of dignity."*

MCP, age 10

## Not being listened to / being ignored

No one to speak to  
Not being listened to  
They stop you from talking  
People ignore your ideas  
No one listens to what you have to say  
People talk over you  
Shouting and swearing  
If you get something wrong and people laugh at you  
Rudeness

### Not being taken seriously

People don't care about your opinions  
Parents blaming children  
When people talk for you  
People saying you can't do anything right

### Unprotected

No one protecting you  
Nobody who you trust  
No one who's there for you  
Being hit  
When people walk away  
Seeing your parents fight

### Being neglected

Forgotten  
Being pushed aside  
Unsure of what will happen  
People leave you out  
Neglect  
Feeling lonely  
Feeling cold  
All by yourself  
Not feeling cared for  
When you feel unwanted  
When someone tells you you're not good enough  
Family not treating you right  
Not being looked after properly

### Other

Being poor and homeless  
No opportunities  
No education  
No family or friends  
Poverty

NO ONE TO SPEAK TO  
NO PROTECTION  
NO OPPORTUNITIES

- NOT TRUSTED

NO ONE WHO'S THERE FOR YOU  
NOBODY WHO YOU TRUST

NOT BEING LISTENED TO

BEING BULLIED

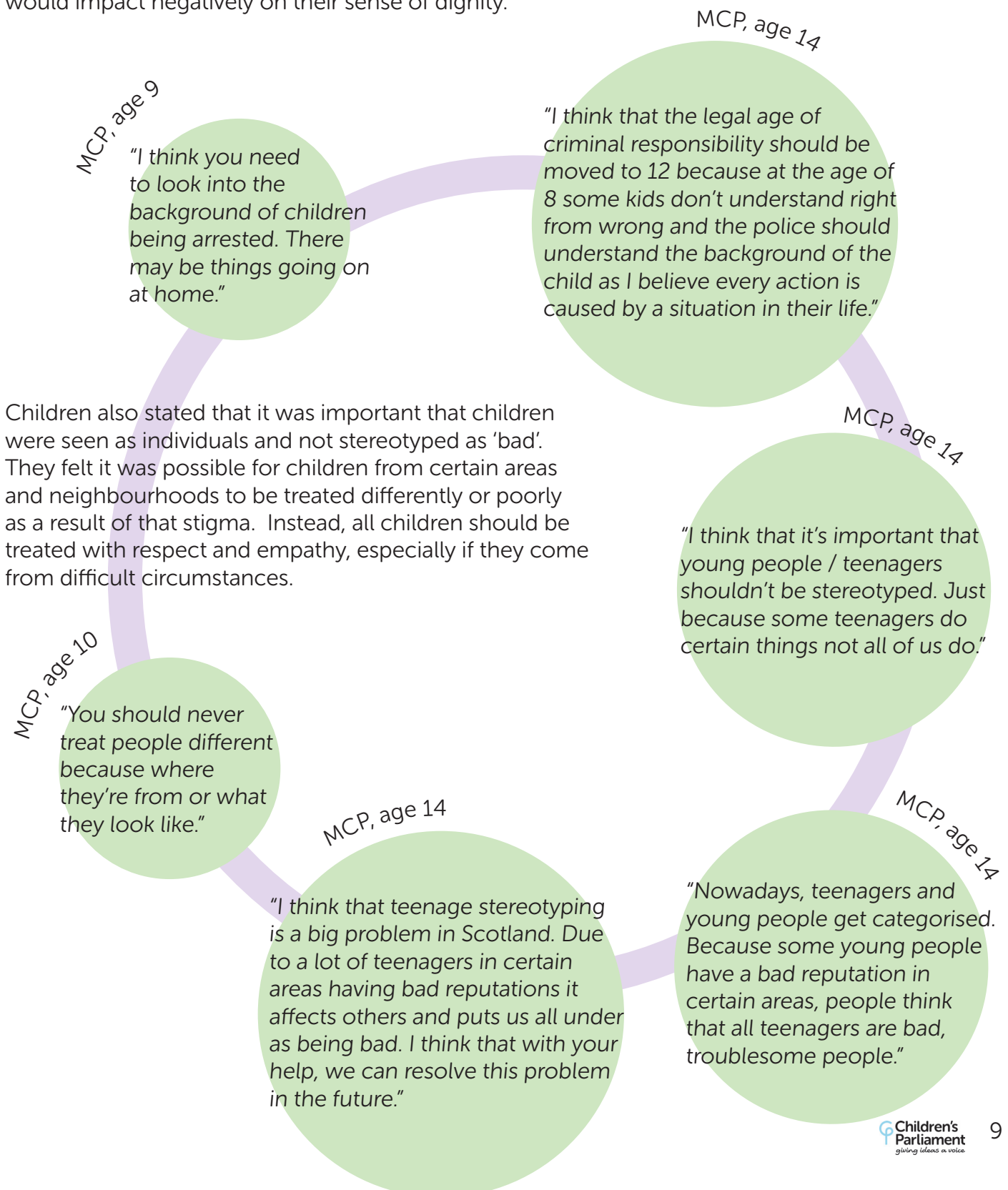
UNSURE OF WHAT  
WILL HAPPEN





# Background of Children

When discussing the age of criminal responsibility, the children felt that it was essential that police, lawyers, social workers and any other adults involved in youth justice make an effort to understand a child's background, regardless of the offence committed. As the children thought about why a child might engage in behaviours that cause harm, they spoke about the environment in which the child was raised and the quality of relationships between them and the adults in their lives. They made a connection between this early start in life and their future behaviour, aspirations and accomplishments. Children said that if adults did not take a child's background into account that it would impact negatively on their sense of dignity.



The children also felt that it was important that any child who committed an offence receive all the support and help they needed in order to understand the consequences of their behaviour and also address the underlying issues that may have resulted in that behaviour.

MCP, age 11

"I think one of the most important things is that children understand the consequences of what they've done and get help if they need it."

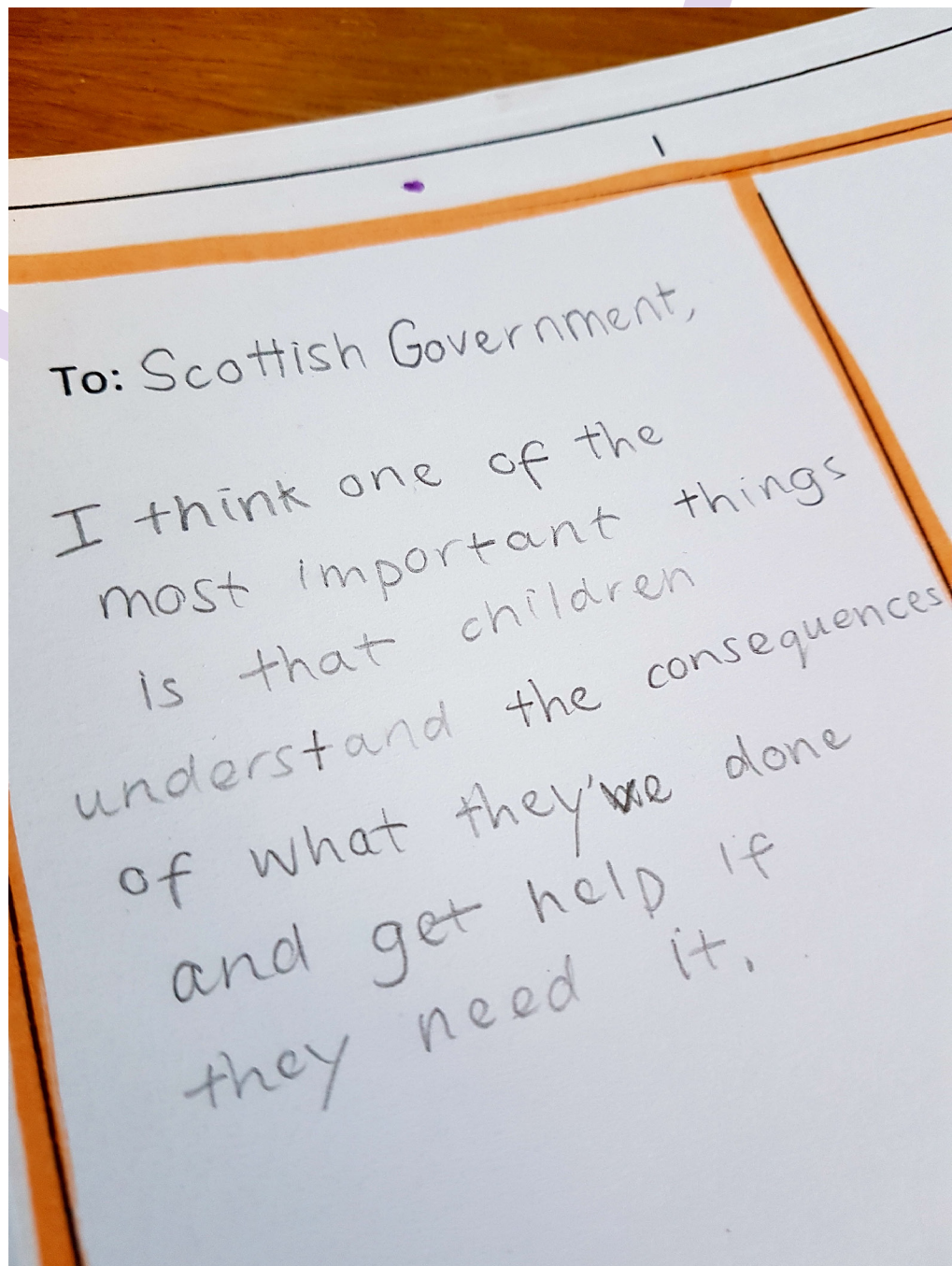
MCP, age 10

"I think police should go easier on children aged 2-11 because they have done something wrong but they might be too young to realise."

MCP, age 9

"It kind of depends on their parents as well. If they're smashing windows, the child might think it's okay. If the parents do these things, maybe they should get a criminal record."

Many children also expressed concern about how being involved in or committing an offence could impact upon their future. Several highlighted the feelings of regret children may feel once made aware of the consequences of committing an offence.









# Relationships between children and adults in the youth justice system

If a child commits an offence and becomes involved in the youth justice system, children raised the fact that this could be a very intense, confusing and scary experience for that child. They recognised that all children and young people would need support to understand what was happening and to know their rights within the system.

In each of the workshops, the children highlighted feelings and emotions a child might experience if they had committed an offence and were to be interviewed by the police or take part in other proceedings within the youth justice system. These included:

Frightened  
Intimidated  
Pressured  
Anxious / worried  
Overwhelmed  
Upset  
Confused  
"I'd burst out greetin'."

As one child stated when asked how a child might feel if they were being questioned by the police for having been involved in a crime, *"I would have lots of questions."* The children frequently raised anxieties and concerns that they felt children would have if they had committed or witnessed a crime:

What process am I going to face?  
Who can I trust?  
What will they ask me?  
What is even happening?  
Will the police believe me?  
Who is going to be there?  
Why did they bring me here?  
What happens next?

Reflecting on these worries and questions, the children explored the relationships between children and the adults in the youth justice system. If an adult was interacting with a child who committed an offence, the children thought that they should behave in a way that supported the child and treated them with respect. Specifically, they thought adults should:

## **Be open minded and emotionally aware**

They'll get to know us a little better then they'll be able to know why we took those actions  
People shouldn't be judged based on other people's reputation  
They should approach the children with an open mind and not think they're a bad kid  
They should be respectful and listen to what they have to say  
Be aware of their own emotions



## **Listen to and respect children's views**

They should be respectful and listen to what they have to say  
They should respect them and give them advice in the moment  
Sometimes when you speak to someone they don't care what you say so this would mean they listened and took us seriously  
If they respect us, we'll respect them  
Believe in the child

## **Be calm, clear and speak slowly**

They should be a calm talker and not say things too fast  
They should walk over to you and not run  
They could explain what they're going to do  
They should be calm and listen to people  
They should be calm, gentle, patient, kind but also firm and stern  
Don't go mad or shout  
Don't intimidate

## **Establish trust**

They need to talk to children with respect and look as though it's important  
Make sure children know you're a real police officer - introduce themselves and show you their badge  
I suppose I'd trust them but you still don't really know them  
They should behave in a respectful and sincere manner to help children open up more to them  
Be trustworthy

## **Treat children the same as adults**

Not patronising; "not in a children's voice"  
With respect, not as if they're not important  
Try not to talk down to them  
They should see children as equal to them and not below them; not talk to children like they're nothing  
They are human beings as well  
They should feel the same for everyone

## **Be helpful, understanding and supportive**

Help children understand that they're good and they have made a mistake  
Let them see their errors  
Give advice  
Give support after a bad situation  
Make sure they are living in a safe home  
Should encourage them to do the right thing and help them with any problems without hesitation  
Try to figure out why they did it  
Look interested in what lifestyle we have and why we are acting out

# What is the process for children?

Building on the discussions and activities exploring the relationships between children and adults in the youth justice system, the children discussed what the overall process following an incident involving a child should be like, particularly looking at the where and how the child was interviewed, who was there to support them, and how this process should be different from that involving an adult who committed an offence.

MCP, age 12

"You're not really going to know what's happening, but it should be a simple process each time, so you can understand."

*Should the interview be different for children? If so, how?*

The children discussed what the interview process should look like, both for children who have committed an offence and those who have witnessed one, and what could be done to make the process more comfortable for children. As a MCP (age 11) stated, "When a child is being interviewed by a police officer, it can be a scary and intimidating time for them. There are things that the police officers can do to make children feel more comfortable."

MCP, age 11

"They should be taken to a nice and calm room and talked through the procedure."

Children highlighted that the interview process should be **slowed down** for children. Several children discussed the importance of children having the opportunity to be told about what to expect in this situation ahead of the interview.

MCP, age 14

"Police should explain that they are trying to help you out and get you through the process."

A few groups of children emphasised the importance of the setting of the interview – suggesting that a **nice, calm and warm** room, and being offered **coffee, tea or water** and **food** would help the child feel comfortable. It was also suggested that children should be allowed to have their phone during the interview in order to have contact with parents/carers.

Several children expressed worries about children being **hurt** or **abused** during the process, mirroring earlier concerns about the relationship between children and police officers. A few groups of children felt that police officers **should not use force** and that children **should not be handcuffed, put in a cell or moved about**. Others described how police officers should approach children in a **calm way, introduce themselves** and **show their police ID** for the child to feel reassured.

The children thought it was important to develop trust and build a connection during the interview process. One group felt that it was important for the police to **get to know the child better before asking them questions**, this reflected prior discussions about the importance of understanding and considering a child's background. There was also a general agreement that during the interview, the child should **be given time to think about what they're being asked**. This would allow the process to feel supportive and less intimidating.

## Should a child be accompanied by an adult(s) if they are being questioned by the police?

The children in each consultation expressed different views with regards to whether a child should be accompanied by adult if being questioned by the police. The children also shared different opinions about which adults should be allowed to accompany a child, if this was permitted.

Many children held the opinion that children should have an adult present, with some emphasising the importance of the child being able to **choose which adult accompanied them**.

When asked who the “**chosen person**” might be, the children suggested: a **parent/carer, a social worker, another relative** or **another adult the child trusted**. Some children also suggested that in some cases, witnesses could accompany the child in an interview.

Children who shared this view explained that it is important to be accompanied by an adult to ensure the child feels **calm, secure** and **comfortable** during the interview. In addition, one group of children suggested that having an adult present would help children to **understand the process**.

Other children felt that children should be given a choice as to whether they would like an adult to accompany them. Some children highlighted that children might not want their parent / carer to know about their involvement in a crime, hence why being accompanied should be optional. Others were concerned that having an adult present during the interview might impact upon the child’s responses.

MCP, age 10

“I know what it feels like to be questioned by the police and how scary it is so it’s definitely important to have an adult with you.”

MCP, age 11

“I disagree because if police are talking to a child and then the parent is there, [the parent] would know what had happened.”

MCP, age 10

“ If [a child] have parents with them, they might tell lies about what really happened. You don’t need your mum and dad to be there to back you up.”

One group of children, considering earlier discussions about a child’s right to have a say and be listened to, emphasised that “it’s good for children to speak for themselves.” However, they also recognised that some children will need support from adults they trust during this process.







# What goes on a child's record?

Following discussions about the process for children involved in youth justice system, the children discussed what information should be included on a child's record if a child committed an offence, how long it should stay on their record and when, if ever, it should be wiped clean.

## What information should be on a child's record?

- Name
- What age they were when the crime was committed
- If they are older or younger than 12
- Where they're from
- The child's upbringing and background information
- What crime they committed
- How serious/bad the incident was
- Who was the police officer
- Where the incident happened
- Witnesses
- What was said at the interview
- Who was there for the interview – family, social work, police, head of police, others
- Picture of the child

MCP, age 9

"It depends on what you've done."

## Should anything stay on a child's record? If so, for how long?

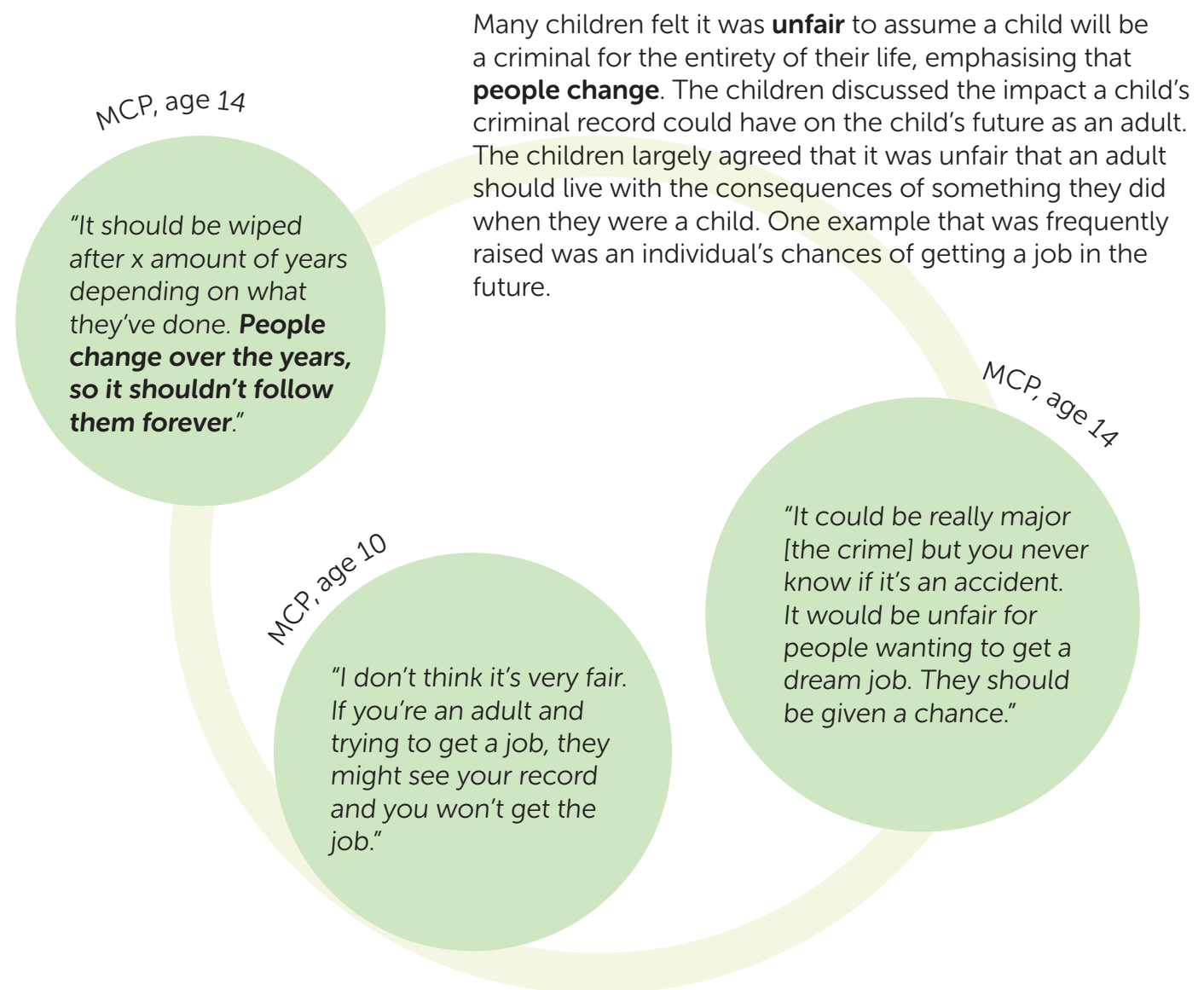
The children discussed whether certain criminal offences should be kept on a child's record. Across the workshops, children largely agreed that some crimes should permanently stay on a child's record: **murder, child abuse, serious assault** (such as "**battering someone**") and **terrorism**.

Other examples suggested by the children were discussed such as **breaking and entering, kidnapping, dognapping, vandalism** (such as "**smashing someone's car**") and **theft**. No consensus was reached about whether these crimes should remain on a child's record permanently however. The children largely agreed that the seriousness of these crimes should determine the length of time it remains on a child's record.

MCP, age 11

"Murder should stay forever, stealing sweets should not. Stealing a little thing should stay on for a bit, breaking and entering should stay on for 5 years, stealing diamond necklaces that are expensive should stay until 18 or over."

Some children argued that children should be given the opportunity to learn from their mistakes before a crime was included in the child's record. One group suggested that children could be given three strikes before a crime is put on a record.

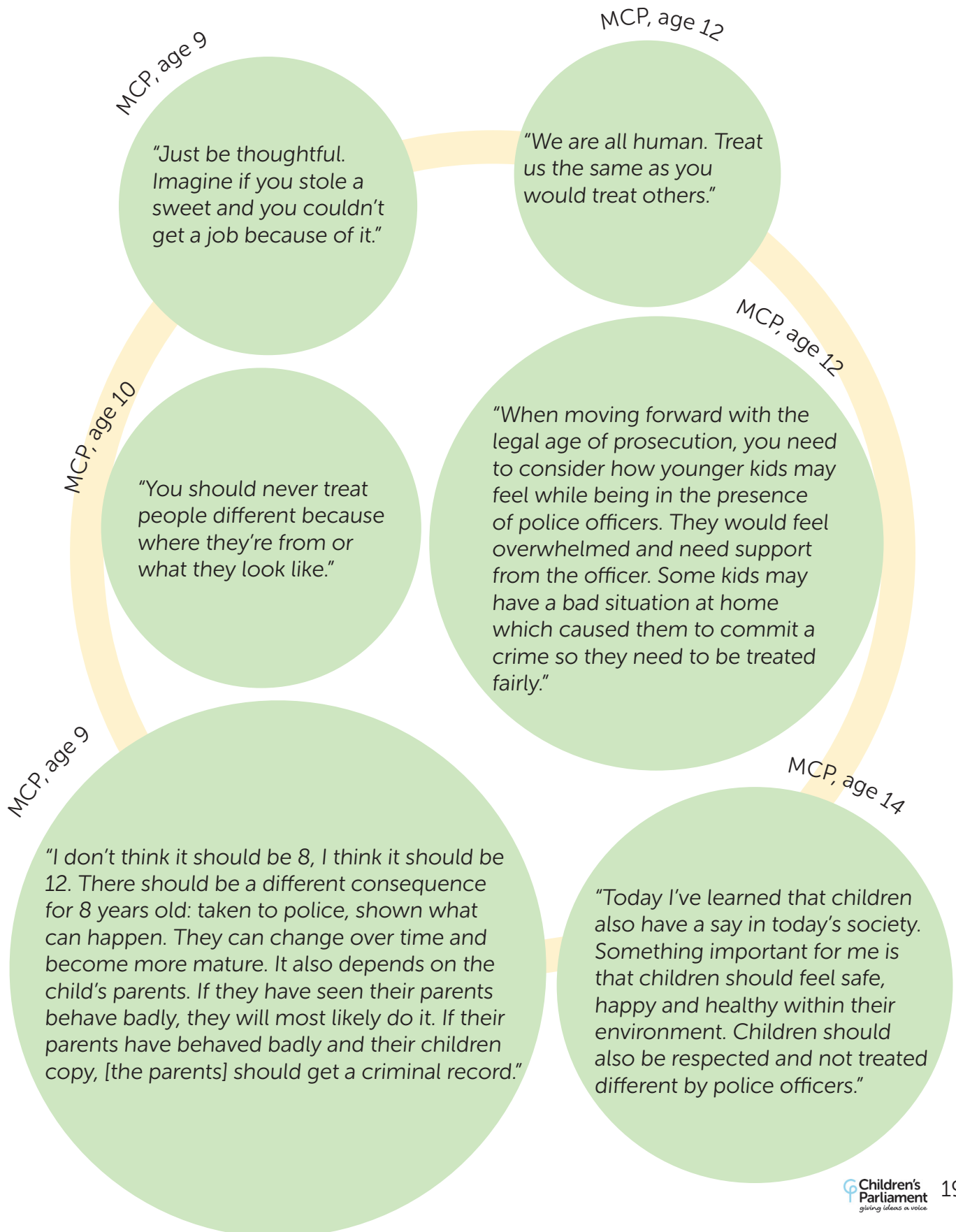


Several children also suggested that looking for or getting a job was a good indicator that the child had grown up and changed for the better, therefore deserving a clean record at this point in their life.

There was also discussion about knowing what rules and laws are in place and the consequences for harmful behaviour. There was a recognition that children should be **responsible for their actions** - "They know what the rules are and if they break them it's their fault." (MCP, age 10) – but also that this understanding was different for all children and that some children matured faster than others. The children also talked about how knowing right from wrong was often dependent upon a child's upbringing, reflecting earlier conversations about how the child's background impacts upon their behaviour.

# Key Messages

To close the workshop, we asked the children to write a postcard to Scottish Government with their most important message from everything that had been discussed about raising the age of criminal responsibility. They would like adults to remember these things as they write the bill and supporting guidance:



# About Children's Parliament

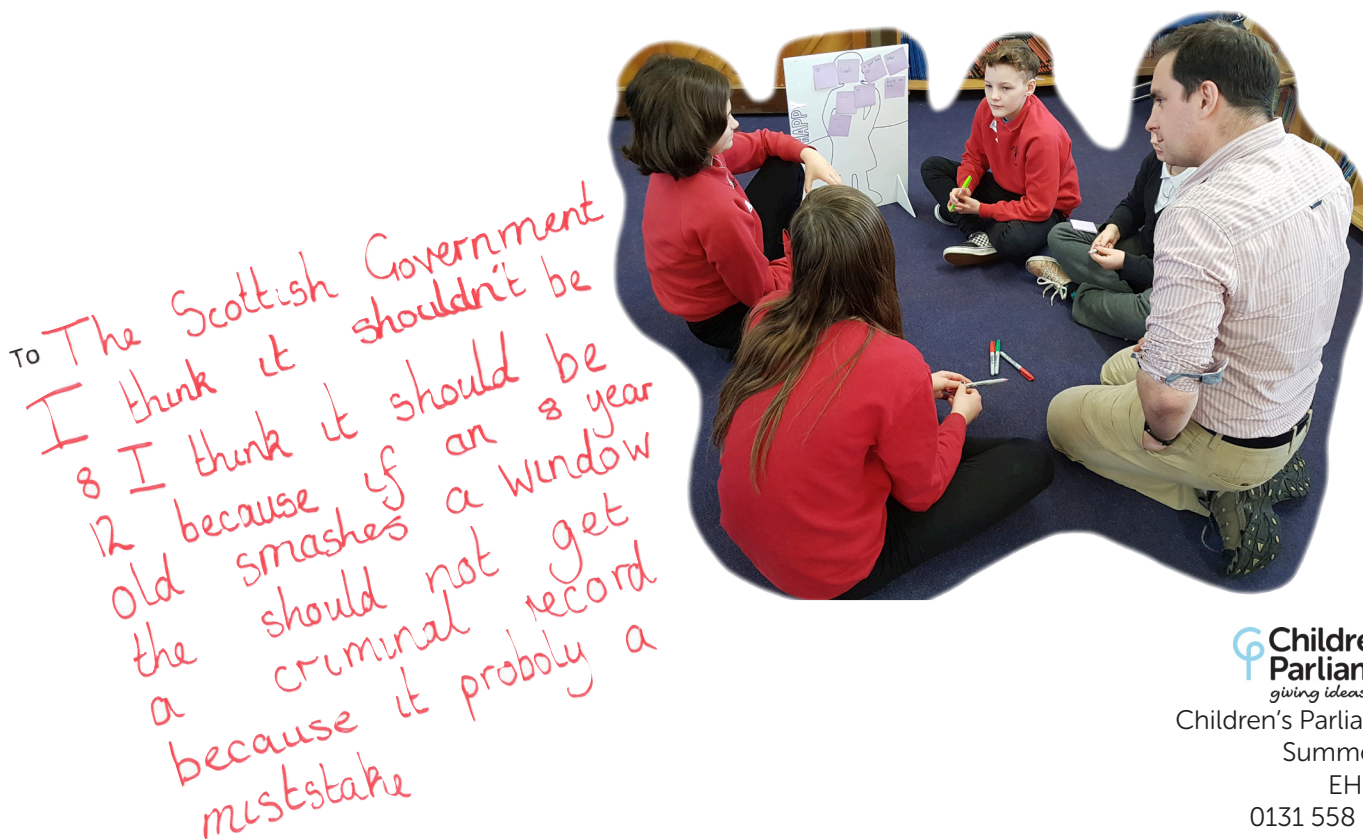
Children's Parliament (CP) is Scotland's Centre of Excellence for children's participation and engagement.

Children's Parliament works for a future where all children in Scotland are actively engaged in shaping our world so that everyone is healthy, happy and safe. We believe all children should live and grow with dignity and be valued for what they can offer the world.

We work creatively through projects, consultations and training programmes to improve communication between children and adults and to build relationships based on mutual respect and understanding. This enables us to explore our world together. We provide children with opportunities to share their experiences, thoughts and feelings so that they can influence life at home, in school and in the community through change at a local and national level. Our interest is in working with children, the adults who love and care for them, and the wider community in which they live in order to support our country to meet its obligations to our youngest citizens.

Children's Parliament uses children's rights and the UN Convention on the Rights of the Child (UNCRC) as the foundation for all our work and remind individual citizens and public bodies that children's rights are human rights.


In 2017, Children's Parliament turned 21 years old. To celebrate our birthday, we reviewed our work and published this reflective and celebratory report to highlight the voices of Scotland's children: <https://www.childrensparliament.org.uk/-what-kind-of-scotland/>



 **Children's Parliament**  
giving ideas a voice

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