

Children's Parliament

Minimum Age of Criminal Responsibility

Children's Parliament Consultation
Final Report
July 2016



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Acknowledgements

Thank you to MCPs and staff from our partner schools:

- Calderside Academy, Blantyre, South Lanarkshire
- Sciennes Primary, Edinburgh



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Introduction

About this consultation

The Scottish Government is facilitating a formal consultation process about the age of criminal responsibility in Scotland. 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 any conviction stays on the child's record into adulthood. However, the age of criminal responsibility in Scotland remains below the rest of Europe and contradicts UN and other international expectations. It has therefore been recommended by the Scottish Government Advisory Group and other agencies that the age of criminal responsibility be raised from 8 to 12 years old. This consultation process aims to gather the views of children, young people, professionals and agencies about this proposal and to develop the proposed safeguards that would be put in place to support this change in legislation.

Children's Parliament was commissioned by Scottish Government to engage directly with children to explore their views on the age of criminal responsibility in Scotland. We facilitated workshops that addressed the following questions:

- What does it mean to be responsible?
 - What are your responsibilities as you grow up, from early years to adulthood?
 - What are appropriate consequences for children?
 - What support/experiences do children need to make positive choices?
 - The age of criminal responsibility is currently 8 years old. Is this the right age or should it be raised?
-

About the children

The consultation workshops involved a total of 40 Members of Children's Parliament (MCPs) between the ages of 8 and 13 years old. 23 boys and 17 girls took part in this consultation. We worked in two schools – a primary in Edinburgh 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.

Children by year group:

- P4 – 3 children
- P5 – 3 children
- P6 – 12 children
- P7 – 2 children
- S1 – 10 children
- S2 – 10 children

The quotes in this report come directly from the children.

About Children's Parliament

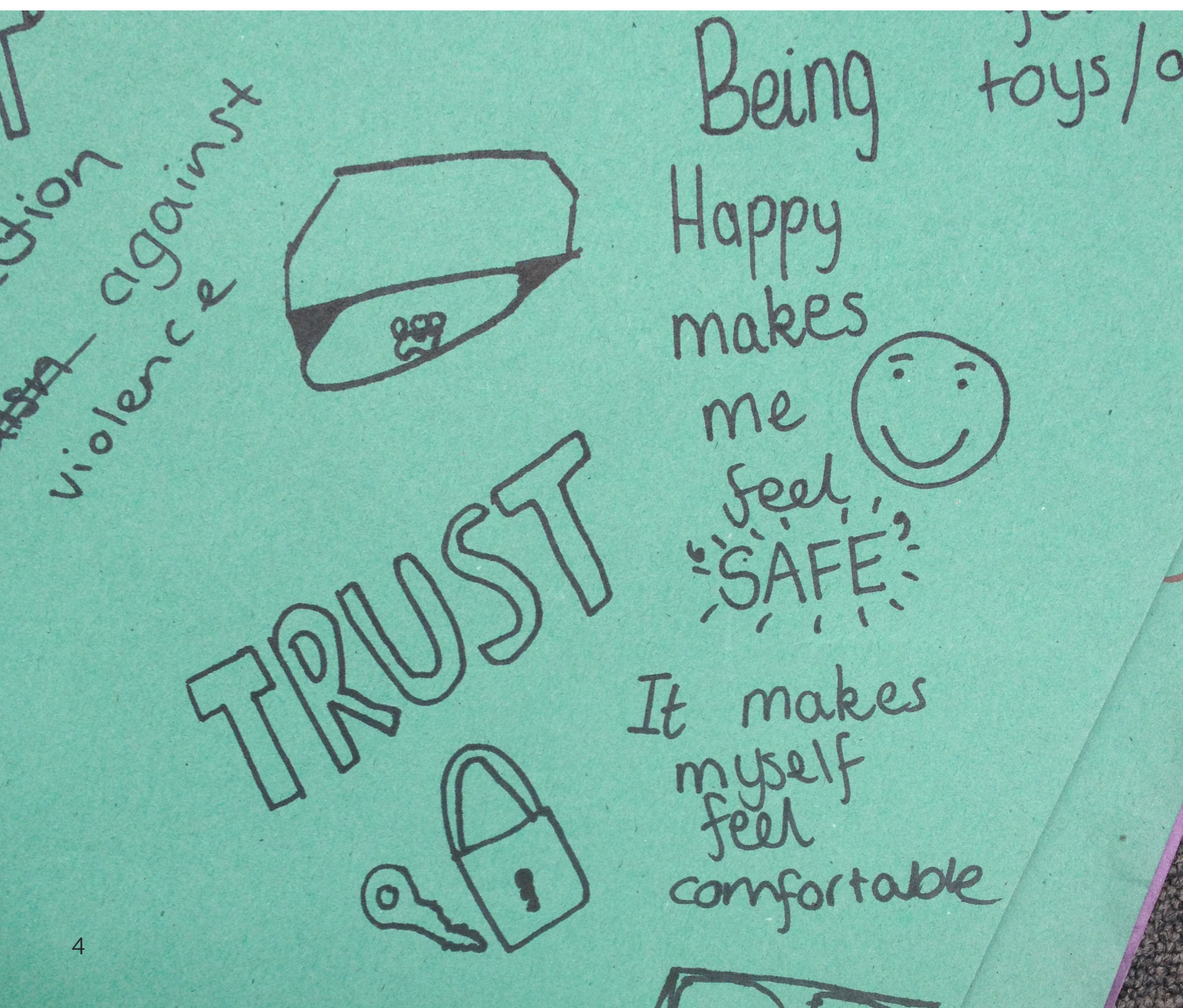
Children's Parliament (CP) is Scotland's Centre of Excellence for children's participation and engagement.

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.

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 each project/consultation begins with an input about children's rights so that participating children increase their knowledge and understanding of the UNCRC and how it impacts upon their lives.

Every space we create is a Children's Parliament.



Children's Views on Responsibilities

In the workshops, we asked children to think about responsibility and how it connected to their lives. Using a timeline, the children thought about how responsibilities change as they grow up and how it feels to be responsible. Children described **being responsible** as: taking care of yourself and being safe; being trusted; and taking care of bigger things than you did before.

We asked children to think about what **responsibilities** children should have at different stages throughout their lives. They discussed what was appropriate for different aged children and identified that sometimes children had too much responsibility at a young age, which resulted in feeling anxious or stressed out. Generally, they felt that having an appropriate level of responsibility was a good thing and it showed that you were growing up and were trusted by your parents, teachers and friends.

For children in the early years (age 2 to 4), the children identified the following responsibilities:

- learning how to dress yourself
- tidying up your toys
- brushing your teeth
- sharing toys
- toilet training

For children in lower primary (age 5 to 7), the children identified the following responsibilities:

- borrowing library books
- learning how to swim
- making friends
- behaving properly/not being naughty
- packing your school bag
- tying shoe laces
- showering/bathing yourself
- riding your bike (without stabilisers!)

For children in upper primary (age 8 to 11), the children identified the following responsibilities:

- walking to school on your own
- being responsible for pocket money
- tidying your room
- doing chores
- doing your homework
- going out to play with your friends
- maybe getting a phone
- starting to look after younger siblings
- joining committees at school (i.e. pupil council, eco-committee, etc.)
- setting an alarm
- being a mediator at school

For children in lower secondary (age 12 to 14), the children identified the following responsibilities:

- making your own breakfast and lunch
- doing your homework
- getting a mobile phone
- taking the bus or train on your own
- caring for your pet
- looking after younger siblings
- staying at home by yourself
- volunteering

For children in upper secondary (age 14 to 18), the children identified the following responsibilities:

- learning how to drive
- revising for exams
- going out after dark
- learning to cook and look after yourself
- drinking
- getting a job
- paying rent/bills
- getting a car

Yes!!!

your literally not even
double figures yet!

We learn from our
mistakes! We are not
perfect. I don't want
to not be employed
for a job because
I done a defense
when I was 8!

Children's Views on Consequences

In the workshops, we asked children to think about consequences for any wrongdoings or naughty behaviours. The children thought it was important to have consequences if you did something that was wrong and having consequences helped you learn and make better decisions in the future. They discussed consequences in terms of fairness and wanting to make sure everyone had to face similar consequences for the same behaviours, feeling that sometimes adults treated some children differently or didn't follow through on their word.

They felt that it was important that a consequence was equal to whatever the child had done and appropriate for the age/stage of a child – nothing too harsh for young children. Additionally, children said that it was important that they know what's going on and why so they don't feel confused or scared and so they can learn from the incident. This is especially important in situations that are more serious and involve more severe consequences.

Children were also very aware of how the environment in which you grow up impacts on your behaviour and your choices. They recognised that parents, siblings and friends all influence you and if you don't have the proper care, support and guidance, you might make poor decisions or act inappropriately. They questioned whether a child should be punished for the lack of support/encouragement, neglect or abuse they experienced or if there was a better way to handle those situations.

For children in early years and lower primary (age 2 to 7), children identified the following consequences:

- sitting on the naughty step
- having a time out
- not getting first choice of toys/toys taken off you
- no sweets or treats
- being sent to their room
- being told off

For children in upper primary (age 8 to 11), children identified the following consequences:

- being grounded
- losing golden time
- detention
- not being able to play with friends or play video games
- no pocket money
- being sent to their room
- being told off
- standing outside class or being sent to head teacher
- getting a warning

For children in secondary school (age 12 to 18), children identified the following consequences:

- detention
- phone taken off you
- not allowed out to clubs or friends' houses
- losing a job
- getting sent to head teacher
- being grounded
- getting suspended
- being arrested
- going to juvenile detention

More serious consequences (such as involvement with the justice system and having something put on your permanent record) did not come up as a consequence until children were in their teenage years. The children felt that you were still learning throughout primary school and not all children would know right from wrong. Therefore, they didn't think it was fair to have something on their record from when they were young that could impact them in later life.

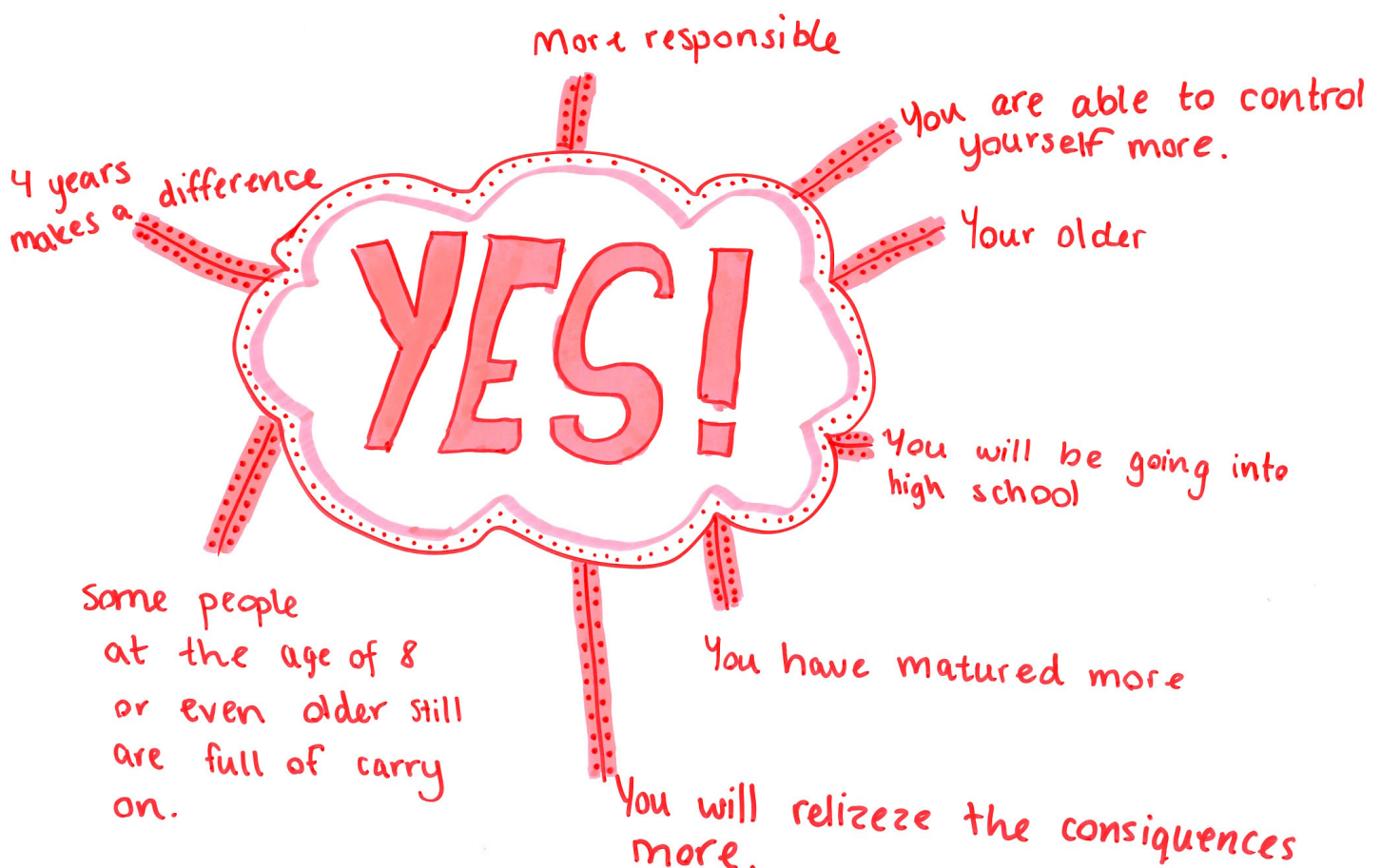
When asked at what age these more serious consequences felt appropriate, children identified ages between 12 and 18 years old.

"I think 12 because that's the midpoint in video games and things are a bit more adult."

"Maybe 14. It's the second year of being a teen and you have more responsibility and you look a bit older."

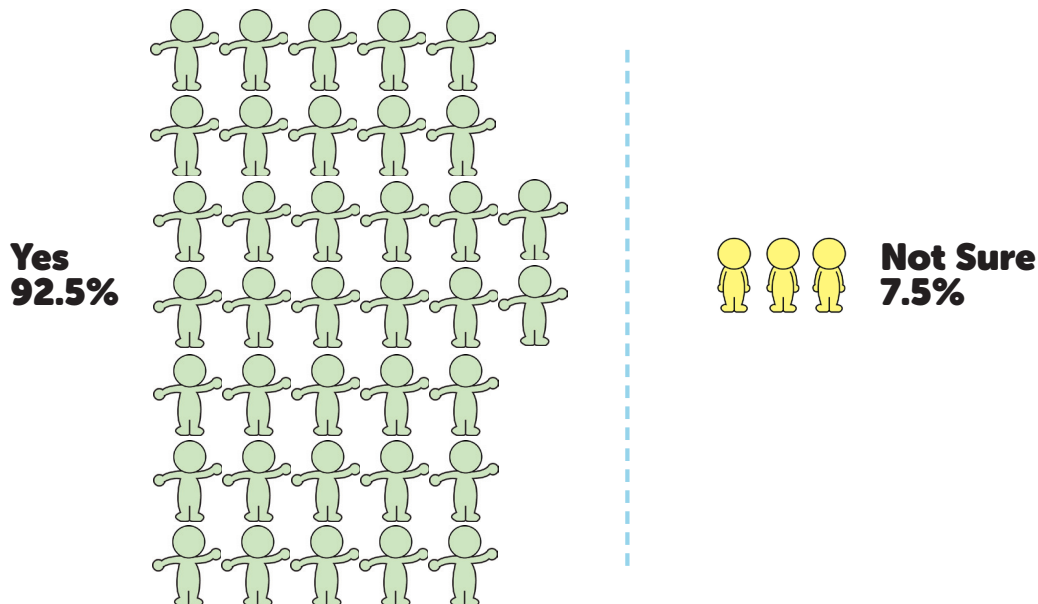
"Middle of your teenage years – so 16 – because you've gained more responsibility."

"I don't think anything should go on your record before you're 18. You're still a kid and still learning."



Children's Views on Consequences

Children's views on the minimum age of criminal responsibility At the end of the workshop, we asked all 40 children to vote individually on whether or not the age of criminal responsibility should be raised from 8 to 12 years old. The overwhelming majority felt that it should be raised to 12.



37 out of 40 children thought that the age of criminal responsibility should be raised from 8 to 12 years old.

"I mainly think yes, but if you do commit a crime before 12, something will still happen, but it won't be on a record as a proper crime."

"Because I think 8 is too young. If you do something bad it is because of who is around you, what your family is like, your health and what your school is like."

"You're older and 4 years makes a difference. You are able to control yourself more and you're more responsible. You'll be going into high school and you have matured more so you will realise the consequences more. Some people at the age of 8 or even older still are full of carry on."

"You're literally not even in double figures yet! We learn from our mistakes and we're not perfect. I don't want to not be employed for a job because I done an offence when I was 8!"

"Because 8 is ridiculous because you haven't fully matured yet and 12 is a much more suitable age."

3 out of 40 children voted 'not sure', but their comments reflect a general feeling that 8 years old is still too young.

"Depending on what type of crime you have done and also your age. It's your parents' fault and your environment."

"A crime is a crime, but 8 is too young."

Final Thoughts

Children overwhelmingly supported raising the age of criminal responsibility. They expressed concern for future prospects, the effectiveness of punishing children who didn't fully understand what they had done wrong, and the appropriateness of such harsh consequences when compared to other day-to-day responsibilities and consequences for children.

Children all agreed that there should be some consequences for harmful or law breaking behaviours and strongly suggested that other consequences which should be explored. Addressing issues connected to a child's environment and home life might be a more effective and appropriate way of responding to child offenders.

However, children felt that 8 years old was too young to face serious consequences on offence grounds and that it was unfair for incidents from their childhood to haunt them throughout their youth and into adulthood. It is important to recognise how people grow and change throughout their adolescence and to give them a chance to prove that they can be positive members of society, not expect the worst of them.

YES

I think it should be raised because at 8 you don't know much about the law but at 12 you know more. When you go for a job you don't want to bring up stuff from when you were 8 because you didn't know any better !!

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


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