

Abolition of Unruly Certificates: Section 51(1)(bb) and 51(3) Criminal Procedure (Scotland) Act 1995

Scottish Government Joint Consultation by Care & Justice Division and Criminal Procedure Division on alternate proposals

Scottish Children's Reporter Administration comments

The Scottish Children's Reporter Administration welcomes the opportunity to comment on the plans for legislative change in relation to children being remanded to young offender institutions. We support the policy intention that children who require their movements to be restricted because of the risk they pose are not remanded to prison or young offender institutions but are in a care environment that will also meet their needs.

Responses to the questions in the consultation are provided below. Responses are provided only for those questions which are related to the Children's Hearings System.

1. What in your view are the implications of this change in legislation?

The numbers of children detained under sections 51(1)(bb) and 51(1)(3) of the Criminal Procedure (Scotland) Act 1995 are relatively small compared to the number of secure authorisations made by Children's Hearings. In 2005-06, there were 28 unruly certificate remands and in 2006-07 there were 33 (Annex A of consultation paper). In 2005-06, 515 secure authorisations were made by Children's Hearings, in 2006-07 the number had increased to 650 secure authorisations (SCRA data provided to Scottish Government on 21 February 2008)

A change to the legislation may create resource implications in relation to the number of secure places available in Scotland. This may have greater implications in particular areas of Scotland.

In addition to those young people who present a risk to others, secure accommodation also offers a safe and secure environment to young people who are a risk to themselves. If there is a disproportionate increase in the number of children in secure accommodation presenting a serious risk to others, it will be important to ensure that in implementing any changes to the legislation that the nature or purpose of secure accommodation does not change or shift focus away from the individual needs and welfare of each child placed there.

3. What, if any, are the implications for your organisation's current procedures and practice?

The proposed changes in legislation have very limited implications for SCRA. There may be a small need for additional training and guidance for Reporters.

4. What, if any, are the issues relating to the availability of secure places or an alternative place of safety?

The numbers of secure authorisations made by Children's Hearings has increased in recent years (see answer to question 2). Any increase in the number of children placed in secure accommodation by the courts could place additional burdens on the current provision.

6. What, if any, are the issues you wish to highlight relating to the transportation of young people to a secure place or a place of safety?

If children who, under current legislation, would be certified by the court as unruly or depraved are to be detained by the local authority in secure accommodation or a place of safety, an increase in the number of children likely to create risk to themselves or others during transportation to and from court must be expected. If the local authority is to retain responsibility for transportation, we would suggest that there should be a route for the local authority to obtain support (e.g. from the police) when necessary to minimise the risk of harm to the child or others.

7. What, if any, are the implications for risk assessment and risk management that you wish to highlight?

When considering what changes to the legislative provisions are appropriate, account must be taken of the fact that appropriate risk assessment can take time and must be carried out by skilled and experienced workers. Appropriate assessment is necessary to determine whether community services such as restriction of movement with electronic monitoring would address risks and meet the needs of the child. Such assessment may not be possible in the time available in some cases.

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