

Backgrounds and outcomes for children aged 8 to 11 years old who have been referred to the Children's Reporter for offending

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Executive Summary

Minimum age of criminal responsibility in Scotland

The minimum age of criminal responsibility in Scotland is defined as the age below which a child is deemed to lack the capacity to commit a crime, and is currently 8 years old.

In 2008 the United Nations Committee on the Rights of the Child (UNCRC) recommended that the age of criminal responsibility in Scotland be raised. The Scottish Government responded to the UNCRC by making a commitment to review the age of criminal responsibility:

'Following the raising of the age of criminal prosecution in the Criminal Justice and Licensing (Scotland) Act 2010, we will give fresh consideration to raising the age of criminal responsibility from 8 to 12 with a view to bringing forward any legislative change in the lifetime of this Parliament'¹.

The Scottish Government has established an independent Advisory Group on the Minimum Age of Criminal Responsibility which met for the first time in November 2015.

Aim of this research

To explore the backgrounds of children under 12 years old referred to the Children's Reporter for offending to understand the factors that influenced their behaviour and the outcomes for them up to 12 months following the incident.

Key findings

Trends

- The number of children aged 8 to 11 years old referred for offending has declined over the past 5 years by 73%.
- In 2014-15 there were 215 children aged 8 to 11 years referred to the Reporter for offending. This is 7.4% of all children and young people with offence referrals.
- The most common offences referred for this age group were assault, threatening or abusive behaviour, and vandalism.

Children's backgrounds

The research examined the cases of 100 children aged 8 to 11 years old referred to the Reporter in 2013-14:

- 39% of children had disabilities and physical and/or mental health problems.

¹ Scottish Government (2012). Doing the Right Thing Progress Report 2012. A progress report on our response to the 2008 concluding observations from the United Nations Convention on the Rights of the Child. Edinburgh: Scottish Government. www.gov.scot/Resource/0039/00392997.pdf

- There were recorded concerns about their educational achievement, attendance or behaviour in school for 53%.
- A quarter (25%) had been victims of physical and/or sexual abuse; most by family members or associates of their parents.
- 75% had service involvement for at least a year, and over half had been involved with services for at least 5 years.
- 75% had previous referrals to the Reporter. Seventy children had been referred on non offence grounds and five on offence grounds. Twenty six children were on Compulsory Supervision Orders (CSO) at the time of the offence referral incident in 2013-14.

The offence referral

In most of the 100 cases the Reporter decided that no action was required (39%) or that current measures were already in place (30%). In 6% of cases the Reporter decided to arrange a Children's Hearing.

There were 67 incidents with identified victims, and a total of 88 victims. The majority of victims (81%) were other children of whom most were of similar ages to the children referred.

Offence was part of a pattern of behaviour or an isolated incident

This research found that there were two clear types of cases²:

1. Where the incident was a pattern of behaviour by the child – such as disruptive or challenging behaviour which may or may not have involved offending – 37% of cases.
2. Where the incident was isolated and not part of a wider pattern of behaviour – 60% of cases.

Those children where the referral incident was part of a pattern of behaviour (37 children) were more likely to have educational concerns (70%), mental health problems (43%), and been victims of physical or sexual abuse (30%). For 81% their parents presented risks to them. Of those who have siblings, 80% have siblings with non offence referrals and 43% with offence referrals to the Reporter. In the 12 months after the offence incident, 59% had further offence

Where the referral related to an **isolated incident** (60 children) - there were educational concerns for 38%, mental health concerns for 22%, and 22% had been victims of sexual or physical abuse. For 55% their parents presented risks to them. Of those who have siblings, 49% have siblings with non offence referrals and 28% with offence referrals to the Reporter.

In the 12 months after the offence incident, 73% had no referrals to the Reporter, 13% had further offence referrals and (20%) had non offence referrals (7% had both).

² There were three cases where this was not clear.

Should the Minimum Age of Criminal Responsibility be raised?

The Whole Systems Approach to reduce offending by young people was introduced in 2011. A key element of this approach is for: *'timely and effective intervention to minimise the number of children in Criminal Justice and formal processes'* (such as the Children's Hearings System). This is known as Early and Effective Intervention which aims to reduce unnecessary offence based referrals to the Reporter³.

A child is referred to the Reporter when it is considered that they are in need of protection, guidance, treatment or control **and** that it might be necessary for a CSO to be made. Most offences by children under 12 years are of low gravity and Reporter decisions on most offence referrals for this age group are that compulsory measures are not required. The offence referrals of 60% of the children in this research were related to isolated incidents, and most of these children had no further such referrals. It could therefore be argued that referral to the Reporter was not a proportionate response for most of the children in this study. However, if the minimum age of criminal responsibility were raised it could mean that the children could still be referred to the Reporter on non offence grounds, and depending on Reporter and Hearing decisions be placed on CSOs, without them growing to adulthood with a record of an offence referral.

³ Scottish Government (2015). Early and Effective Intervention – Framework of Core Elements. Edinburgh: Scottish Government. www.gov.scot/Publications/2015/03/6818

Chapter 1. Introduction

Minimum age of criminal responsibility in Scotland

The minimum age of criminal responsibility in Scotland is defined as the age below which a child is deemed to lack the capacity to commit a crime, and is currently 8 years old⁴.

Scotland's minimum age of criminal responsibility is the lowest in Europe. The European Commission (2014a) has commented that the unusually low age of criminal responsibility is a gap in Scotland's youth justice system. Within other European countries the minimum age of criminal responsibility varies from 10⁵ to 18⁶ years old with most having an age of 14 or 15 years old (OECD, 2013; European Commission, 2014b). A recent change by another European country was in 2006 when the Irish Government raised the minimum age of criminal responsibility from 7 to 12 years old⁷. This was in response to recommendations from the United Nations Committee on the Rights of the Child (UNCRC) and after a review of youth justice in The Republic of Ireland which found support for the age of criminal responsibility to be raised (Irish Government, 2006).

The UNCRC (2008) has also recommended that the minimum age of criminal responsibility in Scotland be raised. The Scottish Government (2012a) responded to the UNCRC by making a commitment to review the age of criminal responsibility:

'Following the raising of the age of criminal prosecution in the Criminal Justice and Licensing (Scotland) Act 2010, we will give fresh consideration to raising the age of criminal responsibility from 8 to 12 with a view to bringing forward any legislative change in the lifetime of this Parliament'.

In 2015, an amendment was sought at Stage 2 of the Criminal Justice (Scotland) Bill to raise the age of criminal responsibility to 12 years old⁸. The Scottish Government argued that more consideration was needed on the possible implications of such a change and established an independent advisory group to do this⁹, and the amendment was rejected (McCallum, 2015). The Advisory Group on the Minimum Age of Criminal Responsibility met for the first time in November 2015 (Robertson, 2015).

Age of criminal prosecution in Scotland

In 2002 the Scottish Law Commission recommended that the age of criminal prosecution be raised from 8 to 12 years old. Between the years 2005-06 to 2009-10, one child under 12 years old was prosecuted in the Scottish criminal courts (McCallum, 2011).

⁴Section 41 of the Criminal Procedure (Scotland) Act 1995 provides that: "It shall be conclusively presumed that no child under the age of eight years can be guilty of an offence."

⁵ England, Wales, Northern Ireland and Switzerland.

⁶ Belgium, France and Luxembourg

⁷ Criminal Justice Act 2006. Dublin: Irish Government

⁸ By amendment of section 41 of the Criminal Procedure (Scotland) Act 1995

⁹ Scottish Parliament Justice Committee 2015c, col 27

The Criminal Justice and Licensing (Scotland) Act 2010 raised the age of criminal prosecution to 12 years old¹⁰. This means that currently:

- Children under the age of 8 years old – lack the legal capacity to commit an offence, cannot be prosecuted in the criminal courts and can only be referred to the Children’s Hearings System on non offence grounds.
- Children aged between 8 and 12 years old – cannot be prosecuted in the criminal courts but can be referred to the Hearings System on both offence and non offence grounds
- Children aged 12 years or more – can be prosecuted in the criminal courts (section 42 of The Criminal Procedure (Scotland) Act 1995¹¹) and be referred to the Hearings System on both offence and non offence grounds (McCallum, 2011).

Implications of the minimum age of criminal responsibility and offence referrals at a young age

As a result of the Rehabilitation of Offenders Act 1974, accepted or established offence grounds are treated as convictions. Depending on the nature of the offence, it may appear on an Enhanced Disclosure indefinitely (e.g. in the case of threatening or abusive behaviour (section 38)) or for 7½ years (e.g. in the case of theft and most assaults). As a consequence, an offence referral to the Children’s Reporter at a young age could have lifelong implications for that individual.

Whole Systems Approach – Early and Effective Intervention

The Whole Systems Approach (WSA) to reduce offending by young people was introduced in 2011. A key element of the WSA is for ‘*timely and effective intervention to minimise the number of children in Criminal Justice and formal processes*’ (such as the Hearings System). This is known as Early and Effective Intervention (EEI) (Scottish Government, 2015a).

A child is referred to the Reporter when it is considered that they are in need of protection, guidance, treatment or control **and** that it might be necessary for a Compulsory Supervision Order (CSO) to be made¹². A referral requires the Reporter to determine whether a section 67 ground (Appendix 1)¹³ applies and if so whether a CSO is necessary¹⁴ (SCRA, 2013).

The introduction of the EEI approach has led to fewer children and young people being referred to the Reporter for offending, and this is discussed more in Chapter 3 of this report.

¹⁰ The Criminal Justice and Licensing (Scotland) Act 2010 inserted a new section 41A into the Criminal Procedure (Scotland) Act 1995 providing that no child under the age of 12 years may be prosecuted for an offence. It also provides that an older person may not be prosecuted for an offence committed whilst under the age of 12 years.

¹¹ The key provision in relation to prosecution is section 42 of the Criminal Procedure (Scotland) Act 1995, which says a child aged 12 years or more but under 16 years can only be prosecuted on the instructions of the Lord Advocate, or at the instance of the Lord Advocate (Lord Advocate’s Guidelines to the Chief Constable on the reporting to Procurators Fiscal of offences alleged to have been committed by children: revised categories of offence which require to be jointly reported (2014)).

¹² sections 60, 61 and 64 of the Children’s Hearings (Scotland) Act 2011

¹³ Section 67(2) of the Children’s Hearings (Scotland) Act 2011

¹⁴ Section 69(1) of the Children’s Hearings (Scotland) Act 2011

Aim of this research

To explore the backgrounds of children under 12 years old referred to the Reporter for offending to understand the factors that influenced their behaviour and the outcomes for them up to 12 months following the incident. This is to provide evidence to the Advisory Group on the Minimum Age of Criminal Responsibility and to contribute to the debate on the raising of the age of criminal responsibility in Scotland.

The research examines trends in 8 to 11 years old referred to the Reporter for offending (Chapter 3), and then goes on to look in detail at the cases of 100 of the 209 such children referred to the Reporter for offending in 2013-14. Chapter 4 describes their backgrounds. Chapter 5 examines their first (or only) offence referral in 2013-4, the circumstances around it and Reporter decisions. Chapter 6 and 7 discuss two types of cases: where the incident was a pattern of behaviour by the child and where the incident was an isolated one. Chapter 8 describes those cases involving sexual offences.

Chapter 2. Methods

A list of all the 209 children in Scotland aged between 8 to 11 years old who had offence referrals to the Reporter in the period 1 April 2013 to 31 March 2014 was produced from the Scottish Children's Reporter Administration's (SCRA) Data Warehouse. This period was used to allow the children's cases to be followed for 12 months after the date of the offence incident. One hundred children were selected at random and formed the research sample. For children with more than one offence referral in 2013-14, the first such referral was selected.

Each child's case was separately examined using the information held by SCRA in its Case Management System (CMS). The CMS holds all reports (including SPR2s¹⁵ submitted by the police), correspondence, decisions made by Reporters and Children's Hearings and the reasons for them. The CMS is a secure system which only trained and authorised SCRA staff are permitted to access.

The research variables covered four areas:

1. Child's background;
2. Family background;
3. First (or only) offence in 2013-14; and
4. Twelve months after first (or only) offence in 2013-14.

The full research variables are provided at Appendix 2.

Data were collected from CMS between August and October 2015, and were recorded in an anonymous format and held on secure encrypted systems to which only the SCRA Research Team have access. All members of the Research Team are PVG Scheme members in respect of regulated work with children¹⁶. Data were analysed using MS Excel.

Trends data were obtained from SCRA's Data Warehouse and those published in SCRA's Official Statistics¹⁷.

Where case studies are included, to preserve confidentiality, some details have been changed and the names used as pseudonyms. Details of the offences and decisions made have not been changed.

¹⁵ Standard Prosecution Report 2

¹⁶ Section 52 of the Protection of Vulnerable Groups (Scotland) Act 2007

¹⁷ SCRA's Official Statistics can be accessed at:

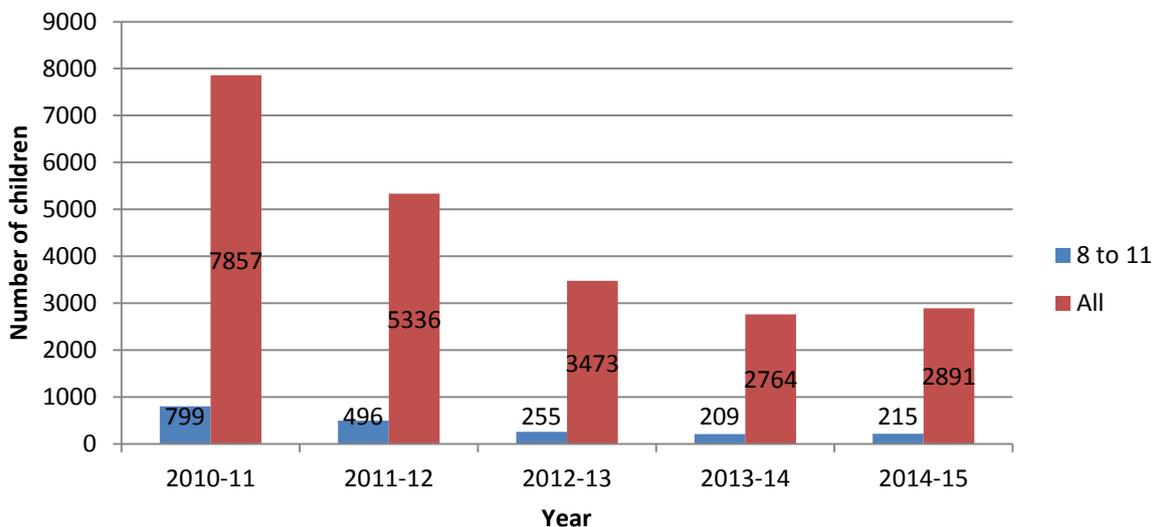
http://www.scra.gov.uk/publications/online_statistical_service.cfm

Chapter 3. Trends in all children aged 8 to 11 years old with offence referrals

The number of all ages of children and young people referred to the Reporter for offending has declined by 63% over the past 5 years. In 2014-15, 2,891 children and young people aged from 8 to 17 years old had offence referrals¹⁸ (Figure 1). This reduction may reflect both broader falls in young people charged with offences and the influence of policy and practice changes, such as the introduction of EEI processes that divert young people from formal systems (Lightower *et al*, 2014).

The number of children aged 8 to 11 years old referred for offending has also declined over this period (by 73%), and in 2014-15 was 215 children which is 7.4% of all children and young people with offence referrals (Figure 1).

Figure 1. Numbers of children referred to the Reporter for offending from 2010-11 to 2014-15



The majority of under 12 year olds referred for offending are aged 10 and 11 years old. In 2014-15, 60 children were 10 years old and 116 were 11 years old (Figure 2). This is 6.1% of all children and young people in Scotland with offence referrals.

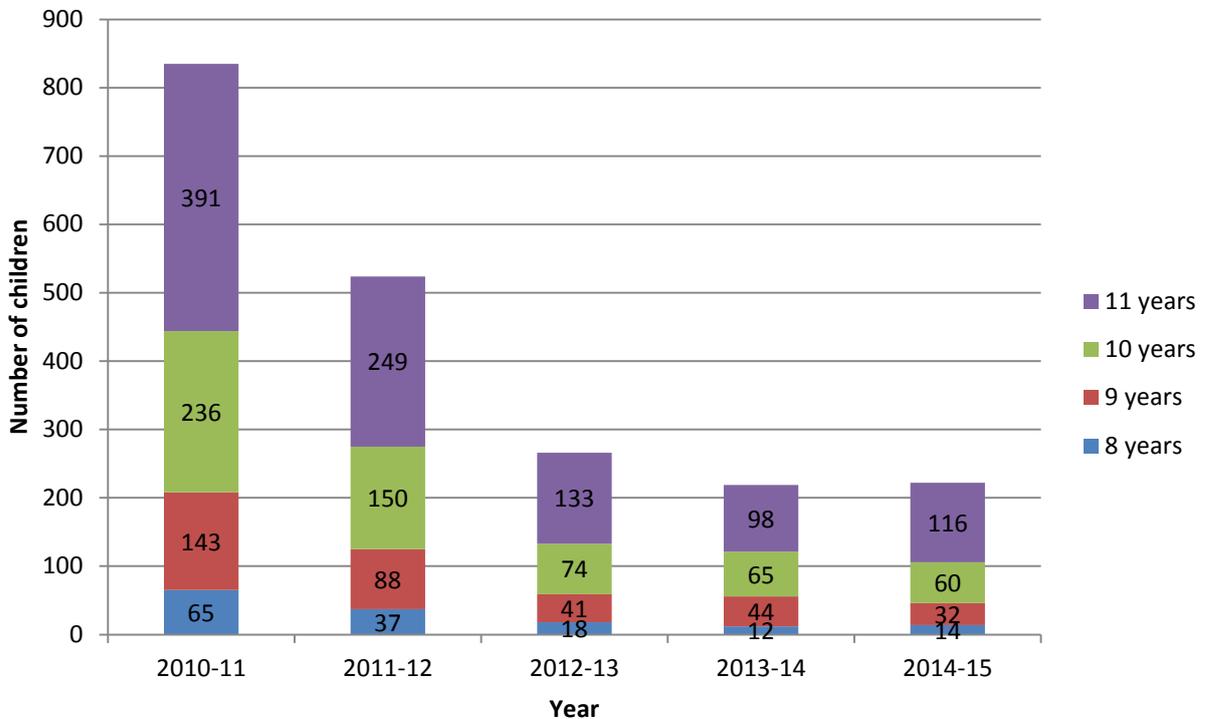
There were 14 children aged 8 years old and 32 aged 9 years old referred to the Reporter for offending in 2014-15 (Figure 2) – this was 1.6% of all children and young people with offence referrals.

There were eight local authority areas where no children aged 8 to 11 years were referred for offending in 2014-15 – these are Aberdeenshire, East Dunbartonshire, East Renfrewshire, Eilean Siar, Falkirk, Orkney, Scottish Borders and Shetland. There were 24 areas with no 8 year olds referred for offending; 16 areas with no 9

¹⁸ Accessed from SCRA's Statistical Dashboard - http://www.scra.gov.uk/cms_resources/Online%20annual%20dashboard%202014-15.swf

year olds; 13 areas with no 10 year olds; and 12 areas with no 11 year olds referred (SCRA, 2015a). Appendix 3 provides the numbers of 8 to 11 year olds referred for offending in each local authority area.

Figure 2. Ages of children 8 to 11 years old referred to the Reporter for offending from 2010-11 to 2014-15



Data produced from SCRA's Data Warehouse

Types of offences referred

The most common offences referred for 8 to 11 year olds in 2014-15 (i.e. where there were 10 or more such referrals in the year) were assault, threatening or abusive behaviour¹⁹, vandalism, cause alarm/distress racial²⁰, theft, theft by shoplifting, and assault to injury (Table 1). These comprised 250 of the 381 offence referrals for this age group (66%)²¹.

¹⁹ Criminal Justice Licensing (Scotland) Act section 38(1)

²⁰ Criminal Law Consolidation (Scotland) Act 1995 section 50(a)(1)(b) and (5)

²¹ A child can be referred more than once, this is why the number of referrals is greater than the number of children.

Table 1. Number of referrals for 8 to 11 year olds in 2014-15 by offence type

Offence type	Number of referrals				Total referrals*
	8 years	9 years	10 years	11 years	
Assault	6	13	18	40	75
Threatening or abusive behaviour	3	6	13	34	55
Vandalism	5	6	21	22	50
Cause alarm/distress racial	2	7	7	12	28
Theft	1	3	6	6	14
Theft by shoplifting	0	2	6	6	15
Assault to injury	1	2	5	5	13

*Children can be referred more than once

Gravity of offence referral incidents

The gravity of the 381 offence referral incidents for children aged 8 to 11 years in 2014-15 was assessed by the researchers based on the information in the police reports submitted to the Reporter. SCRA's Framework for Decision Making by Reporters (2015b) provides guidance on whether an offence incident by a child is of low, moderate or high gravity, and was used for this assessment. Examples of the types of offences assessed as high, moderate or low gravity are shown below.

Examples of offence referral incidents according to gravity*

Gravity	Example offences from referrals of 8 to 11 year olds in 2014-15
High	Sexual offences involving coercive sexual behaviour Possession of a knife or offensive weapon Intentional fire raising
Moderate	Assault resulting in injury, or assault on a police officer Theft by housebreaking Cause alarm/distress racial
Low	Theft including shoplifting Vandalism Threatening or abusive behaviour including breach of the peace Assault with no or minor injury caused

*This assessment is based on the police report only and does not take into account factors such as the vulnerability of the child or the impact on the victim.

The majority (71%) of offence incidents referred in 2014-15 for this age group were assessed as being low gravity, 19% were of moderate gravity, and 10% were of high gravity.

Table 2. Gravity of offence referral incidents in 2014-15 by age of the child

Gravity of offence*	Number of referrals 2014-15				Total referrals
	8 years	9 years	10 years	11 years	
High	1	11	8	19	39 (10%)
Moderate	6	15	20	31	72 (19%)
Low	15	35	77	143	270 (71%)
Totals	22	61	105	193	381

* This assessment is based on the police report only and does not take into account factors such as the vulnerability of the child or the impact on the victim.

Chapter 4. Children's backgrounds

This chapter describes the backgrounds of the 100 children in the research sample.

Children's characteristics

Gender

Fourteen are female and 86 are male.

Age

At the time of the first (or only) offence referral in 2013-14 – two children were 8 years old (2%); 20 were 9 years old (20%); 35 were 10 years old (35%); and 43 were 11 years old (43%).

Ethnicity

Two are 'Mixed other'; one is 'Asian British: Pakistani'; one is 'Mixed: white and black African'; one is 'White: other white'; 87 are 'White: English, Welsh, Scottish, Northern Irish, British'; and for eight children this information was not available.

Disability and health issues

Thirteen children were recorded as having a disability. For seven children this was 'social, emotional and behavioural difficulties', for four 'Autistic Spectrum Disorder', and two had 'learning disabilities'.

In addition to the children with a recorded disability, there were 26 children with physical and/or mental health concerns. Eleven of these children had both physical and mental health problems. This means that 39 children (39%) had disabilities and physical and/or mental health problems. Twenty-three children (23%) had mental health problems, and some had more than one (Table 3).

Table 3. Mental health concerns*

Mental health concern	Number of children
Emotional difficulties	5
Delayed development	3
Aggressive and/or disruptive behaviour	5
Behavioural difficulties	7
ADHD or Asperger's Syndrome (suspected or diagnosed)	4
Social and behaviour difficulties	2
Low mood/ presents as depressed	1
Low self esteem	1
Socially isolated	1
Not stated	3
Total children	23*

*In addition to children with recorded disability

It was not possible to make a direct comparison with the general population in this age group. However, it has been assessed that 15% of 8 to 9 year olds and 16% of 10 to 12 year olds in Scotland have mental health problems (ScotPHO, 2013).

Fourteen children (14%) had physical health problems (Table 4).

Table 4. Physical health concerns*

Physical health concern	Number of children
Enuresis	3
Dental – multiple extractions	2
Foetal Alcohol Syndrome	1
Soiling	1
Obese	1
Eczema	1
Other	2
Not stated	4
Total children	14*

*In addition to children with recorded disability

There were 27 children where no information on their health was available in their CMS files.

Educational concerns

For 53 children there were concerns about their educational achievement, attendance or behaviour in school. Twenty six of these children had a recorded disability and/or mental health problems.

Eighteen of the 53 children with educational concerns noted had been excluded from school at least once (i.e. 18% of children in the sample and 34% of those with educational concerns). Nine of these 18 children had mental health problems. In comparison, school exclusions in the general child population in 2012-13, ranged from less than 1% in P4 to 2% in P7 (Scottish Government, 2014).

Thirty six of the 53 children with educational problems were getting additional support²², such as educational psychologist, specialised school or unit, individualised education or additional support for learning plan, learning support, behavioural support, and play therapy.

There were 25 children where no information was available in their CMS file on their education.

Victims of abuse

There were 25 children (25%) who, it had been recorded, had been victims of abuse. Five children had been sexually abused and 18 physically abused. Two children had been physically *and* sexually abused.

²² As recorded in the CMS files, this could be an underestimate.

For 16 of these children this was by one or more family members, a further two children had been abused by associate(s) of their parent(s), and one child had been abused by family member(s) *and* associate(s) of their parents.

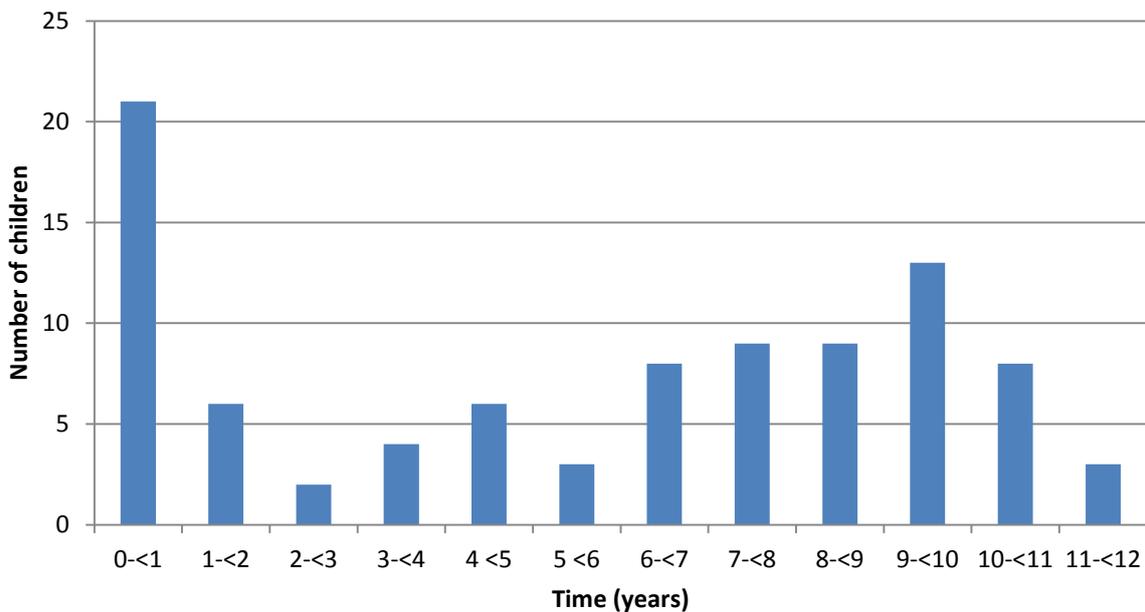
There were 37 children where no information was available in their CMS file on whether they had (or not) been victims of abuse.

Service involvement

For the purposes of this research first service involvement is defined as the point when there was a service response to the risks identified for the child.

For 71 children, there had been service involvement at least a year before the first (or only) offence incident in 2013-14, and over half had been involved with services at least 5 years before (Figure 3).

Figure 3. Time from first service involvement to first (or only) offence referral in 2013-14



N=92. There were eight children where there was no information on the date of first service involvement (if any) in CMS.

There were 38 children where there was no service involvement or no information available on service involvement (if any) at the time of the incident.

Previous referrals to the Reporter

Seventy five children (75%) had previously been referred to the Reporter (Table 5). For the other 25 children (25%) their first referral to the Reporter related to their first (or only) offence incident in 2013-14.

Table 5. Previous referrals to the Reporter

Referral grounds*	Number of children
1995 'c' and 2011 'a' - lack of parental care	36
1995 'd' – victim of a schedule 1 offence	23
1995 'b' – bad associations or moral danger	4
1995 'i' and 2011 'j' – has committed an offence	5
2011 'n' and 1995 'a' - beyond control of a relevant person	2
1995 'e' – member of the same household as a victim of a schedule 1 offence	5
No previous referrals	25
Total	100

*Children (Scotland) Act 1995 section 52(2) and Children's Hearings (Scotland) Act 2011 section 67(2). For further explanation see Appendix 1.

For five of the 75 children previously referred this was related to offending. The other 70 children were referred on non offence grounds.

Twenty six children were on CSOs²³ at the time of the offence referral incident in 2013-14.

²³ CSOs were introduced in 2013 by the Children's Hearings (Scotland) Act 2011, and replaced Supervision Requirements (SRs). For ease this report refers to CSOs although some children had SRs.

Chapter 5. First (or only) offence referral in 2013-14

This chapter examines the circumstances around the first (or only) offence incident in 2013-14, for the 100 children in the sample, that was referred to the Reporter and the Reporter's decision.

Type of offence and Reporter decision

The types of offences as described in the police reports and the Reporter decisions on these referrals are shown in Table 6.

Table 6. Type of first (or only) offence referral in 2013-14 and Reporter decision*

Type of offence	Number of children							Total
	Reporter decision*							
	No action	Refer to local authority	Arrange Hearing	Insufficient evidence	Family action	Current measures	Diversion	
Assault	12	2	3	0	4	7	0	28
Vandalism	5	0	0	2	0	4	0	11
Assault to injury	6	1	1	0	0	3	0	11
Threatening or abusive behaviour	4	2	1	0	0	2	0	9
Sexual offences**	1	5	1	0	0	2	0	9
Theft	1	2	0	0	0	5	0	8
Cause distress/alarm – racial	3	0	0	0	1	2	1	7
Shoplifting	1	0	0	0	2	3	0	6
Breach of the peace	2	0	0	0	0	0	0	2
Culpable and reckless conduct	0	1	0	0	0	1	0	2
Malicious mischief	1	0	0	0	0	0	1	2
Robbery	0	0	0	0	0	1	0	1
Abduction, assault to injury and danger to life	1	0	0	0	0	0	0	1
Racially aggravated conduct	1	0	0	0	0	0	0	1
Improper use of public electronic communications network	1	0	0	0	0	0	0	1
Carry a knife	0	1	0	0	0	0	0	1
Totals	39	14	6	2	7	30	2	100

* Explanation of Reporter decisions is given in Appendix 4.

**Sexual Offences (Scotland) Act 2009 sections 8, 19, 20 and 25. For further information on these cases refer to Chapter 8.

In six cases (6%) the Reporter decided that compulsory measures of supervision were required and referred the child to a Children's Hearing. None of these children

had CSOs at time of the incident. In four of these cases the decision to refer to a Hearing was for both offence and non offence grounds. The established grounds were for each child: 1) 2011 'a' and 'm', 2) 2011 'n', 3) 2011 'a', and 4) 2011 'j' and 'n'²⁴. In two cases it related to offence 'j' grounds only, and in one of these the grounds were not established.

In most cases the Reporter decided that no action was required (39%) or that current measures were already in place (30%).

For all children and young people (8 to 17 years) with offence referrals in 2013-14, in 10% of cases the Reporter decided to arrange a Hearing (SCRA, 2014).

Timescales

The times between the date of the first (or only) offence incident in 2013-14, receipt date of the referral from the police by the Reporter, and date of Reporter decision are shown in Table 7.

Table 7. Time between offence, referral receipt and Reporter decision

Time (months)	Number of children		
	Incident to referral receipt	Referral receipt to Reporter decision	Overall – offence incident to Reporter decision
0- <1	65	30	12
1- <2	19	22	17
2 - <3	10	13	17
3 - <4	2	13	15
4 - <5	3	11	12
5 - <6	1	6	13
6 or more	0	5	14
Total	100	100	100

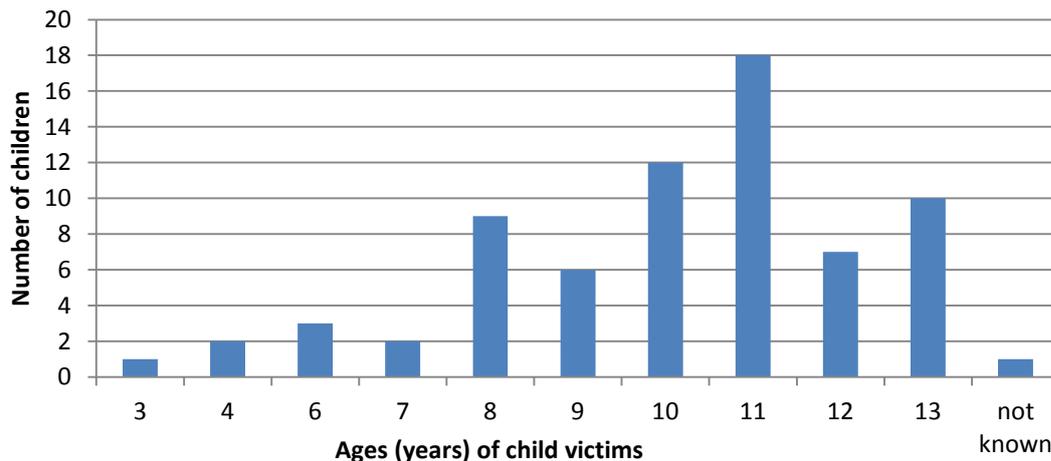
For over half of children (54%) it took 3 months or more from the date of the first or only offence referral incident in 2013-14 to the Reporter decision on it.

Victims

There were 67 incidents with identified victims, and a total of 88 victims. The majority of victims were other children - 71 children (81% of all victims). Most of the children who were identified as victims were of similar ages to the children referred, with 66% of child victims (n=71) being 10 to 13 years old (Figure 4).

²⁴ 2011 'a' – lack of parental care; 2011 'j' - has committed an offence; 2011 'm' – child's conduct has had, or is likely to have, a serious adverse effect on the health, safety or development of the child or another person; 2011 'n' – beyond the control of a relevant person

Figure 4. Ages of child victims



N=71

There were 17 adults identified as victims (19% of all victims). Nine of these were teachers or residential unit staff; five were members of the public, one a social worker, one a police officer, and one a child's relative.

Circumstances around the incident

Location

Sixty four incidents (64%) took place in the community, 17 in school (17%), eight in the child's home (8%), three in residential accommodation (3%), one at a relative's home (1%), and one at the child's carers (1%). The location of six other incidents was classed as other.

There were 11 children who were accommodated at the time of the incidents. Four of these incidents took place where the child was accommodated.

Alcohol and drugs

There were no incidents where it was recorded that the child was under influence of alcohol and/or drugs.

Involvement of other children

There were 52 incidents (52%) that involved other children as perpetrators. In 13 of these (25%), it was clear that another child was the instigator.

These 52 incidents involved at least 79 other children as perpetrators. The ages of 30 children were not recorded. Where the ages of the other children were recorded (n=49), they ranged from 6 to 14 years old, with the majority (69%) being 10 to 14 years old.

Who informed the police of the incident

Table 8 shows who reported the incident to the police. In most cases this was the parent of the child victim or a member of the public (55% of all cases).

Table 8. Who informed the police of the incident

Who	Number of children
Parent of child victim	34
Member of the public	21
School/ residential unit/ foster carer	18
Caught by police/ security staff	15
Child's parent	3
Other	2
Not evident	6
Total	100

Child's and parent's responses to the offence

Information was obtained from the police reports on the child's and their parent's response to the offence and their general attitude towards the police (Table 9).

Table 9. Child's and parent's responses to the offence

Response	Number of children	
	Child	Parent(s)
Admitted it, apologetic, and/or upset	45	n/a
Denied responsibility or involvement	23	n/a
Refuses to co-operate or engage with police and/or services	19	10
Supportive and co-operative with police and/or services	n/a	34
Advised child against speaking to or co-operating with police	n/a	7
Aggressive and hostile to police	0	3
No information	13	46
Total	100	

12 months after the first (or only) offence incident in 2013-14

Further referrals to the Reporter

- 54 children (54%) had no further referrals to the Reporter in the 12 months following the offence incident in 2013-14
- 30 children (30%) had one or more offence referrals
- 29 children (29%) had one or more non offence referrals
- 16 children (16%) had both offence and non offence referrals

Compulsory measures of supervision

Twenty nine children (29%) had CSOs, and 21 (21%) were accommodated. The CSOs of 20 children were linked to non offence grounds; for eight children they were linked to offence grounds; and for one child to both non offence and offence grounds.

Where the offence was part of a pattern of behaviour or an isolated incident

It became apparent when analysing the data that there were two types of cases:

1. Where the incident was a pattern of behaviour by the child – such as disruptive or challenging behaviour which may or may not have involved offending.
2. Where the incident was isolated and not part of a wider pattern of behaviour.

Chapters 6 and 7 look in detail in these two types of cases to see if there are differences in the children's backgrounds and outcomes for them.

Chapter 6. Offence was part of a pattern of behaviour

There were 37 children²⁵ where the offence incident was part of a pattern of similar behaviour. This chapter looks at the backgrounds of these children, and outcomes for them following the first (or only) offence incident in 2013-14.

Children's backgrounds

Child concerns

There were educational concerns for 26 children (70%), mental health concerns for 16 (43%), physical health concerns for eight (22%), and five had a recognised disability (14%). Eleven (30%) had been victims of sexual or physical abuse.

Twelve children (32%) were on CSOs at the time of the incident: eight children were on CSOs at home; two with relatives; one in residential school; and one with foster carers.

Parental risks

There were 30 children (81%) whose parents presented risks to them. Most of these 30 children were exposed to multiple parental risks (Table 10).

Table 10. Risks posed by parents for children with pattern of behaviour

Risk	Number of children			
	Father	Mother	Both parents	Total*
Offending	10	2	8	20 (54%)
History of violence/aggression	13	2	4	19 (51%)
Drug use	7	1	9	17 (46%)
Alcohol use	3	3	9	15 (40%)
Health – mental	2	10	0	12 (32%)
Custodial sentence(s)	8	0	1	9 (24%)
Close association with offenders	2	2	1	5 (14%)
Health – physical	3	0	0	3 (8%)
Looked after and accommodated as a child	1	1	1	3 (8%)
Learning difficulties	1	0	0	1 (3%)
No risks recorded				7 (19%)
Total				37

*May be underestimates as based on the information recorded and available to the researchers.

The most common types of offences by parents²⁶ were those involving violence (14 children), drugs-related (nine children), and/or physical abuse of a child (six children).

²⁵ There are three children where it was not clear whether the offence is part of a pattern of behaviour or an isolated incident.

²⁶ Where this information was available.

Eighteen children (48%) lived in homes where there was domestic violence. There were also 18 children (48%) where there were poor home conditions (e.g. unhygienic and/or unsafe conditions, homelessness, eviction or threat of).

Siblings

Thirty five of the 37 children have siblings. For two children with siblings, there was no information available on them.

For the 33 children with siblings and information available:

- 30 (91%) have siblings who are known to services
- 24 (80%) have siblings with non offence referrals to the Reporter
- 13 (43%) have siblings with offence referrals to the Reporter
- 12 (40%) have siblings who were accommodated or in a permanent placement
- Seven (23%) have siblings with a history of violence and/or aggression

Support

Three children and their families had no service input at the time of the incident and for a further seven there was no information in SCRA's CMS files. The types of service support for the 27 children and their families, where there is information, are shown in Table 11.

12 months after the offence incident

Further referrals to the Reporter

- 10 of the 37 children (27%) had no referrals to the Reporter in the 12 months following the date of the incident.
- 22 children (59%) had offence referrals. Eight children had at least four offence referrals, three had two referrals, four had two referrals, and seven had one referral.
- 17 children (46%) had non offence referrals. Five children had at least four non offence referrals, three had three referrals, three had two referrals, and six had one referral.
- 12 children (32%) had both offence and non offence referrals.

Compulsory measures of supervision

Eighteen children (48%) had CSOs 12 months after the incident. Ten children's CSOs were linked to non offence grounds, seven to offence grounds and one to both types.

Five children were on CSOs at home, and 13 were accommodated. A further child was accommodated on a voluntary basis²⁷. Of the 14 children (38%) who were accommodated - five were in residential schools, four with foster carers, two in children's units and two with relatives.

²⁷ Section 25 of the Children (Scotland) Act 1995

Support

Thirty children and their families were receiving support from services 12 months after the referral incident (Table 11). For seven there was no information in SCRA's CMS files as there were no further referrals and the children were not on CSOs.

Table 11. Service support to child and family at time of incident and 12 months later (pattern of behaviour)

Service type	Number of children*	
	At time of incident	12 months later
Children & families social work	24 (80%)	27 (90%)
Criminal justice or youth justice social work	5 (17%)	2 (7%)
Education support or alternatives	19 (63%)	17 (57%)
Third sector (e.g. Includem, Barnardos, SACRO, Women's Aid, Children 1 st , Befriending, Who Cares?, etc.)	10 (33%)	9 (30%)
Home/ family support	10 (33%)	6 (20%)
Child and Adolescent Mental Health Services (CAMHS)	9 (30%)	8 (27%)
Educational psychologist	4 (13%)	11 (37%)
Child's health (physical)	3 (10%)	1 (3%)
None	3 (10%)	0
Total	30	30

*There was no information available on seven cases

Child's behaviour and engagement with education

Social work and school reports were examined to see if there were any changes in the child's behaviour in the 12 months following the incident.

There were 12 children whose behaviour had improved, 12 where it was escalating, and five where there was no change. No information was available on eight children.

Fifteen children's engagement with education had improved, seven where it was reduced, and one where there was no change. No information was available on 10 children.

Case studies – offence is part of a pattern of behaviour

Finlay

Finlay is on a CSO at home, with the established grounds being 'lack of parental care'. He has previous offence and non offence referrals, including that he has been the 'victim of a schedule 1 offence'. His siblings have also been referred to the Reporter. His parents receive a range of support from services to help them care for their family. Both his parents are involved in offending and associate with other known offenders.

Finlay and a younger child steal a box of juice from a shop, and are caught by the police. The police refer Finlay to the Reporter for the offence of theft. The Reporter decides that no action is required as Finlay is already on a CSO.

In the 12 months after this incident, Finlay has further offence and non offence referrals. He is putting himself at risk and his parents can't control his behaviour. As a result his CSO is varied with condition that he lives with his aunt.

Daniel

Daniel has been involved with services since he was 2 years old. His parents both use drugs and alcohol and are involved in offending. His older sibling has been accommodated.

At the time of the incident, Daniel is on the Child Protection Register and has had previous referrals to the Reporter for 'lack of parental care'. He is not on a CSO. He has a history of challenging behaviour in school and is behind educationally.

Daniel and two other children are involved in name calling. Daniel responds by attacking them. The two children tell their parents who report the incident to the police. The police refer Daniel to the Reporter for the offence of assault to injury. The Reporter decides that compulsory measures are not required and refers Daniel to the local authority for voluntary measures.

In the 12 months following the incident his behaviour in school and the community improves. He has one further referral to the Reporter, this is for vandalism. He is getting extra support in school and from youth justice services.

Adam

Adam has a history of disruptive behaviour and has delayed development. At the time of the incident he is receiving support from CAMHS and has an Individualised Education Plan.

Adam and his siblings have been subjected to physical abuse by their father over many years. Both his parents abuse alcohol. All the children have been referred to the Reporter on non offence grounds, and Adam is on a CSO at home.

When at school, Adam had a tantrum and kicked another child on the leg. The child is unharmed but his father wants to press charges. The police refer Adam to the Reporter for assault. The Reporter decides that no action is required as Adam is already on a CSO.

After this incident, Adam's behaviour escalates and he has further offence and non offence referrals to the Reporter. His CSO is varied to foster care, but this placement breaks down because of his behaviour and he is moved to a residential unit where he is starting to show signs of improvement. Adam is described as very emotionally disturbed.

Chapter 7. Offence was an isolated incident

There were 60 children²⁸ where the offence referral was an isolated incident. Information on these children was more limited as many had little involvement with services before or after the incident.

Children's backgrounds

Child concerns

There were recorded educational concerns for 23 children (38%), mental health concerns for 13 (22%), physical health concerns for eight (13%), and eight had a recognised disability (13%). Thirteen (22%) had been victims of sexual or physical abuse.

Fourteen children (23%) were on compulsory measures of supervision at the time of the incident: 10 children were on CSOs at home; two with foster carers; one with relatives; and one in a children's home.

Parental risks

There were 33 children (55%) whose parents presented risks to them (Table 12).

Table 12. Risks posed by parents for children where offence was an isolated incident

Risk	Number of children			
	Father	Mother	Both parents	Total*
Offending	6	4	7	17 (28%)
History of violence/aggression	8	2	4	14 (23%)
Drug use	4	3	6	13 (22%)
Alcohol use	7	2	3	12 (20%)
Custodial sentence(s)	6	2	4	12 (20%)
Health – mental	0	10	0	10 (17%)
Close association with offenders	3	3	2	8 (13%)
Looked after and accommodated as a child	3	0	3	6 (10%)
Learning difficulties	0	0	3	3 (5%)
Health – physical	0	2	0	2 (3%)
No risks recorded				27 (45%)
Total				60

*May be underestimates as based on the information recorded and available to the researchers.

The most common types of offences by parents²⁹ were those involving violence (nine children), physical abuse of a child (three children), and/or breach of the peace (three children).

Seventeen children (28%) lived in homes where there was domestic violence. There were also 10 children (17%) where there were poor home conditions.

²⁸ There are three children where it was not clear whether the offence is part of a pattern of behaviour or an isolated incident.

²⁹ Where this information was available.

Siblings

Forty eight of the children have siblings. There was no information on five children's siblings. Three children have no siblings, and there were nine children where there was no information on whether they have siblings or not.

For the 43 children with siblings and information available on them:

- 30 (70%) have siblings who were known to services
- 21 (49%) have siblings with non offence referrals to the Reporter
- 12 (28%) have siblings with offence referrals to the Reporter
- Seven (16%) have siblings who were accommodated or in a permanent placement
- Five (12%) have siblings with a history of violence and/or aggression

Support

There were 12 children and their families who had no service input at the time of the incident and a further 16 where there was no information in SCRA's CMS files. The types of service support for the 32 children and their families, where there is information, are shown in Table 13.

12 months after the offence incident

Further referrals to the Reporter

- 44 of the 60 children (73%) had no referrals to the Reporter in the 12 months following the incident.
- Eight children (13%) had offence referrals – four children had one offence referral, and four children had two.
- 12 children (20%) had non offence referrals. One child had four non offence referrals, two had three referrals, two had two referrals, and seven had one referral.
- Four children (7%) had both offence and non offence referrals

Compulsory measures of supervision

Eleven children (18%) had CSOs 12 months after the incident. Ten children's CSOs were linked to non offence grounds, one was linked to offence grounds.

Four children were on CSOs at home, and seven were accommodated (two with foster carers, four in residential units and one with relatives).

Support

Twenty four children and their families were receiving support from services 12 months after the referral incident (Table 13). For 25 children there was no information in SCRA's CMS records.

Table 13. Service support to child and family at time of incident and 12 months later (isolated incident)

Service type	Number of children	
	At time of incident	12 months later
Children & families social work	23	24
Criminal justice or youth justice social work	5	1
Education support or alternatives	20	17
Third sector (e.g. Includem, Barnardos, Children 1 st , Befriending, etc.)	7	7
Home/ family support	5	3
CAMHS	6	6
Educational psychologist/ psychological services	3	5
Child's health (physical)	1	2
None	11	11
Total	43	35

Case studies – offence is an isolated incident

Lewis

When in the park, two other boys take his jacket and run away with it. Lewis pursues them, throws a bottle and kicks one of them. Lewis tells his teacher about the incident, and his teacher phones the police. The police refer Lewis to the Reporter for assault. The Reporter decides that no action is necessary. Lewis's family are not involved with services and this is his only referral to the Reporter

Sophie

Sophie is on CSO at home at time of the incident. The established grounds are that she is a 'victim of a schedule 1 offence'. Both her parents use drugs and the family are receiving support from social work.

With her older brother she gets involved in a verbal argument with two girls. One girl gets slapped on the leg and Sophie's brother threatens the girls with a knife. The girls tell their parents who contact the police. Sophie is referred to the Reporter for assault. The Reporter decides that no action is required as Sophie is already on a CSO.

There are no further referrals for Sophie and 6 months later her CSO is terminated. There are no concerns about her behaviour and she is doing well at school.

Cameron

Cameron is referred to the Reporter by the police for vandalism by damaging a number of cars by scraping them with a stone. He said he didn't do it but other children at his school say that he told them that he did do it. The Reporter decides that there is insufficient evidence. Cameron's family are not involved with services, and this is his only referral to the Reporter.

Chapter 8. Offence was sexual

There were nine children where their first (or only) offence referred to the Reporter in 2013-14 was a sexual offence. For one of these children the Reporter decided that the referral ground was 2011 'm' (child's conduct has had, or is likely to have, a serious adverse effect on the health, safety or development of the child or another person) and not 2011 'j' (has committed an offence).

Children's backgrounds

All are male and were aged 8 (one child), 9 (two children), 10 (one child) and 11 years old (five children) at the time of the incidents. Six children and their families had service involvement at the time of the incidents.

Six children had mental health concerns. One of these children had learning difficulties, one was diagnosed with ADHD and one with Asperger's Syndrome. One of these six children was recorded as having social, emotional and behavioural disabilities and another had a learning disability. A seventh child was recorded as having social, emotional and behavioural disabilities.

Seven children had previously been referred to the Reporter, with the first referrals being on 1995 'd' (victim of a schedule 1 offence) (three children) or 1995 'c' (lack of parental care) grounds (four children).

One child had been sexually abused and one physically abused. Two children had not been victims of abuse, and there was no information on this for the other five children.

The offence incident

In six cases the offence was an isolated incident, and in three cases it was part of a pattern of behaviour. In all cases, this was the child's first offence referral to the Reporter:

- Four incidents involved other children in 'games' involving undressing and touching inappropriately.
- Two incidents were part of a pattern of sexualised behaviour.
- In two incidents the children had exposed themselves to others.
- One incident involved an attack on a girl with other boys.

In eight cases, the victims were other children. In the ninth case, the child had exposed himself to an adult. There were 17 child victims: one was 3, two were 4, two were 6, six were 8, one was 10 and five were 11 years old. In two cases the victims were family members and in four cases they were friends of the child. In three incidents, other children were involved as perpetrators.

12 months after the offence incident

One of the nine children had a further offence referral to the Reporter, this was for sending offensive or sexual communications.

Two other children had non offence referrals, one on 2011 'm' and one 2011 'a' (lack of parental care) grounds. In both cases the Reporter decided to arrange a Hearing.

Risks

In a review of the literature, Hutton (2008) concluded that in relation to risks (and the management of them) presented by children and young people who have committed sexual offences that:

- There is little evidence to suggest that the majority of juvenile sex offenders will continue to sexually offend into adulthood
- Non-sexual offence history is more relevant to the risk of any future recidivism (sexual and nonsexual) than are sexual offences
- Risk should not be considered at the expense of protective factors and the strengths the individual (and family) can bring to treatment and change
- The age of the young person and the motivation behind the problem/offending sexual behaviour should be taken into account when considering risk
- Factors that stand out in the literature as being associated with risk of sexual harm against others include: interfamilial violence; care rejection; maternal history of abuse and the severity of any sexual abuse the young person has suffered.

Chapter 9. Discussion

It is well established that most young people who go on to have offending behaviour have experienced adversity from early in their lives. Most will have had non offence referrals to the Reporter, have behavioural difficulties and problems with education, and come from homes characterised by violence and parental substance misuse (SCRA, 2002 and 2005). There is also a strong link between living in poverty and violence by young people (McAra and McVie, 2015).

Children exposed to multiple risks such as social disadvantage, family adversity and cognitive or attention problems are much more likely to develop behavioural problems (Department for Education, 2015). Previous research has found that almost a half of children with behaviour problems at 5 years old, and involved in the Hearings System, had criminal convictions by age of 22 years (McAra and McVie, 2010). There is also a body of evidence that shows that early onset conduct disorders is an strong indicator of long-term negative personal and social outcomes such as school disruption, mental health problems, social isolation, drug and alcohol misuse and crime and antisocial behaviour. Programmes to strengthen parenting for those with children with early onset conduct disorders (such as Triple P and Incredible Years) have been found to be successful in addressing and responding to these problems (Scottish Government, 2012b).

Almost all of the children in this study where the offence referral was part of a pattern of behaviour (n=37) were exposed to risks that could predispose them to having behavioural and/or mental health problems (see Appendix 5 for risks). For 81% of these children their parents were recorded as presenting risks, 43% of children had mental health problems, 70% educational problems and 30% had been the victims of physical or sexual abuse. Although proportionately fewer children where the offence was an isolated incident (n=60) had been exposed to such risks, over half (55%) had a parent who posed risks, 38% had educational problems, 22% mental health problems and 22% had been abused.

These findings lend support to the approach based on principles of the Kilbrandon Report (1964) and their interpretation through GIRFEC and the WSA (Scottish Government, 2015b) of early intervention and prevention is the right one for children where there are such concerns.

Should the minimum age of criminal responsibility in Scotland be raised?

Children and young people in Scotland have a low level of knowledge about the UNCRC and specifically about the age of criminal responsibility and criminal proceedings (Elsley *et al*, 2013). There is also little information on offending by 8 to 11 year olds and the factors that influence this. Most research has been on offending by those aged 12 years and more. The intention of this study is to provide evidence on this group of children to inform the debate on if the minimum age of criminal responsibility in Scotland should be raised.

There is widespread support amongst organisations who work with and support children for raising the minimum age of criminal responsibility (Together, 2015). The Centre for Youth and Criminal Justice, Strathclyde University, has commented:

'Raising the age of criminal responsibility seems a sensible course of action on several levels. The difference between the age of criminal responsibility (8 years) and the age of criminal prosecution (12 years) can serve as a source of confusion. Ultimately the provisions of s.67(2)(m) of the Children's Hearings (Scotland) Act 2011 appear to offer a solution to the question of how behaviour of concern, currently captured under "offence grounds", could be captured if the age of criminal responsibility were to be raised. Such behaviour would not simply be ignored but might instead be interpreted as "conduct" likely to have a "serious adverse effect on the health, safety or development of any child or young person".' (Lightower et al, 2014).

Referral to the Reporter on non offence grounds related to the child's behaviour does offer one solution. However, there is also the question on whether referral to the Reporter is necessary or appropriate for most children in these circumstances.

One of the main aims of the EEI approach is to reduce unnecessary offence based referrals to the Reporter (Scottish Government, 2008), and there is some evidence that it has had been successful in this (Consulted Ltd., 2009; SCRA, 2009). However, a more recent study found that there are differences in how the EEI approach is being used across Scotland (Murray et al, 2015).

Most offences by children under 12 years are of low gravity. Reporter decisions on most offence referrals for 8 to 11 years old are that compulsory measures are not required. In 6% of cases in this study the Reporter decided to refer to a Hearing (Table 6). Looking at all children under 12 years with offence referrals between 2010-11 to 2013-14 (n=1,543): - for 5.8% the Reporter decision was to arrange a Hearing (n=90); and 3% had a CSO made (n=46)³⁰. In addition, the offence referrals of 60% of the children in this study were related to isolated incidents, and most of these children had no further offence referrals. It could therefore be argued that referral to the Reporter was not a proportionate response for most of the children in this study.

The test for referral of a child to the Reporter is that the referrer considers:

- (a) that the child is in need of protection, guidance, treatment or control, **and**
- (b) that it may be necessary for a CSO to be made in relation to that child³¹.

It is therefore not for the referrer to consider the grounds of referral, that is the responsibility of the Reporter³². If the minimum age of criminal responsibility were raised it could mean that the children described in this report that met the above test could still be referred to the Reporter, and depending on Reporter and Hearing decisions be placed on CSOs, without them growing to adulthood with a record of an offence referral.

³⁰ Data produced from SCRA's Data Warehouse.

³¹ Sections 60, 61 and 64 of The Children's Hearings (Scotland) Act 2011

³² Section 66 of The Children's Hearings (Scotland) Act 2011

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Glossary of terms

Children's Reporter - is the first contact that a child and family will have with the Children's Hearings System. Children are referred to the Reporter if it is considered that they may need compulsory measures of supervision. The Reporter investigates each referral and then makes a decision as to whether the child should be referred to a Children's Hearing.

Children's Hearing - is a tribunal and comprises of three Children's Panel Members (volunteers from the local community).

Compulsory Supervision Order (CSO) – Made by a Children's Hearing under section 91(3)(a) or section 119(3) of the Children's Hearings (Scotland) Act 2011. It specifies the implementation authority (local authority) and where the child is to reside. It can also contain other conditions such as regulation of contact with parents or other family members (in 2013 CSOs replaced Supervision Requirements which came under the Children (Scotland) Act 1995).

Early and Effective Intervention Approach (EEI) – overall aim is to reduce offending by young people under 18 years old. Its main objectives are:

- To prevent/reduce offending by children and young people
- To respond as quickly as possible to offending behaviour by children and young people
- To undertake a multi-agency, proportionate and holistic assessment of need and to identify the most suitable response
- To provide clear information to children, young people, and families on the purpose of EEI
- Where appropriate to keep victims informed of the outcome of the EEI process
- For more young people to have their needs met through access to universal services
- To reduce unnecessary offence based referrals to SCRA
- To ensure that the most appropriate referrals reach statutory agencies thereby freeing up agency resources to focus on higher need/risk cases

Getting it right for every child (GIRFEC) - The GIRFEC approach is a Scotland-wide programme of action to improve the wellbeing of all children and young people. Its primary components include: a common approach to gaining consent and sharing information where appropriate; an integral role for children, young people and families in assessment, planning and intervention; a co-ordinated and unified approach to identifying concerns, assessing needs, agreeing actions and outcomes, based on the Wellbeing Indicators; a Named Person in universal services; a Lead Professional to co-ordinate and monitor multi-agency activity where necessary; and a skilled workforce within universal services that can address needs and risks at the earliest possible point.

Grounds of referral to the Children's Reporter - The reasons for the referral to the Reporter as listed in section 67(2) of the Children's Hearings (Scotland) Act 2011

(previously in section 52(2) of the Children (Scotland) Act 1995). For further explanation see appendix 1.

Schedule 1 offence – An offence listed in Schedule 1 of the Criminal Procedure (Scotland) Act 1995. This is a list of offences against children, including violent offences, sexual offences and neglect and abandonment.

Scottish Children's Reporter Administration (SCRA) - was formed under the Local Government (Scotland) Act 1994 and became fully operational on 1st April 1996. Its main responsibilities as set out in the Act are:

- To facilitate the work of Children's Reporters
- To deploy and manage staff to carry out that work
- To provide suitable accommodation for Children's Hearings.

Whole System Approach - was introduced in 2011 to provide a more robust and efficient mechanism for delivering the early intervention and support necessary for young people who offend, integrated with the approaches necessary to deal with the minority of young people who continue to commit the most serious offences.

Section 67 grounds³³

- (a) the child is likely to suffer unnecessarily, or the health or development of the child is likely to be seriously impaired, due to a lack of parental care,
- (b) a schedule 1 offence has been committed in respect of the child,
- (c) the child has, or is likely to have, a close connection with a person who has committed a schedule 1 offence,
- (d) the child is, or is likely to become, a member of the same household as a child in respect of whom a schedule 1 offence has been committed,
- (e) the child is being, or is likely to be, exposed to persons whose conduct is (or has been) such that it is likely that –
 - (i) the child has been abused or harmed, or
 - (ii) the child's health, safety or development will be seriously adversely affected,
- (f) the child has, or is likely to have, a close connection with a person who has carried out domestic abuse,
- (g) the child has, or is likely to have, a close connection with a person who has committed an offence under Part 1, 4, or 5 of the Sexual Offences (Scotland) Act 2009 (asp 9),
- (h) the child is being provided with accommodation by a local authority under section 25 of the 1995 Act and any special measures are needed to support the child,
- (i) a permanence order is in force in respect of the child and special measures are needed to support the child,
- (j) the child has committed an offence,
- (k) the child has misused alcohol,
- (l) the child has misused a drug (whether or not a controlled drug),
- (m) the child's conduct has had, or is likely to have, a serious adverse effect on the health safety or development of the child or another person,
- (n) the child is beyond the control of a relevant person,
- (o) the child has failed without reasonable excuse to attend regularly at school,
- (p) the child –
 - (i) has been, is being, or is likely to be, subjected to physical, emotional or other pressure to enter into a civil partnership, or
 - (ii) is, or is likely to become, a member of the same household as such a child.
- (q) the child –
 - (i) has been, is being or is likely to be forced into a marriage (that expression being construed in accordance with section 1 of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (asp 15) or,
 - (ii) is, or is likely to become, a member of the same household as such a child.

³³ Section 67(2) of the Children's Hearings (Scotland) Act 2011

Research variables

Child's background

Gender
Date of birth
Ethnicity
Disability
Health concerns – physical
Health involvement - physical
Health concerns – mental
Health involvement – mental
Educational concerns
Education – additional support/ specialised service
Has child ever been excluded from school?
Drug use
Alcohol use
CPR – dates
CPOs - dates
First service involvement – type
First service involvement - description
First service involvement – date
Has child ever been victim of an offence - description
First referral to Reporter – type
First referral to Reporter – date
First referral to the Reporter – decision
Any previous offence referrals to the Reporter – Y/N
First offence referral to the Reporter – type
First offence referral to the Reporter – date
First offence referral to the Reporter – decision
Age of child at 1st offence referral
Child accommodated – Y/N
First Children's Hearing – date
First Children's Hearing - decision
Child first accommodated - date
Child first accommodated – type
Child first accommodated – legal basis
SR/CSO made - date
SR/CSO – type
1st established grounds – date
1st established grounds – type

Family background

Parents

Parents – LAAC as children - mother, father , both, none
Drug use - mother, father , both, none
Alcohol use - mother, father , both, none
Domestic violence Y/N
History of violence/aggression - mother, father , both
Offending – description – types and patterns - mother, father , both
Custodial sentences - mother, father , both
Physical health problems - mother, father , both, none

Mental health problems - mother, father , both, none
Learning difficulties - mother, father , both, none
Concerns about housing/home conditions Y/N
Close associations with offenders - mother, father , both, none

Siblings

Number of siblings
Number of siblings known to services
Number of siblings NOT known to services
Number of siblings accommodated/ permanence
Number of siblings – non-offence referrals
Number of siblings – offence referrals
Number of siblings – secure
Number of siblings - history of violence/aggression
Number of adult siblings –offending
Number of adult siblings – custodial sentences
Number of siblings – alcohol use
Number of siblings – drug use

The 1st or only offence in 2013-14

Date of offence
Type of offence
Description of offence
Is the offence of a serious violent or sexual nature (use CJL(S)A definitions) – Y/N
Child's age at offence
Pathway of referral to Reporter
Date referred to the Reporter
Date of Reporter decision
Reporter decision
Offence grounds – accepted/established?
CSO made as result of offence – Y/N
If yes – CSO date and type
Is child on CSO at time of offence? Y/N
CSO varied as result of offence – Y/N
If yes –date and variation
Is there a victim(s) – Y/N
Age of victim(s)
Were other children involved in the offending incident (as perpetrators)? Y/N
If yes – description
Location of offence
Was this offence an isolated incident or part of a pattern of behaviour? - description
Was child under influence of alcohol at time of offence?
Was child under influence of drugs at time of offence?
Child's view on offence – description
Parents view on offence – description
Is child accommodated at time of offence? Y/N
What agencies are involved with child at time of offence?

12 months from 1st or only offence in 2013-14

Are there further offence referrals: dates and types
Reporter decisions on above
Accepted/established offence grounds: dates and types
Are there non-offence referrals: dates and types

Reporter decisions on above
Accepted/established non-offence grounds: dates and types
CSO made – date and type
CSO varied – date(s) and type(s)
Is CSO linked to offence or non-offence referrals or both?
Secure authorisation - date
CPOs - dates
CPR registrations – types
Child accommodated? – type/description
If accommodated and returned home - date
Child identified for permanence?
Any changes in child's behaviour – description
Is child engaging with education - description
What agencies continue to be involved with child?

Appendix 3

Numbers of children aged 8 to 11 years with offence referrals in 2014-15 by local authority area, and compared with total children and young people (8 to 17 years) with offence referrals

Local authority area	Age (years)				Total children & young people (8 to 17 years)
	8	9	10	11	
Aberdeen City	0	<5	5	6	73
Aberdeenshire	0	0	0	0	25
Angus	0	<5	<5	0	62
Argyll & Bute	<5	0	0	<5	35
Clackmannanshire	0	<5	<5	5	34
Dumfries & Galloway	0	<5	<5	<5	105
Dundee	<5	<5	5	5	78
East Ayrshire	0	<5	5	0	77
East Dunbartonshire	0	0	0	0	40
East Lothian	0	0	0	<5	43
East Renfrewshire	0	0	0	0	23
Edinburgh	<5	<5	<5	6	195
Eilean Siar	0	0	0	0	16
Falkirk	0	0	0	0	118
Fife	0	<5	<5	0	114
Glasgow	5	5	11	26	563
Highland	0	<5	<5	6	194
Inverclyde	0	0	<5	0	39
Midlothian	0	<5	<5	<5	57
Moray	0	0	0	<5	15
North Ayrshire	0	<5	0	6	96
North Lanarkshire	0	<5	12	11	263
Orkney	0	0	0	0	8
Perth & Kinross	<5	0	<5	<5	26
Renfrewshire	0	<5	<5	<5	95
Scottish Borders	0	0	0	0	42
Shetland	0	0	0	0	11
South Ayrshire	0	0	<5	<5	75
South Lanarkshire	<5	5	<5	<5	167
Stirling	0	0	<5	<5	49
West Dunbartonshire	<5	0	0	<5	49
West Lothian	<5	<5	<5	8	112

From: SCRA (2015a). Online Statistics 2014-15 -

http://www.scra.gov.uk/cms_resources/SCRA%20Online%20Statistics%202014-15.pdf

Children's Reporter decisions

The following options are available to the Reporter under the Children's Hearings (Scotland) Act 2011:

1. **Arrange a children's hearing.** This applies where the reporter considers that a section 67 ground applies in relation to the child, and taking into account the factors in the framework, it is necessary for a CSO to be made in respect of a child.
2. **Not to arrange hearing – insufficient evidence.** This applies where the reporter considers that, *prima facie*, there is insufficient evidence for there to be a realistic prospect that a section 67 ground will be established.
3. **Not to arrange a hearing – no action.** This applies where the reporter considers that the referral does not justify any action (compulsory, voluntary or informal) by virtue of its age, triviality or irrelevance.
4. **Not to arrange a children's hearing – family action.** This applies where the reporter considers that the issues raised by the referral either have been or will be satisfactorily addressed by the actions of the family (which includes actions by the child/young person).
5. **Not to arrange a children's hearing – current measures.** This applies where the reporter considers that current measures of intervention are in place and it is appropriate for this referral to be addressed within these measures. These measures need not be provided by the local authority, and need not be provided following a previous referral to the local authority under section 68(5)(a).
6. **Not to arrange hearing – refer to local authority.** This referral is made under section 68(5)(a) and applies where the reporter considers that the issues raised by the referral will be satisfactorily addressed by informal engagement with a local authority service (normally a social work service). The decision is to be informed by a commitment by the authority to provide a service or intervention that the reporter considers acceptable in relation to the child's needs and/or behaviour.
7. **Not to arrange a children's hearing – diversion.** This applies where the reporter considers that the issues raised by the referral either are being or will be satisfactorily addressed by informal engagement with a service or activity *that does not come within the range of local authority services covered by s.68(5)(a)*. This includes but is not limited to situations where the reporter initiates the referral to this service or activity.

From: SCRA (2015b). Practice Direction 6. Framework for Decision Making by Reporters.
http://www.scra.gov.uk/cms_resources/Practice%20Direction%2006%20-%20Decision%20Making%20Framework.pdf

Risk and Protective Factors for Child and Adolescent Mental Health

	Risk factors	Protective factors
In the child	Genetic influences	Being female (in younger children)
	Low IQ and learning disabilities	Secure attachment experience
	Specific development delay or neuro-diversity	Outgoing temperament as an infant
	Communication difficulties	Good communication skills, sociability
	Difficult temperament	Being a planner and having a belief in control
	Physical illness	Humour
	Academic failure	Problem solving skills and a positive attitude
	Low self-esteem	Experiences of success and achievement
	Faith or spirituality	
	Capacity to reflect	
In the family	Overt parental conflict including Domestic Violence	At least one good parent-child relationship (or one supportive adult)
	Family breakdown (including where children are taken into care or adopted)	Affection
	Inconsistent or unclear discipline	Clear, consistent discipline
	Hostile or rejecting relationships	Support for education
	Failure to adapt to a child's changing needs	Supportive long term relationship or the absence of severe discord
	Physical, sexual or emotional abuse	
	Parental psychiatric illness	
	Parental criminality, alcoholism or personality disorder	
Death and loss – including loss of friendship		
In the school	Bullying	Clear policies on behaviour and bullying
	Discrimination	'Open-door' policy for children to raise problems
	Breakdown in or lack of positive friendships	A whole-school approach to promoting good mental health
	Deviant peer influences	Positive classroom management
	Peer pressure	A sense of belonging
	Poor pupil to teacher relationships	Positive peer influences
In the community	Socio-economic disadvantage	Wider supportive network
	Homelessness	Good housing
	Disaster, accidents, war or other overwhelming events	High standard of living
	Discrimination	High morale school with positive policies for behaviour, attitudes and anti-bullying
	Other significant life events	Opportunities for valued social roles
	Range of sport/leisure activities	

From: Department for Education (2015). Mental health and behaviour in Schools. Departmental advice for school staff.



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