



Age of Criminal Responsibility (Scotland) Act 2019

<https://www.legislation.gov.uk/asp/2019/7/enacted>

A '7 minute briefing' provides update on key issues relating to the protection of vulnerable people. This 7 minute briefing relates to Age of Criminal Responsibility (Scotland) Act 2019 and the idea is that the 7 minute briefing will be sent to appropriate service leads who will discuss the 7 points at their routine meetings, thus disseminating the 7 minute briefings across the Partnership. It can also be used as an aide-memoire for staff.

Research suggests that seven minutes is an ideal time span to concentrate and learn, it is more memorable as it is simple and not clouded by other issues and pressures. Their brief duration should also mean that they hold people's attention, as well as providing information to managers in an easy format to share with their staff.

I hope you find this useful and I am happy to take any feedback.

Thank you for your attention in this important matter.

Sent on behalf of the Child Protection Committee Learning and Development Subgroup

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October 2022

Age of Criminal Responsibility (Scotland) Act 2019

1 BACKGROUND

The intention of the Act is to protect children from the harmful effects of early criminalisation while ensuring that incidents of harmful behaviour by children under 12 can be investigated effectively, and responded to appropriately. The Act was effective from **17th December 2021** and raises the age of criminal responsibility in Scotland from 8 to 12 years of age, and children younger than 12 will no longer be treated as criminal suspects.

2 POWERS AND DUTIES

The Act provides powers to Police to investigate incidents of serious harm. Promotion and safeguarding of the child's wellbeing is a primary consideration. Children under investigation have access to independent advice, support and assistance. Things must be explained to them in an age appropriate way. Forensic samples and prints cannot be kept unnecessarily. Small numbers - estimate around 20 cases a year across Scotland.

3 SCOPE

The Act limits the power of Police to question a child under 12 where a constable has reason to believe that the child: By behaving in a violent or dangerous way, has caused or risks **causing serious physical harm** to another person OR By **behaving in a sexually violent or sexually coercive way has caused or risk causing harm (whether physical or not) to another person**. No arrest, no charge, no criminal justice.

4 PLACE OF SAFETY (1)

Whilst the Act provides the police with the power to remove a child to a place of safety, the guidance is clear that police officers must consult with local authorities to identify an appropriate place of safety to best meet the needs of the child whilst taking the situation into account. **Removal to a place of safety must only be used as a measure of last resort**. The child can only be kept in a place of safety for as long as it is necessary to put in place arrangements

7 VICTIM INFORMATION

Responding proportionately to the needs of a child who has caused harm does not diminish the rights of victims. They will still be the victim of a crime and have the right to have that crime fully investigated by Police and offered the support that is available to all victims of crime.

6 INVESTIGATIVE INTERVIEWS

An interview can only take place with the agreement of the child, the parents, or where a Sheriff grants a Child Interview order, or where there is risk of loss of life. The purpose of the interview is to help the police establish what has happened, and to help identify any additional support or protection needs that the child may have. Police must liaise with the LA re the conduct of interview(s). An IRD will take place prior to interview. A child who is under 16, or who is 16-17 and on a CSO may be interviewed as long as the behaviour investigated relates to when they were under 12 years of age and after the act commences. The Act establishes the role of the child interview rights practitioner (ChIRP), who must be a solicitor registered with the Children's Legal Assistance Scheme. A child should not be interviewed without a ChIRP & they take part in the interview planning

5 PLACE OF SAFETY (2)

The Act requires Scottish Ministers to compile, maintain and publish a list of places of safety across Scotland. Wes Dunbartonshire are working with West Of Scotland partners to identify a POS.

The child's home may be designated the place of safety so long as this would not subject either the child or others to harm. **A Police station should only be used as a last resort. A child can not be held in a place of safety for more than 24 hours**