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Organisation

Full name or organisation's name

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Yes

Questions

Question 1: Where a person has been harmed by a child whose case is likely to proceed to the children's hearings system, should further information be made available to a person who has been harmed (and their parents if they are a child) beyond what is currently available?

Yes

- If yes: what further information should be made available?
- If yes: are there specific circumstances when further information should be provided and what would those circumstances be?

Please give reasons for your answer

Scottish Women's Aid (SWA) is the lead organisation in Scotland working to end domestic abuse through advocacy, research, and support for 34 local specialist services across Scotland. As Scotland's expert domestic abuse organisation, we play a vital role in embedding effective responses at national and local level. We take a systems approach by promoting policy and practice improvement at national and international levels while supporting specialist survivor-led services locally.

We welcome the opportunity to respond to the consultation on the Children's Care and Justice Bill. In our response, we wish to highlight the experiences of survivors of domestic abuse and the implications for survivors of the proposals in the consultation paper. From a children's rights-based perspective, we welcome that the maximum age of referral to the Principal Reporter will be increased to 18, in-line with the UNCRC definition of a child being under 18 years old. Raising the age of referral will result in more children and young people coming into contact with the Children's Hearings System on offence grounds, including domestic abuse-related offences. We believe that significant improvements must be made to the current children's hearings system for it to adequately serve the needs of women, children and young people who have experienced domestic abuse. Particularly, we believe the needs of women under 18 who have experienced domestic abuse in their own relationships are largely going unmet in the children's hearings system. It is imperative that any changes made to the children's hearings system seek to reflect the impact on survivors of domestic abuse, and redress the power imbalance between perpetrators of abuse and victims.

The children's hearings system is commendable in its protection of the wellbeing and rights of children and young people. We recognise the complex balance required in upholding the rights of both children when one has caused harm to another. As reflected in the rehabilitative focus of the children's hearings system, evidence suggests that children have greater capacity than adults to change their behaviour. However, evidence also suggests that children are particularly susceptible to trauma and retraumatisation.¹ In order for this system to work for all children and young people, and all survivors of domestic abuse who come into contact with it, changes need to be made to recognise and respond to the impact of domestic abuse, and the impact of the justice system itself, on survivors.

Many kinds of offences and harms are carried out by children and young people who come into contact with the children's hearings system. Domestic abuse is a course of

¹ Evidence and Procedure Review Report (2015) <http://www.scotcourts.gov.uk/docs/default-source/aboutscs/reports-and-data/reportsdata/evidence-and-procedure-full-report---publication-version-pdf.pdf?sfvrsn=2>

conduct which specifically seeks to make a victim afraid, isolated, and powerless. It is of vital importance for the victim's recovery that the justice system does not replicate this experience.

Much of the children's hearings system's current engagement with domestic abuse is focused on supporting children and young people who have experienced domestic abuse from a parent or a parent's partner. Young women's experiences of domestic abuse in their own intimate relationships—often with another minor—are relatively invisible in the system. Co-produced research recently carried out by Scottish Women's Aid, the Young Women's Movement Scotland (YWCA), and Young Women Rise (a panel of young women from across Scotland) found that more than a third (36%) of women under 25 in Scotland reported currently being abused by a partner or ex-partner. Almost three quarters of respondents to the research survey reported knowing someone who had been abused.

The research found that girls as young as twelve were survivors of abuse in their own relationships. For young women who have experienced domestic abuse in their own relationships, the perpetrators of this abuse also tend to be young men. Both the survivor and perpetrator tend to be from the same community, often the same school.²

Survivors routinely outline the importance of having information at all stages of the process of reporting abuse. This includes information about what to expect when reporting abuse, why something is happening, who is involved, reasons for the decisions made, and how they will be implemented.³ They also want to have information as early on as possible in the process, a finding supported by Lady Dorrian's review into the management of sexual offence cases.⁴ Young survivors say that information is important to help them feel prepared and in control. When they are excluded from information about them, young survivors say that this can feel unfair and scary. Young survivors highlight the fear caused by drop-off in information to them at crucial points in the process, including when a perpetrator is released.⁵

The information currently available for people who have been harmed by a child whose case is likely to proceed in the children's hearings system is limited, inconsistent, and not particularly child-friendly. As outlined in the consultation paper, and in other responses to this consultation, people who have been harmed and their families routinely voice their confusion and frustration with the current information-sharing approach of the children's hearings system.

Lady Dorrian's review into the management of sexual offence cases sets out recommendations for information-sharing in the children's hearings system, including broader information for complainers addressing how the system works and why information is restricted. We believe this approach would also be a helpful step for survivors of domestic abuse. The information should include information on possible

² Scottish Women's Aid (SWA) and Young Women's Movement Scotland (YWCA), 2022. The Rise Report: Supporting young women & girls facing abuse in their intimate relationships. Publication forthcoming.

³ Everyday Heroes Justice report (2018) <https://everydayheroes.sps.ed.ac.uk/wp-content/uploads/2018/11/everyday-heroes-briefing2-Justice.pdf>

⁴ Improving the Management of Sexual Offence Cases: Final Report from the Lord Justice Clerk's Review Group. (2021) <https://www.scotcourts.gov.uk/docs/default-source/default-document-library/reports-and-data/Improving-the-management-of-Sexual-Offence-Cases.pdf?sfvrsn=6>

⁵ Everyday Heroes Justice report (2018) <https://everydayheroes.sps.ed.ac.uk/wp-content/uploads/2018/11/everyday-heroes-briefing2-Justice.pdf>

outcomes of the hearings, and the implications for the victim and the child who has caused harm. Information should also signpost to support available. In line with Article 12 of the UNCRC, children and young people (including young survivors of domestic abuse) should be facilitated to meaningfully participate in designing any information materials created for young people coming into contact with the system.

Question 2: Where a person has been harmed by a child who has been referred to a children's hearing, should SCRA be empowered to share further information with a person who has been harmed (and their parents if they are a child) if the child is subject to measures that relate to that person?

Yes

Please give reasons for your answer

Under the Children's Hearing (Scotland) Act 2011, and the new Age of Criminal Responsibility (Scotland) Act 2019, a person who has been harmed can choose to receive the following information from the children's hearing: whether a children's hearing is to take place, and whether a compulsory supervision order is made, varied, continued or terminated. The terms of this order are not currently disclosed to the person who has been harmed.

As outlined in our response to question 1, the impact and trauma of experiencing domestic abuse is different to experiencing many other kinds of offence. Domestic abuse is 'intimate terrorism'⁶: the active generation and cultivation of fear within a victim by the perpetrator as a means of control. Perpetrators will attempt to establish control through emotional manipulation, threats of and acts of violence or harm (including sharing intimate images), and 'gaslighting' victims (making them doubt their own experiences, and/or doubt whether anyone else would take them seriously). Victims routinely disclose how traumatic and long-lasting the fear can be, and how damaging it is to their future lives and relationships. An understanding of this fear must be central to decisions taken regarding how victims are treated.

In cases of domestic abuse, orders can be made by the children's hearings system which would greatly improve a victim's sense of safety and wellbeing, including compulsory supervision orders for young perpetrators with conditions of no contact or no harassment of a particular person, as well as movement restriction conditions (MRCs). However, in the current system, a survivor of abuse perpetrated by a young person is not permitted to know if such an order has been made. This makes it impossible for survivors to regain a sense of when and where they are safe, stunting recovery from abuse and leaving survivors in an on-going state of fear.

It is particularly undermining to children and young people who have been harmed that under current provisions, where a children's hearings decision relates to an individual (e.g. that a child is not to approach a specific other person), that decision can be communicated to the local authority social work department or to Police Scotland, but not to the victim themselves. Knowing that a perpetrator of abuse has been forbidden from approaching or contacting them is essential to survivors' day-to-day safety

⁶ Johnson, Michael P. (2008) A Typology of Domestic Violence: Intimate Terrorism, Violent Resistance, and Situational Couple Violence

planning, as well as their and their family's ability to report any breaches of these measures.

Young women who experience abuse in their own intimate relationships experience no less traumatic abuse than adults: abusive, coercive and controlling behaviours are as present, pernicious, and impactful in the relationships of teenagers as they are in adults. The experience of young survivors coming into contact with the justice system at this age is highly likely to have lasting repercussions on their confidence in reporting; young survivors disclose feeling alienated from the justice system and being less likely to report again if their early reporting experiences are negative.⁷ Access to justice is limited for someone when access to information which may keep them safe and help their recovery is denied purely because of the age of the perpetrator. In balancing the rights and wellbeing of both young people involved, it is essential to recognise the long-lasting impact on young women of denying them information they are seeking for their own sense of safety.

Where a child is seeking information relating to their own safety and wellbeing, this must be supported. In order to support children who have been harmed, and to help them realise their right to recovery from trauma (Article 39 of the UNCRC), SCRA must be empowered to disclose more information to victims about measures relating to them, in order to aid with safety-planning.

Attention must also be paid to other unacceptable information gaps in the children's hearings system that further disempower and traumatise survivors. In the current system, if a reporter decides to take no action on an offence ground for referral but to arrange a Children's Hearing for other reasons, circumstances arise in which the child harmed is told that no action was being taken in relation to the offence, before then potentially being asked to give evidence at a later date. Survivors consistently disclose how re-traumatising it is to not know when they might be called to court⁸ and a system in which children and young people may be called to give evidence after being told no action is being taken is at best disempowering, at worst, deeply neglectful to the wellbeing of those children and young people. As outlined in our response to the question above, as well as specific information regarding measures relating to a victim, more general information needs to be made available to those harmed about how the children's hearings system works, what might be asked of or expected of children and young people and why, as well as where they can go to seek support or ask questions.

Question 3: Where a person has been harmed by a child who has been referred to the Principal Reporter, should additional support be made available to the person who has been harmed?

Yes

- If yes, what additional supports do you feel are necessary?
- If yes, should this apply to all people who have been harmed or only in certain circumstances? (Please specify)

As outlined in the consultation paper, children currently face barriers in accessing support when they have been harmed. This is particularly the case in social work and

⁷ Everyday Heroes Justice report (2018) <https://everydayheroes.sps.ed.ac.uk/wp-content/uploads/2018/11/everyday-heroes-briefing2-Justice.pdf>

⁸ Domestic Abuse Court Experiences research, University of Edinburgh (2022) publication forthcoming; Everyday Heroes Justice report (2018) <https://everydayheroes.sps.ed.ac.uk/wp-content/uploads/2018/11/everyday-heroes-briefing2-Justice.pdf>

education, often due to a child protection focus on risk in their home environment. This is supported by research with young women conducted by SWA and YWCA, which found that statutory services are currently not accessible or supportive to young women experiencing domestic abuse in their own intimate relationships.⁹

Children and young people who have survived domestic abuse need more support than purely risk-based intervention. The support children and young people say they need is long-term and ongoing, with people who take the time to listen to them and their worries, who will help them with the questions and challenges they have, and who will tell them their rights and what their options are.¹⁰

We are deeply concerned about particular issues regarding children's access to services when they are in the same community as the child who has caused the harm. This is a highly likely scenario for young perpetrators and young victims of domestic abuse, with many of them living in the same area and often attending the same school. We support the consultation's proposals to explore a trauma-informed and multi-disciplinary 'package of support' from the various agencies and support organisations in a child's life, but caution that for this to be accessible and useful to young survivors of domestic abuse, it must be underpinned by a specialist understanding of domestic abuse. For this reason, local Women's Aid specialist services must be central to decision-making regarding the support offered to young survivors of domestic abuse.

Question 4: Should a single point of contact to offer such support be introduced for a person who has been harmed?

Yes / No

- If yes, should this be available to all people who have been harmed or only in certain circumstances? (Please specify)
- If yes, who should be responsible for providing the single point of contact?

Please give reasons for your answers

We are undecided on this question, as we believe the proposal needs further discussion and development. We recognise the merits of a single point of contact for children and young people who have been harmed, particularly in the spirit of reducing the number of adults a child comes into contact with in their journey in the justice system. We also recognise that a similar recommendation was made in regards to the children's hearings system in Lady Dorrian's review of sexual offence case management. However, we are not convinced that a single point of contact in itself is a crucial difference to improving the support offered to children and young people. Rather, the support and information that is offered – whether that is through one person, or several – should be relationship-based, person-centred, and trauma-informed, rather than built out of the efficacy needs of a system.

Children and young people are not a homogenous group, and it is essential that any introduction of a new system is designed to be accessible to minoritised children and young people. This will require meaningful participation with a diverse group of children and young people in co-designing and developing this system.

⁹ Scottish Women's Aid (SWA) and Young Women's Movement Scotland (YWCA), 2022. The Rise Report: Supporting young women & girls facing abuse in their intimate relationships. Publication forthcoming.

¹⁰ Ibid; Everyday Heroes Justice report (2018) <https://everydayheroes.sps.ed.ac.uk/wp-content/uploads/2018/11/everyday-heroes-briefing2-Justice.pdf>

Children and young people consistently voice the positive difference made by having a support and advocacy worker in the court process.¹¹ They highlight the importance of someone listening, of understanding them, and of taking the time to get to know them and to help them with various stages of the journey. In SWA and YWCA's research with young women, respondents outlined the importance of knowing what support was available and what to expect when they contact that support. The research also found how important it is for young women to have someone validate their experiences when outlining support available, as often young women can perceive other people to be more 'in need' than they are, resulting in them self-excluding from services.¹² For these reasons, and as outlined in our response to question 3, whatever support approach is adopted must be underpinned by a sophisticated understanding of domestic abuse and experience of supporting children and young people living with domestic abuse. Developing a system which has these priorities as its focus should be the aim when further developing considerations regarding a single point of contact.

The Bairn's Hoose model currently being piloted by Children 1st should be explored as a possible model in which to offer children and young people who have been harmed additional support, and to explore the merits and drawbacks of a single point of contact. Being able to bring together the support offered by statutory and third sector services under one roof would perhaps achieve the aims of a single point of contact system, while ensuring it is not overly prescriptive or limiting in terms of each child only being assigned one person they can go to with questions or for support.

Question 5: Should existing measures available through the children's hearings system be amended or enhanced for the protection of people who have been harmed?

Yes

Please give reasons for your answer

If yes, please provide details of how they should be amended or enhanced

As outlined in our response to questions 1 and 2, currently the system does not adequately serve the needs of children and young people who have experienced domestic abuse – particularly those who have experienced domestic abuse in their own intimate relationships. We support the suggestion made in the consultation paper to require a children's hearing to consider the necessity of attaching measures to an order for the protection of any person(s) who has been harmed where there is a risk of further serious harm (whether physical or otherwise).

As outlined in the consultation paper, some measures currently available should be more widely utilised and available. For perpetrators of domestic abuse, conditions such as 'no contact' or 'not to harass or to cause further harm' in regards to their victim should be routinely applied. In recent recommendations via the Victims Taskforce, victims highlighted the risks posed to women, children and young people when protective measures such as non-harassment measures are not applied. Victims reported feeling punished for reporting as a result of protective measures not being applied, and there

¹¹ 'The Super Listener' resource, Power Up/Power Down, Children and Young People's Commissioner Scotland and SWA (2017) <https://womensaid.scot/wp-content/uploads/2018/05/Super-Listener-A1-2.pdf>; Domestic Abuse Court Experiences research, University of Edinburgh (2022) publication forthcoming

¹² Scottish Women's Aid (SWA) and Young Women's Movement Scotland (YWCA), 2022. The Rise Report: Supporting young women & girls facing abuse in their intimate relationships. Publication forthcoming.

was also concern that perpetrators would be emboldened by the lack of application of protective measures.¹³

We welcome the discussion regarding Movement Restriction Conditions (MRCs) and the criteria that must be met for them to be considered. Currently, for an MRC to be applied, a child must meet the criteria for secure accommodation authorisation. This includes the criterion that the child is likely to cause injury to another person. We believe that MRCs could be an effective measure in protecting victims of domestic abuse, preventing perpetrators of abuse from approaching the home or workplace of their victim. At a minimum, the criterion of 'a child being likely to cause injury to another person' should be amended to better reflect the wide variety of harm that someone can cause beyond physical injury. Beyond this, we feel that using secure accommodation authorisation criteria as a threshold for MRCs being considered does not reflect all of the situations in which an MRC might work to reduce levels of harm caused to children and young people. We believe that the criteria for an MRC should include more of a focus on the kinds of harm caused, the severity of harm caused, and the potential effectiveness of an MRC in reducing the likelihood of that harm on other people, while being weighed in proportion to the impact on the rights of the child who has offended.

However, we must again highlight that while an MRC or a condition of 'no contact' on a compulsory supervision order is useful in reducing the risk and harm to children and young people who have experienced domestic abuse, if the victims themselves are not notified of these measures (as is current practice), then the measures are unlikely to help the victim feel safe or to recover from their experiences. Therefore we again stress that in cases involving domestic abuse, the kind of information that can be made available to victims must be reviewed in order to ensure victims can plan for their safety, and begin recovery.

Question 6: Should MRCs be made available to children who do not meet the current criteria for secure care?

Yes

Please give reasons for your answer

If yes, what should the new criteria for MRCs be?

We have responded to this question as part of our answer to Question 5.

Question 7: Should any of the above options be considered further?

Yes

- If yes, which option(s)?

Please give reasons for your answer, including any positive or negative implications of any of the proposals.

Of the proposals outlined, we believe that option 2 would be most effective in fostering a positive transition for young people from the children's hearings system, while holding in balance the rights of victims and recognition of the impact of harm on them. We believe

¹³ Themes from 'Victims Voices' feedback presented at the Victims Taskforce. Victims Taskforce Meeting Papers, November 2021. <https://www.gov.scot/publications/victims-taskforce-papers-november-2021/#Themes%20from%20%E2%80%98Victims%20Voices%E2%80%99%20feedback%20presented%20at%20the%20Victims%20Taskforce>

this approach also has the potential to foster better multi-agency working between the organisations and agencies who are already involved in the lives of the children and young people involved.

Question 8: Please give details of any other ways in which the use of the children's hearings system could be maximised, including how the interface between the children's hearings system and court could change

Currently, domestic abuse is not included as a category of offence which must be jointly reported to the Procurator Fiscal and the Principal Reporter in the Lord Advocate's guidelines on offences committed by children. Most cases of domestic abuse would not give rise to solemn proceedings in our current court system, so would not be included in Category 1 of the offences to be jointly reported. Like sexual abuse (which is included as an offence which must be jointly reported to the PF and Principal Reporter), domestic abuse is a devastating and deeply traumatic experience for young women, which has long-term implications for their wellbeing. We urge the Lord Advocate to review the offences which are included in the guidelines for joint reporting to the PF and Principal Reporter so as to include the offence of domestic abuse. We believe that joint-reporting would better reflect the seriousness of the harm caused and the impact on victims of domestic abuse.

It would also be helpful to understand the numbers of young people coming into contact with the Children Hearing's System due to domestic abuse in their own intimate relationships. The grounds for referral relating to domestic abuse (under Section 67 in the Children's Hearings (Scotland) Act 2011) is defined as 'The child has, or is likely to have, a close connection with a person who has carried out domestic abuse'. This would include domestic abuse within intimate relationships between young people. Currently, there is no available disaggregation of the data available on the number of referrals made on the grounds of domestic abuse to ascertain whether the abuse is suffered in a family context or within an intimate relationship. This data would be helpful in building a picture of how many young women are reporting the abuse they are experiencing, the routes by which they are reporting it, and what the associated support needs may be.

Question 9: Should any of the above options be considered further?

Yes

- If yes, which option(s)?

Please give reasons for your answer, including any positive or negative implications of any of the options. We are particularly interested in implications for people who have been harmed

We believe that option 3 should be considered further, which outlines a range of evidence-based changes to court settings and practice in order to better support children and young people. Many of the suggested changes reflect those made by children and young people who have experienced domestic abuse.¹⁴ The design of, and implementation of, any changes to the court environment must be informed by an assessment of risk to the victim. As outlined in the consultation paper, we would urge

¹⁴ Domestic Abuse Court Experiences research, University of Edinburgh (2022) publication forthcoming ; Yello! response to the call for views on the Children (Scotland) Act (2019) <https://womensaid.scot/wp-content/uploads/2019/12/Yello-Response-to-Children-Scotland-Bill-call-for-views.pdf>; Everyday Heroes Justice report (2018) <https://everydayheroes.sps.ed.ac.uk/wp-content/uploads/2018/11/everyday-heroes-briefing2-Justice.pdf>;

the involvement of children and young people in the development and implementation of these changes.

Question 10: Where a child requires to be deprived of their liberty, should this be secure care rather than a YOI in all cases?

Yes / No

Please give reasons for your answer

No answer.

Question 11: Should there be an explicit statutory prohibition on placing any child in a YOI, even in the gravest cases where a child faces a significant post-18 custodial sentence and/or where parts of a child's behaviour pose the greatest risk of serious harm?

Yes / No

- If no, in what exceptional circumstances should use of a YOI be considered?

Please give reasons for your answer

No answer.

Question 12: Should existing duties on local authorities to assess and support children and care leavers who are remanded or sentenced be strengthened?

Yes / No

Please give reasons for your answer

- If yes, please provide details of how could this be achieved

No answer.

Question 13: Do you agree that the three changes related to anonymity should be made?

- Yes but only to some changes (please identify which ones)

Please give reasons for your answer

We seek clarification on some of the changes proposed. While we broadly welcome, from a child rights-based perspective, the proposed changes to further limit a judge's discretion to make an exception to identify a child accused, we seek clarification on what constitutes 'serious harm' in the new terms proposed.

We urge caution against the third change proposed in the context of domestic abuse. Protecting the anonymity of an offender until 26 in the context of domestic abuse may serve to exclude future partners of the perpetrator from information that would be useful to them in assessing risk. This would work against the principles and functionality of established initiatives which seek to protect survivors, including the Disclosure Scheme for Domestic Abuse (Scotland). For this reason we do not support this proposal.

Question 14: Do you agree that the regulatory landscape relating to secure care needs to be simplified and clarified?

Yes / No

Please give reasons for your answers

- If yes, please provide details of how this could be achieved

No answer.

Question 15: Do you feel that the current definition of “secure accommodation” meets Scotland’s current and future needs?

Yes / No

Please give reasons for your answers

- If no, please provide details of how this could be changed

No answer.

Question 16: Do you agree that all children under the age of 18 should be able to be placed in secure care where this has been deemed necessary, proportionate and in their best interest?

- Yes through all routes
- Yes but only through certain routes
- No

No answer.

Question 17: Should the costs of secure care placements for children placed on remand be met by Scottish Ministers?

Yes / No

Please give reasons for your answer

No answer.

Question 18: Is a new national approach for considering the placement of children in secure care needed?

Yes / No

Please give reasons for your answer

- If yes, please provide details of what this approach should look like

No answer.

Question 19: Is provision needed to enable secure transport to be utilised when necessary and justifiable for the safety of the child or others?

Yes / No

Please give reasons for your answer

No answer.

Question 20: Are there any other factors that you think need to be taken into account in making this provision for secure transport?

Yes / No

Please give reasons for your answer

- If yes, please provide details of these factors

No answer.

Question 21: Do you agree children should be able to remain in secure care beyond their 18th birthday, where necessary and in their best interests?

- Yes / No

If yes, for all children or only those who are remanded or sentenced?

If yes, how long for?

- For as long as the child's needs require it
- To a maximum length of remand or sentence (and if so what should this be?)
- To a maximum age (and if so what should this be?)
- For another period (please specify)

Please give reasons for your answers

No answer.

Question 22: Do you agree with the introduction of pathways and standards for residential care for children and young people in Scotland?

Yes / No

Please give reasons for your answer

- If yes, please provide details of what measures and provisions are needed and how you think this should operate in practice

No answer.

Question 23: Do you agree that local strategic needs assessment should be required prior to approval of any new residential childcare provision?

Yes / No

Please give reasons for your answer

- If yes, please provide details of what measures and provisions are needed and how you think this should operate in practice

No answer.

Question 24: Do you agree that there should be an increased role for the Care Inspectorate?

Yes / No

Please give reasons for your answer

- If yes, please provide details of what measures and provisions are needed and how you think this should operate in practice

No answer.

Question 25: Do you agree that all children and young people living in cross-border residential and secure care placements should be offered an advocate locally?

Yes / No

If yes, please provide details of how you think this should operate in practice

No answer.

Question 26: Whilst there are standards and procedures to follow to ensure restraint of children in care settings is carried out appropriately, do you think guidance and the law should be made clearer around this matter?

Yes / No

- If yes, please provide details of how this could be achieved

No answer.

Question 27: Do you agree that the review of the 2019 Act should take place, as set out, with the 3-year statutory review period?

Yes

- If no, what period do you think is appropriate?
- If a shorter review period, how should the Scottish Government to address the lack of review findings or data to inform such a change?

Question 28: What, if any, do you see as the data protection related issues that you feel could arise from the proposals set out in this consultation?

No answer.

Question 29: What, if any, do you see as the children's rights and wellbeing issues that you feel could arise from the proposals set out in this consultation?

As outlined throughout our response, it is imperative that the rights and wellbeing of children and young people who have been harmed are balanced fairly with the rights and wellbeing of children who have caused harm. There are currently gaps in the system in respect to the wellbeing and rights of a child victim, particularly in regards to a child's right to live free from violence (Article 19 of the UNCRC) and a child's right to recover from trauma (Article 39). We believe protection of this right could be strengthened by revision of criteria for MRCs, more routine application of conditions of 'no contact' and 'no harassment' to compulsory supervision orders, and the ability for victims to access information about conditions of an order which relate to them, which may help them in their safety planning. It is important that children and young people are meaningfully involved in the design and development of changes and improvements to the children's hearings system, in line with Article 12 of the UNCRC.

Question 30: What, if any, do you see as the main equality related issues that you feel could arise from the proposals set out in this consultation?

Throughout our response we have highlighted implications of proposed changes for adult and child survivors of domestic abuse. Domestic abuse is a form of gendered-based violence, overwhelmingly experienced by women and perpetrated by men.¹⁵ As outlined in our response, it can be experienced by children and young people of all ages, either from perpetrators in their own families or in their own intimate relationships. The proposals outlined in this consultation must take more cognisance of the gendered nature of domestic abuse and build in appropriate, specialist support for the numbers of women, children and young people who have experienced domestic abuse, who will come into contact with the children's hearings system under new proposed measures. Particularly, we encourage scrutiny of the children's hearings system in regards to its accessibility and the outcomes delivered for young women experiencing domestic abuse in their own relationships.

¹⁵ Domestic abuse: statistics recorded by the Police in Scotland - 2020/21 (2021)
<https://www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2020-21/>