

Response ID ANON-8KB6-4D9F-J

Submitted to Protecting Children: Review of section 12 of the Children and Young Persons (Scotland) Act 1937 and section 42 of the Sexual Offences (Scotland) Act 2009

Submitted on 2018-11-14 15:14:20

Consultation questions

1 Do you think that the offence in section 12 of The Children and Young Persons (Scotland) Act 1937 would benefit from reform and modernisation?

Not Answered

Please explain your answer:

2 Do you think that existing concepts of "neglect", "ill-treatment", "abandonment" and "exposure" should be defined in the legislation?

Not Answered

If so, do you think they should have a meaning which is different from current interpretations? :

Further, do you think it is necessary to keep the terms "abandonment" and "exposure to risk" in a modernised offence? :

3 Do you have any thoughts on how professionals dealing with children and families can be supported to identify when cases reach a criminal threshold?

Comments::

4 Do you have any thoughts on how we can support legal professionals to further understand the impact of neglect and emotional harm on children and young people?

Comments::

5 Do you think that children in Scotland should have clear legislative protection from emotional abuse?

Yes

Please explain your answer. :

We support any move to provide greater protection to children from abuse, in all its forms.

However, we do have concerns about the term 'emotional' and would prefer that the more commonly used term 'psychological' be adopted. The term 'emotional' suggests a much wider scope with greater potential for confusion.

The Scottish Government must also ensure that the rights of parents to raise their children in accordance with their own beliefs and values is not compromised, subject of course to the law.

There is a danger that broadly drafted law might lead to some parents or certain beliefs and values being targeted because they do not conform to the 'accepted wisdom' of the day.

6 Do you have examples of the sorts of behaviours and their effect on children that should or should not be captured by any revised offence?

Comments::

As per our response to question 5, the Scottish Government must ensure that the rights of parents to raise their children in accordance with their own beliefs and values is not compromised, subject to the law. There is a danger that broadly drafted law might lead to some parents or certain beliefs and values being targeted because they do not conform to the 'accepted wisdom' of the day.

Many religious views are criticised by an increasingly secular culture and we must guard against singling these out as abuse.

For example, some religions hold particular beliefs about marriage and sexuality. Parents should not be targeted for sharing these views with their children.

A practical example might be a parent withdrawing their child from sex education in school. This should not be used to suggest some form of abuse.

7 Do you think the provision in section 12(2)(a) concerning failure to provide adequate food, clothing, medication, or lodging should be changed?

Not Answered

Please explain your answer.:

8 Do you think the provision in section 12(2)(b) concerning the suffocation of a child while in bed should be changed?

Not Answered

Please explain your answer.:

9 Do you think that the test for establishing whether harm or risk of harm occurred should include a requirement that a 'reasonable person' must consider the behaviour likely to cause harm?

Not Answered

Please explain your answer:

10 Do you think a provision equivalent to section 12(3) should be included in any revised offence, either in its current form or amended?

Not Answered

Please explain your answer.:

11 Do you think that the offence should apply wherever a person wilfully and deliberately acted or neglected to act in a way which caused harm or risk of harm, regardless of whether they intended the resulting harm/risk?

Not Answered

Please explain your answer.:

11b) If not, do you think the offence should only apply to those who:

Not Answered

Comments::

12 Who should be capable of committing the offence?

Comments::

13 Do you think the legislation should set out the age of a perpetrator?

Not Answered

If yes, what should the age limit be?:

14 Do you think that a child should be defined as 18 in relation to the offence?

Not Answered

Please explain your answer:

15 Do you think the current penalties for a section 12 offence should be amended?

Not Answered

Please explain your answer - if yes, what do you believe the appropriate penalties would be?:

16 What, if any, steps could be taken to avoid criminalising parents/carers who have been victims of domestic abuse themselves, and have committed a section 12 offence as a consequence of this domestic abuse?

Comments::

17 Are there additional ways in which we can assist courts to be aware of the full context of abuse within a domestic abuse setting, affecting both partners and children?

Comments::

18 What further steps could be taken to ensure vulnerable parents are not unfairly criminalised for behaviour?

Comments::

19 Do you have any comments on whether the definition of a 'position of trust' should be extended to cover other positions in which a person is in a position of power, responsibility or influence over a child?

Comments:

Anyone with responsibility or influence over a child or young person should be covered by the definition of 'position of trust'.

20 Do you have any other comments on the 'sexual abuse of trust' offence at sections 42-45 of the Sexual Offences (Scotland) Act 2009?

Comments:

Additional Questions on issues concerning equal opportunities, financial implications and other impacts

Do you consider that any of the reforms proposed in this paper will have a particular impact – positive or negative – on a particular equality group (e.g. age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation)?

Comments::

Are there any other issues related to equality which you wish to raise in relation to this consultation? We intend to publish final versions of relevant impact assessments at a time of a possible Bill.

Comments::

Do you have any comments or information on the likely financial implications of the reforms proposed in this paper for the Scottish Government Police Scotland, Scottish Courts and Tribunals Service, Scottish Prison Service, COPFS, local government, or for other bodies, individuals or businesses? We intend to publish information on any financial implications at a time of a possible Bill.

Comments::

Are there behaviours not criminalised elsewhere that you think could be included within a revised offence?

Comments::

Do you have any other comments?

Comments::

About you

What is your name?

Name:

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What is your email address?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Catholic Parliamentary Office of the Bishops' Conference of Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Please enter comments here.: