

Response ID ANON-PBES-N7GN-4

Submitted to 'Sentencing young people' guideline consultation

Submitted on 2020-08-18 12:54:39

Approach to the guideline

1 Do you agree or disagree that that a principle-based approach to the guideline is the right approach?

Agree

Please provide any reasons for your answer::

YouthLink Scotland understands the need for sentencing to take an individualised approach for young people. Many youth workers provide support to young people involved at all stages of the criminal justice system process. Thus, we know there is a need to take into account factors common to many young people who commit offences, including adverse childhood experiences, including trauma or bereavement and their varied stage of emotional and cognitive development.

We are reassured on the tone of the Scottish Sentencing Council Guidelines on sentencing young people. Our response to the draft guidelines on behalf of our members.

YouthLink Scotland believes developing a principle-based approach will take account of a child's development and broader circumstances affecting their decision-making and culpability. We are supportive of a legal system where there is a requirement to apply a principle-based approach to all young people regardless of the type of alleged offence.

Applicability

2 Do you agree or disagree that the guideline should apply to people under the age of 25?

Agree

Please provide any reasons for your answer::

A focus on rehabilitation will be better for the individuals concerned and society as a whole.

Principles and purposes of sentencing a young person

4 Do you agree or disagree that the relationship between this guideline and the 'Principles and purposes of sentencing' guideline is set out clearly?

Agree

Please provide any reasons for your answer::

5 Do you agree or disagree that paragraph 7 of the guideline gives enough information about the factors that should be taken into account when sentencing a young person?

Disagree

Please provide any reasons for your answer::

YouthLink Scotland believes this section on the best interests of the young people could be strengthened somewhat.

6 If you do not agree that paragraph 7 of the guideline gives enough information about the factors that should be taken into account when sentencing a young person, what additional information should it provide?

Please provide any reasons for your answer, including any examples that you feel should be included::

- Greater emphasis on impact of Adverse Childhood Experiences and the interventions required
- An understanding of social/environmental context of the young person and the impact this has on their decision making
- Physical and mental health issues
- The experiences of the young person and what is in their best interests should be extended to 25
- Bereavement should be explicitly mentioned in the information required by a judge as a mitigating factor at sentencing
- Resolving trauma should be a focus of attention
- The influence of alcohol and drug addiction should be considered as public health issues. A custodial sentence where substance use is a factor can exacerbate addiction and underlying trauma and lead to a cycle of criminality
- The root cause of offending should be tackled in every instance.

7 Do you agree or disagree that rehabilitation should be given greater emphasis than other purposes of sentencing in this guideline?

Agree

Please provide any reasons for your answer::

Youth work has a crucial role to play in advancing a rehabilitative approach.

Funding in the youth work sector and investment in other associated services is required if the ambition of a truly rehabilitative approach is to be realised for all young people.

8 Do you agree or disagree that rehabilitation should be a primary consideration when sentencing a young person?

Agree

Please provide any reasons for your answer::

9 Which, if any, other purposes of sentencing should be emphasised in this guideline?

Please provide any other purposes and any reasons for your answer::

Research shows that a restorative approach reduces re-offending and can help victims move on from any harms because of crimes committed against them. It is important to note however, that restorative justice will not suit all survivors in all every set of circumstances. Therefore, it remains important to balance restorative approaches against the specific needs of victims and witnesses of crime. This should be explicitly detailed as part of any supportive processes around the sentencing of young people.

Assessment of seriousness

10 Is the section on the assessment of seriousness helpful?

Yes

Please give any reasons for your answer::

Identifying the most appropriate sentence

11 Do you agree or disagree that paragraph 13 of the guideline identifies the information which is of most relevance to sentencing a young person?

Agree

Please provide any reasons for your answer::

Mostly agree.

The guidelines must be applied consistently. This will require the judge to have enough information available to be discerning about whether a community based sentence or another alternative to a custodial sentence is appropriate.

Support at times of transition between services when the young person is more at risk of continuing their offending behaviour is required. In particular, youth workers engage with many young people between the ages of 18-25 where broader services can be a patchwork, changeable, or relevant only to certain ages. The transfer to adult services should only happen if it is appropriate in the individual set of circumstances to do so.

Recovering from trauma also requires consistency of approach and a reliable primary supportive person engaging with the young person. Continuity of support ought to be prioritised.

12 Do you agree or disagree with paragraph 14 of the guideline stating that cases should be referred to a children's hearing for advice where it is competent to do so?

Agree

Please provide any reasons for your answer::

YouthLink Scotland supports approaches where children's rights are upheld. As such, we agree that cases should be referred to a children's hearing for advice where it is competent to do so.

13 Do you agree or disagree with the proposed features of an appropriate sentence for a young person set out at paragraph 15 of the guideline?

Agree

Please provide any reasons for your answer::

14 Do you agree or disagree that the approach set out in paragraphs 17 and 18 of the guideline is appropriate?

Agree

Please provide any reasons for your answer::

15 Do you agree or disagree that judges should consider remitting each case to a children's hearing for disposal, where it is competent to do so?

Agree

Please provide any reasons for your answer::

Potential impacts of the guideline

16 Do you think the guideline will influence sentencing practice in Scotland?

Yes

Please give any reasons for your answer::

As part of a package of wider reform and approaches in culture when dealing with young people, we believe the guidelines have the potential to drive up consistency of approach among judges. This would be beneficial to young people and make for a more equitable justice system.

17 Do you agree or disagree that the guideline will increase public understanding of how sentencing decisions in respect of young people are made?

Not Answered

Please provide any reasons for your answer::

N/A

18 Do you agree or disagree that the guideline will increase public confidence in the sentencing of young people?

Not Answered

Please provide any reasons for your answer::

19 Do you agree or disagree with the assessment of the specific, identified impacts the guideline is expected to have?

Agree

Please provide any reasons for your answer::

20 What benefits do you think will come from the introduction of this guideline, if any?

What benefits do you see arising from the introduction of this guideline, if any?:

21 What costs (financial or otherwise) do you think will come from the introduction of this guideline, if any?

What costs (financial or otherwise) do you see arising from the introduction of this guideline, if any:

Further comments

22 Would you like to make any other comments about any matter arising from this consultation?

Q23) Would you like to make any other comments in relation to any matter arising from this consultation?:

No.

Respondent information

23 Are you responding as an individual or an organisation?

Organisation

24 Name of person responding

Name:

Kevin Kane

25 Name of your organisation (if responding on behalf of an organisation):

Organisation:

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30 The Scottish Sentencing Council would like your permission to publish your consultation response. Please indicate your preference:

Publish response with name

31 We may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Sentencing Council to contact you again in relation to this consultation exercise?

Yes