



## OUR VISION

Who Cares? Scotland's vision is for a life time of equality, respect and love for Care Experienced people. Our strategic plan over the coming five years will focus our hopes and activity around the themes of Rights, Influencing, Pioneering and Belonging. Key to fulfilling our dream is supporting a movement of Care Experienced people who can have a big impact on Scottish culture and society. The greatest asset in this movement of change is the power of voice – both the voices of individuals and the voice of a community which connects across Scotland and the world.

## The Care Council

Care Experienced young people are chosen to represent their local groups and areas when they become a Councillor on the Care Council. The Care Council comes together to shape change across Scotland. The representatives from the Care Council work with Who Cares? Scotland's board, CEO and Senior Management Team, corporate parents and each other to develop ideas and influence decision makers.

Care Council was created because WC?S is a membership organisation, which means opportunities have been created for members to have their say on what the organisation chooses to do at a strategic level. The Care Council also has the aspiration to positively change Scottish culture to ensure a better future for Care Experienced people. The Care Council exists to shape the world around it on behalf of all members and Care Experienced people.

## Care Experience and Criminalisation, Influencing Change

Who Cares? Scotland have been talking about how being in care, can mean someone is unfairly more likely to come into contact with police, more likely to get charged and more likely to end up with a criminal record. This can have a lifetime impact, because a criminal record never goes away, for example it can sometimes stop someone being able to work in certain jobs with children or vulnerable adults.<sup>1</sup>

No Care Experienced person should be more likely to become criminalised, just because they have been in care – this is something we have been working together to change, to achieve a lifetime of equality for all Care Experienced people.

The introduction of the Age of Criminal Responsibility Bill presents an opportunity for Care Councillors and members of Who Cares? Scotland (WC?S) to have their say. They should have opportunities to voice their opinions on what this new law should do to make sure Care Experienced people are treated more fairly in our justice system. WC?S wants to make sure Care Councillors' voices will be heard loud and clear by Scottish Government.

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<sup>1</sup> For more information on this area of our work, please see our policy work on the Age of Criminal Responsibility, PVG, Stop and Search and other related areas: <https://www.whocaresscotland.org/what-we-do/policy/>

## Methodology

### Three Focus Areas from the Bill:

We engaged Care Council with three areas from the Bill that relate to parts of the Scottish Government working groups' terms of reference, which focus on the implementation of the Bill – in particular, it is relevant to the Victims and Investigations groups.

#### **1. What should a 'place of safety' look like?**

The new law says police should have the power to move a child to a 'place of safety' in an emergency, when they might be at risk of harm or be a risk to others.

#### **2. What should a police interview with a child who is not being arrested or charged look like?**

In this new law, when a serious thing happens that police are called out to help with, sometimes police would still need to interview the child, to find out what happened or so that an adult can be arrested for a crime.

#### **3. If we need to tell the victim of a crime information about what happens next, how should we do that?**

Even though children who under a certain age will not be charged with a crime, there are still people who might be affected by the thing that's happened.

### Objectives:

- Create an opportunity for Care Councillors to **understand** the link between Care Experience and criminalisation and become informed in influencing the Age of Criminal Responsibility Bill.
- Create an opportunity for Care Councillors to **engage** with the Age of Criminal Responsibility Bill, express their opinions and challenge what the Bill aims to change.

### Workshop Structure:

A workshop was designed around the three focus areas of the Bill, to engage Care Councillors and capture their ideas and opinions.

The activities were designed to allow councillors to share as much or as little personal experience as they wanted to. The activities were also designed to start conversations and get those taking part to think about how things look and feel just now, if it should be different, and what that 'different' would look like. All were optional to take part in and Care Councillors could opt-out at any point.

Activity	Detail
Introduction by a member of the ACR Bill Team from Scottish Government.	<p>Explain that based on the feedback from previous Care Councils, consultation with membership of Who Cares? Scotland and other organisations, the MACR proposal has now moved to an ACR Bill currently in Stage 1 in Scottish Parliament.</p> <p>Outline why reaching back out matters so much at this point. Give insight into the next steps after this round of consultations takes place.</p>

Introduction to the workshop.	Consent to be explained to the group and the scene set for the activities. Each activity to be communicated as linked to three key focus areas of the Bill. The Care Councillors are to then be split into three groups and each told they had 20 minutes per activity and then 10 mins reflection exercise.
<b>Activity 1:</b> What is a 'place of safety'?	Discuss what a place of safety should be like. Scribe to write these ideas under the categories: 'where' 'who' and 'what.'  Facilitators to ask why Care Councillors think these things are important.
<b>Activity 2:</b> What should a police interview with a child who is not being arrested or charged look like?	The group will discuss both the ideal interview design and environment, as well as the things that should never happen within an interview.  Ideas for how this could work and things to think about will be captured on flip chart paper and through discussion. Care Councillors can share as much or as little of their own experience as they like, but conversations will be guided to keep everyone safe.  Throughout the activity, stress that it is optional for the young people to talk in the interview, since they are not being criminally investigated. However, the interview needs to be recorded and could be used for evidence at a later date.
<b>Activity 3:</b> If we need to tell the victim of a harmful act, information about what happens next, how should we do that?	A fictional character, representing a potential victim will be presented to the group.  Explain and explore with the group what info they feel this character might need, to be supported as a victim of the fictional child's harmful act.  Flip the conversation, rather than the fictional character's information it's now about the group as individuals who have been displaying harmful behaviour, what information would they be comfortable for the victims to have?  Also ask individuals, what about if they were the victim? What information would they want about a child or young person?
Reflection on issues particular to people with Care Experience.	Use this time to allow for reflection or any additional questions for the Scottish Government representative.

## Discussion:

**Note:** Italicised text within quotation marks are direct quotes from Care Councillors, all other text italicised comes from the discussion points they raised within each activity. All other notes are from facilitators to explain and analyse discussion they heard.

## Activity 1: What is a 'place of safety'?

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Throughout the discussion, a scribe wrote down Care Councillor's thoughts into three main categories: WHO/WHAT/WHERE. All three groups appeared to understand and enjoy the activity and most conversation was taken from the perspective of a Care Experienced person, however they were also encouraged to think more broadly at points. Overall, the common theme appeared to be the importance of being given choice and being allowed to decide the WHO, WHAT and WHERE of a 'place of safety'.

### WHO

The group thought about who might be there to make sure it's a place of safety for the child or young person. Some key themes emerged from discussions and specific people were named as potentially ensuring a location felt like a 'place of safety'. The facilitators reflected that there was variety in who the young people thought should be in a place of safety, however the commonality in answers seemed to be the quality of relationships which they held.

#### Choice:

- *Whoever you want*
- *Whoever has knowledge of your circumstances*
- *Should be able to choose whether they are male/ female*
- *At least one/both female officer if you want that – they should ask*

#### Trust and relationships:

- *Someone you can trust*
- *"Person they have the best relationship with"*
- *Someone you trust who cares about you*
- *"Whoever you want (good relationships) – they shouldn't assume – it's not a panel, not too many professionals"*

#### Specific professionals or individuals:

<i>"social work"</i>	<i>"pet, teddy/toy"</i>	<i>"WCS advocate"</i>
<i>"teacher (any/head/pastoral)"</i>	<i>"no one"</i> <i>Social worker</i>	<i>"Member of staff or foster carer"</i>
<i>"relative, sibling"</i>	<i>Siblings</i>	<i>"social worker?"</i>
<i>"carer, friend"</i>	<i>Someone older</i>	<i>"trusted adult?"</i>
<i>"support worker, advocate"</i>	<i>Pets</i>	<i>Family pets could be involved</i>

- *For female young people, they can be terrified of males, although this is specific to the individual- someone needs to account for individual needs and wants*
- *Guidance teacher- someone is there who knows your character- may be able to advocate if young person is silent or scared*
- *Some positive views on police - "one day you will need them"*
- *Children in care- it's not their fault – but this is not believed by police officers*

## WHAT

The group thought about what might need to be there or need to happen for somewhere to be a real 'place of safety', the ranged from physical items to the behaviour of individuals present and specific events taking place. Facilitators reflected that young people who had experience of police interviews seemed to find it easier to give answers in this category, mainly in the form of what should not happen.

### Understanding and explanation:

- *"Explain what is happening and who is going to be there and why"*
- *"talk about what has happened and see what they could do in the future"*
- *Explain what is happening*
- *Language needs to be considered- can be scary for kids, don't always understand*
- *Need for preparatory discussions in any situation- general 'chit-chat' makes you feel comfortable*

### Behaviour of individuals:

- *"don't push for answers"*
- *No eye-contact*
- *Use language that is easy to understand*
- *Little things- being offered a cup of tea, go to the toilet, as if normally hosting someone*
- *A situation where you are not judged is needed- where people are not observing you and taking lots of notes*

### Other:

- *"Food"*
- *Food- toilet*
- *Level of anonymity needed- like in an ID parade*

## WHERE

The group thought about physical location, but also reflected on what the space could look and feel like. When discussing where a place of safety should be, the groups often disagreed with each other on the specific location but offered similar reasoning for their choice and what it meant to them.

### One young person's opinion in-depth:

*"A place of safety is where the young person feels comfortable, somewhere it is familiar not an intimidating room. The young person should be asked where they want to go and give them options. However, it SHOULD NEVER TAKE PLACE IN A POLICE STATION. The children need to be asked who want there and the police should not just assume they want their parent there. They have to make sure we are comfortable with who's talking to us. They have to make general conversation to make the young person at ease to get to know them so it's not strangers. You have to consider that the young person might not want to face anyone when speaking about this issue"*

### Suggested Places:

*"Social work building"*

*"School"*

*“Police station”*

*“comfort of your own home”*

*“In your own home, you feel safe”*

*Bedroom*

*Comfort of own home*

- *An official building would feel like a punishment- even though you might not have done anything wrong*
- *My bedroom is my place of safety, I spend most of my time there*
- *Family contact centres are lovely- just like a house*
- *Something like domestic abuse shelters- but for young people who are victims- should be like a safe house.*
- *Important to keep it in a comfortable environment- although your own home might be dangerous*
- *Health building or community space- anywhere but a police station.*
- *Why would you be taken to a school or social work office? Why can't you just go to a house until you are safe?*

**Police Station Discussion:**

- *Anywhere but a police station (in the group of 6 people, all but 1 agreed)*
  - o *Person who disagreed said they had a good relationship with police and it was exciting*
- *Police stations and children's hearings are similar- very cold, very clinical*
- *Police station is a place of physical safety, but you don't feel safe*
- *Police stations are not nice places- for victims either*
- *Connotation of the police- their uniform etc- the stigma. This is important- the environment can be overwhelming*

**Characteristics of the space:**

- *Somewhere less clinical*
- *Somewhere familiar*
- *“familiar and child friendly”*
- *Depends on the emotional state of the young person- need a place to calm down*
- *Somewhere you feel secure and loved*

**Choice:**

- *“choice”*
- *Should always be given the choice*
- *Just let perpetrators go where ever they want (for minor crimes)*
- *For serious crimes they shouldn't get to choose – although should never lock someone up or use handcuffs*

## **Activity 2: What should a police interview with a child who is not being arrested or charged look like?**

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Throughout the discussions, scribes noted down key points which they themed into three key themes: People, Place and Process. Facilitators also added notes where needed when writing up the discussion, to explain a point raised or quote written down.

The importance of choice came up again in this activity and there were particularly detailed comments on the behaviour of professionals involved and the questioning style police could

use.

## PEOPLE

### Thoughts on advocacy:

- *Problem with emergency advocacy – relationships might not have been built yet – importance of this relationship*
- *Power dynamic in room – Facilitator note: for example, with parents it is not always known what the dynamic is so in this case emergency advocacy might be useful.*

### Importance of relationships, trust and safety:

- *Having someone they're close to being there*
- *What if young person doesn't have anyone? Some young people don't trust easily – they need to know who is there to help them and how*
- *Contact someone they feel safe with*
- *"for me I think it would have made me kick off having someone close to me"*
- *"a person they trust to be with them"*
- *"having someone they are close to present"*
- *"have someone they feel safe with in the room"*

### Suggestions of specific people:

- *Depending on situation and relationship an advocate can be better than a lawyer*
- *Social workers and carers need to be contacted if you have to be interviewed – but not everyone has a social worker*
- *Maybe even their best friend – someone who you trust, who you feel comfortable with, even a pet or a teddy bear*
- *Contact social worker or parent or carer*
- *2 police officers can be too intimidating – avoid good cop/bad cop. One on one is better, also with someone who is trusted to the young person there too*
- *"if you have been involved with the police before maybe having the same police officer"*
- *Police need to be trained specifically for Care Experienced people – specially trained officers*
- *"have officers trained for working with CEYP"*
- *You want 'normal' people – taking away official tone or feeling*

### Importance of choice:

- *Choice for young people about who is there – (example) "my parents still had PRRs, but child should be able to choose who it is, and it doesn't need to be a legal guardian"*
- *Having choice of person they trust there – not necessarily parents*
- *"should be able to choose a male or female officer"*
- *"if we want to have someone in the meeting we should be aloud"*

### Other comments on ACR:

- *"By the age of 7 you should know what's right or wrong – can't use Care Experience to get away with murder"*
- *How to change perception – taking into account background*

## PLACE

### Could be in the young person's own home and space:

- *In our own comfort – for example in your own house, choose where to go*
- *Place – in your house, in your room – dependent on your privacy*
- *“comfort in their own home”*

### Needs to be calm and safe:

- *Calm environment – safe place*
- *Even knowing you're in a social work office can make you nervous*
- *Somewhere you're not on edge – e.g. a social work room where you have bad memories*
- *“calm environment”*
- *“have the interview somewhere they feel safe”*

### Choice is important:

- *“remember every child is different – don't have one set place – ask the child and give them a few options”*
- *People planning interview should ask where the young person wants to go*

### Opinions on Police Stations:

- *Does the interview have to be in a police station?*
- *Shouldn't take you to the station or a formal meeting room*
- *Facilitator note: One participant gave an example of a time where a girl had an interview conducted by police in the living room in the children's home and it had a positive outcome which it might not have in a police station*

## PROCESS

### Clothing should be considered:

- *Non-uniform. Facilitator note: all the young people involved echoed this.*
- *Clothing – plain clothes – uniform is an association with crime.*
- *No uniform.*
- *“Clothing is important. Uniform should not be worn.”*
- *“Police: casual clothes.”*
- *“unofficial – uniforms etc.”*
- *“the interview should look like: police officer in no uniform, not intimidating, not scary”*

### Objects and resources used make a difference:

- *Pens and paper available during interview – allow child to express themselves in that way if they want to.*
- *Age-appropriate language and materials to help aid understanding – e.g. a booklet designed with children and young people that helps explain the process.*
- *Intimidating with cameras in the room – “there were 3 cameras on me at the interview” – Facilitator note: this young person didn't get an opportunity to say to police she felt uncomfortable with the cameras on her.*

- *Sitting with walkie-talkies – Facilitator note: young person communicated that this was intimidating.*

### **Questioning style in an interview is key:**

- *Shouldn't ask intimidating questions – should be relevant*
- *Shouldn't be accused of anything*
- *Shouldn't ask about your Care Experience*
- *No aggressive behaviour in interviews – “don't push for answers”*
- *Example of a phone call with police – pushing you to answer and not giving you time to think/remember*
- *“The word ‘interview’ is too formal, call it a ‘chat’”*
- *“try to avoid jargon”*
- *“they still can't be too harsh on them. The child might not know what has happened”*
- *“the police should remember that every child is different so they need to be asked everytime”*
- *“the police should not keep bringing up the past they should ask easy questions”*
- *“not professional language, they should turn their phones off etc.”*
- *“aggressive behaviour – ‘grilling’” Facilitator note: this was what the young person thought an interview was like now and did not think it should be like this.*

### **The child or young person must be able to understand:**

- *Establish a way of making sure child understands clearly*
- *“the way police treat an adult should NOT be the way they treat a child”*
- *Make them understand they're not being charged – they do not need to be scared*
- *“know rights but then have them followed through on”*

### **There must be focus on the behaviour of professionals:**

- *“I used a different word and the police officer laughed. I couldn't speak after that”*
- *In an interview had 2 police officers but one wasn't really doing anything*
- *“stop using professional language” – be more easily understood*
- *When someone is taking notes its more formal*
- *Understanding triggers – Facilitator note: e.g. the environment they've come from*
- *ACEs – educating more people in workplace about this and how it impacts the child*
- *“Child protection training, safeguarding etc.”*
- *“contact social worker or carer to find out about background”*
- *“have patience”*
- *“the interview should be informal, this should be at a place where the child should be”*
- *Can feel “stigma because of parents criminal record”*
- *“no discrimination at all”*
- *“how police treat an adult should not happen”*
- *“wider context of why it has happened”*

### **Other notes on ACR:**

Facilitator note: Young person explained there is a possibility of a child taking advantage of age change in law – *testing boundaries they know they can get away with*

*Lack of activity – from ‘boredom’* – Facilitator note: young person explained that being uneducated can be the cause of why some young people do bad things

*Knowing what rights you have – staff in residential homes “can take advantage” even if you know your rights, for example, “I can be verbally abused”* – Facilitator note: young person referenced this as an example of when staff can use this type of abuse as it isn’t evident over CCTV cameras.

### **Activity 3: If we need to tell the victim of a harmful act, information about what happens next, how should we do that?**

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This activity was written up with direct quotes embedded into the facilitator’s reflective notes on what young people shared throughout the activity.

The role-play worked well for this session and there was value in the way the fictional victim was able to voice his right to feel safe and his right to know justice had been served. This struck a good balance and reality check when some of the young people initially swerved towards almost instinctively protecting the young perpetrator. The session gave space for participants to reflect on the child’s safety and privacy, alongside the victim’s need for closure.

The groups were highly engaged, although the sessions could have benefitted from more time, to help those participating to learn about current practices with regards to information for victims. Some comments from young people included: *“what is happening now?”* and *“what’s in the letter the CHS sends out?”*

The main learning was that participants struggled to come to a consensus about what information should and should not be shared. What they did all agree on, however, was that things need to be looked at as a case by case basis, as it is hard to make every case equal.

#### **Information for victims**

Most participants stated that information needs to be shared with the victim as long as it is not specific or identifiable.

Many stated the victim needed closure and has a right to know what action has been taken, but this should be broad-brush information – just so that the victim feels less threatened and knows it is less likely to recur.

One participant suggested that victims should be supported to stay safe – e.g. extra locks on the door. Some also stated that the victim needs help and closure and should not be left to deal with it alone.

The case of a crime/death on a golf course was discussed. In this case, there was little, or no information shared with the perpetrator, which resulted in the young person living a life of fear and attempting to take his own life. He wishes things were different.

There was discussion around it being a serious crime and how this will be picked up by the media. Views were also shared about the victim seeing the perpetrator’s face and being able to identify them.

A suggestion was made for the option to be open for the victim to meet with the social worker or any other party directly dealing with the case – so that the victim could be reassured and find closure.

One participant shared with the group their own experiences of being part of a crime, and the importance of having information: *“Never told me anything about the real person, what had really happened or the consequences. Did they go to Prison? I think about it every day. I hated not knowing. I need to know the outcome.”* They then went on to say that although they asked the Police and Social work to give them information, this was never done.

#### **Address:**

Some stated the address should not be shared: *“Children’s Rights Art.16 – Right to Privacy. Cannot share address.”*

Others stated the location (e.g. Local Authority, Town or general area with distance mentioned) could be shared.

Others stated that they needed to know if the perpetrator moved address, e.g. moved closer to them. But there was no consensus on this.

#### **Name:**

Some said the young person’s name should not be shared. The facilitator reflected that the reason given for this was for protection in later life. Some young people spoke about examples of people in their area being known for committing a crime and as a result having to go into hiding or move. They also spoke of the rise in social media, which could allow people to search names online. Combining that information with a rough idea of who the person might be looking for, could allow those who displayed the harmful behaviour to then become at risk of retaliation.

Many stated that a first name was okay to be shared. This led to discussion among participants about the possibility of social media making it easy to track a person even with a first name. *“Once your name is out there, it will get public.”*

#### **Age:**

The majority thought the age of the perpetrator should be shared with the victim. The facilitator reflected that although this was a widely held opinion there were some conversations around whether it should be shared with victim or victim’s family and that this depended on the young person’s age and stage and/or nature of the crime.

#### **The decision made by the Children’s Hearing:**

Many suggested that the victim should be told what type of support the child/perpetrator is receiving – but with not too much detail, e.g. rehabilitation

All those who shared their views stated that the victim needs to know what the reprimand is and the consequence for their actions. This information could be stated as a fine, jail, or the result after the Children’s Panel.

It was stated that a letter from the CHS is not as effective as a letter from the Courts. The victim may not know what the CHS is. It was suggested that a paragraph is included about the CHS and its role. Participants pointed out that the fictional victim would not be at a Children’s Hearing, so will not get to know information first hand. Therefore, it is important that the letter they get is clear and informative.

#### **Information for victims who are the same age as the perpetrator (under 12)**

There was discussion among the groups about the scenario of the victim being in the child's residential unit, or even a brother or sister of the perpetrator. In this instance, identity would be known anyway.

Many believed the information shared should not be the same as above – i.e. to the fictional victim. Others stated that it should be the same as above but communicated in an age-appropriate way.

Some suggested sharing all the above information when the victim is older. This prompted discussion around the fact that if the 8-year-old victim wanted to know the information, it should be given to them at the time.

The choice about the amount of information, and at what time it is shared, could be with the guardian/parent of the victim and they would need to know all the information above. The Jamie Bulger case was discussed.

One participant voiced that the decision about who needs to know what, is difficult to balance. If the victim is of such a young age, the trauma would be instant, and they may not want to relive the experience by receiving information about it.

Societal influence – family would be blamed. Wider community construct and support network should be there.

### **Safety of the child (perpetrator)**

Safety of the child was paramount to most participants, who agreed that the process needs to prevent harm to the child: *"the child matters too, even though he's done a crime."*

Participants suggested that the child may be subject to revenge by the victim later. This was especially so if the victim knows what the perpetrator looks like.

There was discussion around social media making it easy to track down the young person/child if any identifiable information is given out. Some shared that people could begin their own investigations on the child's whereabouts with minimal information. Participants then went on to talk about children as young as 9-years-old being on social media.

Information given out should be vague. There was a lot of empathy for the child and the situation or experiences that may have prompted/led to their behaviour and crime: *"It could have been a mistake. Remember this is a child, who may be trying to figure it out themselves."*

There was discussion around the need to prevent everyone being tarred with the same brush. The group believed there should be an opportunity for an anonymous apology, and how this could support the healing processes for both the victim and the perpetrator. There was a discussion about how this may help or make things worse, but agreement that it would be good to have the choice.

**If you wish to discuss this report, please get in touch.**

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