



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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Increasing the Minimum Age of Criminal Responsibility in Northern Ireland from 10 Years to 14 Years

Summary of Consultation Responses

June 2023

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1. INTRODUCTION

1.1 The Department of Justice published its first [Strategic Framework for Youth Justice \(opens in new window\)](#) in March 2022. Its vision, as set out in the Framework, is for a progressive youth justice system – one which delivers better outcomes for children and communities. In order to help achieve this vision, a number of actions were identified and brought together in a five-year action plan which accompanied the Framework. This action plan included a commitment to carry out a [consultation to seek the views of the public on increasing the minimum age of criminal responsibility \(MACR\) in Northern Ireland to 14 years old \(opens in new window\)](#) within the first year of publication.

1.2 The minimum age of criminal responsibility is the lowest age at which a person can be arrested and charged with committing a crime. In Northern Ireland it is currently set at 10 years of age, which is one of the lowest in Europe, and also one of the lowest in the world.

1.3 This paper provides a summary of responses received by the Department following the public consultation, which invited views on a proposal to increase the MACR in Northern Ireland from 10 years to 14 years.

1.4 The Department is grateful to all respondents for their interest in this consultation.

2. BACKGROUND

2.1 The youth justice system has undergone considerable change in recent decades, with a shift in focus from punishment to rehabilitation. This has largely been in response to developments in evidence and research which have shown that adopting a ‘child first’ approach to children who offend results in better outcomes for both children and communities. One aspect of youth justice which has not changed, and is therefore out of step with this child first approach, is the age at which a child can be held criminally responsible.

2.2 The UN Convention on the Rights of the Child (UNCRC) is an international human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. During periodic examinations of the UK’s compliance with the Convention, the UN Committee, which is the body that monitors implementation of the Convention, has repeatedly highlighted our low MACR and recommended that it be raised “in accordance with acceptable international standards”. Furthermore, the Committee’s 2019 report urged all member states to take account of recent scientific evidence and to raise their minimum age accordingly, to at least 14 years.

MACR in Northern Ireland

2.3 In the previous decade, MACR has been considered as part of two major examinations of the youth justice system in Northern Ireland – the Youth Justice Review (published in 2011) and as part of a cross-departmental Scoping Study in 2015. The outcome of both examinations was to recommend that MACR be increased to at least 12 years of age.

2.4 Whilst efforts have been made by Justice Ministers, most recently by Naomi Long, to secure cross-Executive agreement to raise the minimum age of criminal responsibility, there has been insufficient political support to progress this issue to date. The responses to this consultation will assist a future Executive in their deliberation about any future policy consideration on this matter.

Position in other jurisdictions

2.5 England and Wales currently has the same MACR as Northern Ireland, i.e. 10 years old. Despite pressure from the UN Committee on the Rights of the Child and a recommendation from a Select Commons Committee in Westminster to review MACR, there has been no movement in terms of legislating to increase MACR in England or in Wales.

2.6 Legislation to increase MACR in Scotland to 12 years fully commenced on 17 December 2021. Children under this age who display risk-taking or offending behaviours will be dealt with through the welfare-orientated Children's Hearing System. In exceptional circumstances, appropriate safeguards and powers are in place for Police Scotland to investigate harmful behaviour in children under the MACR, however, children undergoing this process will not be criminalised.

2.7 Ireland has also seen an increase in MACR, from 7 years to 12 years, following the commencement of legislation enacted in 2006. Provision has been made for exceptional cases, with criminal responsibility for the most serious offences being set at 10 years of age.

2.8 Across Europe, the MACR tends to be higher - children are not held criminally liable until the age of 14 years (Germany, Italy, and Spain), 15 years (Denmark, Sweden, Norway, and Finland), or 18 years (Belgium and Luxembourg). The only other European country which has a MACR as low as 10, outside the UK, is Switzerland. A table comparing the various MACRs in other European countries can be found at **Appendix 1**.

Youth Offending in Northern Ireland

2.9 In recent years, there has been a significant reduction in the overall number of children entering the formal youth justice system, including prosecutions at court.

2.10 The latest available figures show a decrease in prosecutions at court, and out of court disposals, for children aged between 10 and 17 years from 5,764 in 2011 to 2,382 in 2021. This can largely be attributed to the current policy and operational practice which focuses on providing early intervention and support where problem

behaviour emerges, and diverting young people from formal prosecution wherever possible.

2.11 The available data also shows that in 2021, a total of 328 children under the age of 14 (which is the proposed new MACR) were dealt with by the formal justice system. This represents 13.8% of total disposals in that year. Of these 328, 99 were prosecuted at court and the remaining 229 children received a diversionary disposal. This gives us an idea of the relatively small numbers of children involved if we were to raise MACR to 14 years.

3. THE CONSULTATION PROCESS

3.1 The consultation ran for 12 weeks from 3 October to 23 December 2022. It was launched by means of a departmental press release and supported by DoJ social media posts throughout the consultation period. Emails containing information on how to respond to the consultation were issued to over 500 organisations and individuals on the Department's consultation list. Recipients were encouraged to share the links with colleagues and interested parties.

3.2 To facilitate as many responses as possible, respondents were given options on how to respond – via a bespoke online consultation on Citizen Space or via a word template which could be downloaded and then completed. A number of respondents also chose to submit a written paper rather than using either of the aforementioned options, and these were also accepted.

3.3 Four of the main children's sector organisations (Include Youth, VOYPIC, NIACRO and CLC) delivered a workshop, hosted by QUB, to enable information-sharing, advice and discussion to take place on the issues prior to people responding to the consultation. This event brought together experts in the field of child psychology, criminology and children's rights.

Consultation with young people

3.4 In addition to the main consultation document, a "youth-friendly" version was developed and all organisations, particularly those in the children's sector and those working with children and young people, were encouraged to use it to discuss the issues with children and to assist them to respond to the consultation.

3.5 The Children and Young People's Unit of the Department of Education was engaged to target their key stakeholders in addition to those on the Department of Justice's consultation list. Links to the consultation were also issued, via the Department of Education, to the Education Authority Youth Service asking if they would circulate to their contacts, in particular children and young people.

3.6 Given the prevalence of care experienced children in the justice system, officials from the Department engaged with the RQIA's Director and Assistant Director for Children's Services, who agreed to circulate the relevant information and links to the consultation to their young persons' stakeholder groups. They included those in residential care, 16+ young people in independent living, and those who were the subject of adoptions.

3.7 A number of voluntary and community sector organisations carried out focused engagement sessions with children and young people in order to inform their written responses to the consultation. Include Youth held focus groups with children across all of their Northern Ireland offices. Similarly, the Children's Law Centre engaged with their youth advisory panel. Neither provided details of the numbers of children that contributed to their responses, however both reported that the majority of children they engaged with supported an increase in MACR.

3.8 The written response from VOYPIC (Voice of Young People in Care) included the views of a significant number of care-experienced children with whom they had engaged through participation groups and discussions. In total, the views of 34 children were reflected in the response. When asked what MACR should be:

- the average age suggested was 15.8 years;
- only 7.5% supported maintaining it at 10 years; and
- over 80% supported increasing it to 16 or over.

3.9 Minister Long met with representatives from both the NI Youth Forum and the NI Youth Assembly to discuss issues in relation to the consultation. MACR was the subject of a Youth Assembly Plenary debate in November 2022, with the motion asking whether members agreed that MACR should be raised from 10 years to 14 years. Of the 35 votes recorded, 15 supported the motion and 20 opposed it, not necessarily because they disagreed with an increase in MACR, but because their opinions differed on what age it should be. Further analysis carried out amongst 29 of those who voted, revealed that the majority supported increasing MACR above 10 years, however, the new age varied between 12 and 16 years.

3.10 To enable a measure of successful engagement with children and young people, respondents to the consultation were asked to confirm if they were above or below the age of 18. From the 413 responses received online through Citizen Space, 109 responses were from children under 18, representing over a quarter (26.4%) of those responses.

4. OVERVIEW OF RESPONSES

4.1 A total of 455 responses were received by the Department - 413 were online responses received via Citizen Space and 42 were written submissions. Of these responses, 369 were from individuals and 81 were submitted on behalf of organisations. The remaining 5 respondents did not provide this information. A summary of the quantitative analysis of the responses has been provided at **Appendix 2**.

4.2 The Department was particularly interested to hear the views of children and young people and was therefore encouraged to receive 109 responses from those aged 18 or under. While unable to quantify the numbers, we also welcomed the views presented on behalf of a number of young people from children's sector organisations within their own written submissions. The remaining 346 responses were received from those aged 18 and over.

4.3 Of the 455 responses, 381 (83.7%) agreed that MACR in Northern Ireland should be raised beyond 10 years. The breakdown in relation to the preferred age of criminal responsibility is as follows:

- 292 respondents agreed with the proposal to increase MACR to 14 years;
- 30 wished to see MACR increased, but only to 12 years;
- 57 agreed with an increase in MACR, but felt 14 was still too low;
- 1 respondent agreed with a general increase to 14, but with a caveat of 12 for serious offending; and
- 1 agreed with an increase in MACR, but did not specify a particular age.

4.4 When taking account of the combined online and written responses, a total of 69 respondents indicated that they wished to see MACR remain at 10 years. However, 26 of these respondents further indicated that they would accept a general increase in MACR if exceptions were permitted for serious offences.

4.5 This clearly indicates that, of the 455 responses received in total, only 43 wished to see no change at all to the current MACR of 10 years. This represents less

than ten percent (9.45%) of all responses. Both the online and written responses are examined in more detail in this paper.

4.6 It is important to note that a small number of the written responses to the consultation did not directly answer the questions as they appeared in the consultation document. In yet fewer cases, while an indication of support for an increase was provided, there was no clarification around a definitive age. Where a clear indication of views on an issue was expressed, we have included this in our overview count of responses for each question.

4.7 In providing detailed written responses, we are grateful that a number of respondents addressed the issue of criminal responsibility in Northern Ireland and provided a range of evidence in relation to the subject which will assist the Department when considering next steps. These are examined in more detail in Chapter 6.

5. SUMMARY OF RESPONSES RECEIVED VIA CITIZEN SPACE

5.1 The online consultation included links to a number of documents, including a [discussion paper \(opens in new window\)](#) which set out the following: the background to the consultation; the current position with regards to MACR; information on rates of youth offending; the case for change; and the impact of increasing MACR in Northern Ireland. Also provided for information were documents relating to the screening processes carried out by the Department in relation to the potential impact of the proposed changes to MACR on equality and rural issues. Finally, in order to assist young people in responding, the Department produced a [youth-friendly version \(opens in new window\)](#) of the discussion paper, which was also made available on Citizen Space.

5.2 With the aim being to attract as many responses as possible, the Department sought to develop a concise range of questions which would provide succinct views on the way forward for MACR in Northern Ireland. The online consultation asked a maximum of four questions, depending on how the first question was answered.

5.3 There were a total of 413 responses received to the online consultation. The vast majority were received by individuals (n=365); only 43 were from organisations and the remaining 5 respondents did not clarify their status. A breakdown of the responses to the online consultation is provided below.

*Q1: The UN Committee on the Rights of the Child recommends that Member States set a minimum age of criminal responsibility (MACR) of no lower than 14 years. The Justice Minister supports this recommendation. **Do you agree that MACR should be raised in Northern Ireland from the current age of 10 to 14 years?***

Yes **No**

5.4 Of the 413 responses, 272 (65.8%) of the respondents answered “yes” to Q1, indicating that they believed there should be an increase in MACR from the current age of 10 years to 14 years. For these respondents, the online consultation was completed at this point, and they had no further questions to answer.

5.5 The remaining 141 respondents answered “no” to an increase in MACR to 14 years. This prompted the online consultation to move the respondent onto a second question as detailed below.

Q2. Only if you answered no to Q1 – please consider the options below and select the one which most closely represents your preferred MACR.
 10 years 12 years 16 years 18 years

5.6 140 respondents provided a response to this question, with 67 (47.5%) selecting the option of “10 years” indicating that they were advocating for no change to the current age of criminal responsibility. This was followed by a preferred age of 16 years for 34 respondents (24.1%), 12 years for 30 respondents (21.2%) and 18 years for 9 respondents (7.2%). One person did not answer this follow-up question.

5.7 Those respondents who indicated their preference was for MACR to remain at 10 years (n=67), were prompted to progress to Q3. This question provided the respondent an opportunity to indicate if they would consider an increase beyond 10 years if there was an exception for serious offences, to include murder, manslaughter, rape and aggravated sexual assault.

Q3. Only answer if you responded in Q2 that your preferred MACR is 10 years – would you support an increase if exceptions were permitted for the committal of serious offences? Serious offences include murder, manslaughter, rape and aggravated sexual assault. Yes No

5.8 Of the 67 responses to Q3, 26 answered that they would support an increase if exceptions were permitted for serious offences. The remaining 41 indicated that they would not. For those who answered in the affirmative, a prompt was received to move to the final question, Q4.

Q4. Only respond if you answered yes to Q3 – Would you support an increase to:
 12 years 14 years 16 years 18 years

5.9 The majority of the online responses to Q4, indicated they would support an increase in MACR to 12 years with an exception for serious offences (18 out of the 26 who responded). 5 respondents selected the option for an increase in MACR to 14

years, while the remaining 3 respondents supported an increase but did not select an age.

5.10 In summary, when taking account of all the responses received via Citizen Space, there was clear support demonstrated for increasing MACR in Northern Ireland beyond its current age of 10 years. In terms of the figures, over 80% were in support of an increase when asked directly and this increased to almost 90% when considering an exception for specified serious offences.

6. SUMMARY OF WRITTEN RESPONSES

6.1 Each of the documents available on the Citizen Space website were also made available on the Department of Justice website, for the benefit of those respondents who preferred to submit a written response. As with the online consultation, the written responses received centred around the response to the first question as to whether the respondent agreed with an increase to MACR from 10 to 14 years. This section of the paper examines the written submissions in further detail.

6.2 There were, in total, 42 written submissions received by the Department in response to the MACR consultation. These were split between 4 individual responses and 38 responses received on behalf of organisations. No written responses were received by persons under the age of 18; however, as previously mentioned, a number of the organisations who provided written submissions had engaged with children and young people on the issue in order to inform their responses. A list of those respondents who provided written submissions is provided at **Appendix 3**.

Support for an increase to MACR

6.3 In response to questions 1 and 2, overall 21 respondents agreed to an increase in MACR from 10 to 14 years, with an additional 14 respondents agreeing with an increase but supporting a new MACR which would extend beyond 14 years. A further respondent confirmed support for an increase but did not specify an age. This demonstrated that 86% of all written responses supported increasing MACR beyond its current age of 10 years. This strong support for an increase was verbalised by a number of organisations as follows:

“...there should be an increase in the minimum age of criminal responsibility from 10 years to 14 years in line with the proposal from the former Minister.” (PBNI)

“During group discussions with young people in all offices, all young people agreed that the age of criminal responsibility should not be 10 years old and should be raised.” (Include Youth)

“The SDLP agrees with the need to raise the minimum age of criminal responsibility. The current age of 10 is clearly too low and 14 seems to be a suitable age.” (SDLP)

“The Society supports a move to 14 years, however recognising that some members believe a higher minimum age is warranted, the Society recommends that, should an increase in MACR be brought forward, a provision should be made in the same statute to review this after not more than five years with a view to considering if a higher MACR is warranted.”
(Law Society NI)

“...strongly recommends that the DOJ move beyond minimum standards to a more fully children’s rights compliant system that takes into account the neurological science and adverse childhood experiences and raises the minimum age of criminal responsibility to 16.” **(NICCY)**

“...in only raising the age to 14, Northern Ireland would fall short of the international human rights standards as recommended by the United Nations Committee on the Rights of the Child” **(Barnardo’s)**

“The MACR should be raised to at least 16, in line with other social responsibilities, and preferably to 18. Resources should be directed towards multi-agency interventions to address the complex needs of children and young people involved in ‘anti-social’ or ‘harmful’ behaviours with a focus on the best interests of the child, their personal, social and educational development, their health and wellbeing within safe and supportive environments.” **(Individual, Independent Research and Policy Consultant)**

Opposition to an increase

6.4 Only 2 respondents (5%) – the Democratic Unionist Party and the Traditional Unionist Voice – indicated that they categorically would not wish to see an increase to the current MACR of 10 years. A number of reasons were cited in their responses for maintaining the status quo, including: the potential for children as young as 10 years to commit serious offences; a belief that the arguments for increasing MACR, as set out in the consultation paper, were not balanced; and the view that children have a right to be held accountable for their actions, including any criminal behaviour which they may engage in. One respondent was concerned that increasing MACR to 14 years would be giving 10 to 13 year old children free rein to offend:

“Telling 10 to 13 year olds that the law is going to change so they will no longer be called to account under the criminal law for criminal acts that they commit out of regard for their rights, cannot but be vulnerable to being interpreted as sending the message that in some senses the state is granting them an effective right to commit criminal acts, or at least more of a right to do so than they have had hitherto.” **(Democratic Unionist Party)**

6.5 A reference was made to the recent change to the legislation in Scotland which provided for a new MACR of 12 years from December 2021. One of the respondents who opposed increasing MACR in NI suggested waiting until a review of the impact of the Scottish legislation had been completed:

“Why this rush to change the age of criminal responsibility in Northern Ireland when we are as yet unable to assess the impact of doing so elsewhere in the U.K.?” (Traditional Unionist Voice)

Alternative views

6.6 Of the 4 remaining written submissions, the following views were offered in which the preferred minimum age of criminal responsibility was not explicitly stated:

- two recognised that MACR was low in NI compared to other jurisdictions, and stated that if it is to be raised then provision needed to be made for accessible, suitable alternatives outside of the justice system, to provide intervention and support to all involved parties, including victims;
- one responded that, rather than focus on a specific age, a comprehensive, properly resourced Regional Children’s Service for Northern Ireland should be put in place to see what difference it makes, and only after this should MACR be reviewed; and
- one did not respond to any of the consultation issues, but focused on data protection implications.

Exceptions for serious offences

6.7 The online consultation offered an opportunity for those who did not agree with an increase beyond 10 years to state whether an increase would be acceptable if exceptions were permitted for serious offences. A number of respondents who submitted written responses took the opportunity to comment in relation to an exception for serious offences, despite the majority agreeing to an increase to MACR without the need for such an exception.

6.8 Views in relation to exceptions varied between those respondents who believed that it could be beneficial and would provide a layer of protection and additional reassurance, and those who were opposed on the basis that if a child is deemed too

young, in legislation, to be held responsible for committing an offence, that should extend to **any** offence, regardless of its seriousness.

“As a basic principle the Trust views the age of 10 years as too young regarding matters of criminal responsibility and favours an increase. However, we believe it is important that exceptional circumstances are covered within the legislation for those children who commit serious offences.” (Southern HSC Trust)

“Any exceptions permitted for the committal of serious offences should be evidence based. The views of victims should also be considered as part of the consultation and within any future recommendations.” (PSNI)

“The Commissioner for Children and Young People does not believe that it is appropriate to have a 2-tier approach to MACR. It would place unnecessary burden on both the criminal justice and care system as they would be required to have accommodation and processes available for very young children in the rare event of them being charged with a serious offence.

Additionally, in General Comment 24 (para 27) the Committee on the Rights of the Child urges states to have one minimum age of criminal responsibility. One age of criminal responsibility for all children would enable the system to develop services and responses appropriate to the needs of the child and the community.” (NICCY)

“In compliance with international children’s rights standards and evidence-based research, I am calling for the minimum age of criminal responsibility to be raised to 16 years with no exceptions.” (Individual, Senior Social Worker)

“We agree with the UNCRC’s recommendation that there should be no exceptions to the standardised age below which children cannot be held responsible in criminal law, in line with a rational understanding of children’s development.” (Children in Northern Ireland)

6.9 The Northern Ireland Human Rights Commission highlighted a potential issue regarding providing for an exception to MACR for serious offences. This relates to the potential for a case of discrimination to be put forward:

“The Commission recommends that the Department discounts any provision for exceptional cases, even in serious cases. The evidence is the same, whether the offence alleged is one of seriousness or not...The Commission reminds the Department that applying differentiated treatment is most likely to raise legitimate concerns of discrimination. To ensure that NI law keeps pace with international standards and the weight of scientific knowledge, the Commission recommends incorporating a statutory, time-bound review into any subsequent changes.” (Northern Ireland Human Rights Commission)

6.10 Only one of the written responses stated that they would only support an increase in MACR to 14 years, if an exception was applicable for the most serious cases involving young people aged 12 and older. In these cases, the respondent proposed that the Director of Public Prosecution should make the decision. The reasoning behind this response was given as follows:

“These crimes are the most egregious crimes and their wider societal impact, including risk to the public and emotional harm to victims and their families, must be considered by the Director of Public Prosecution.

Children committing such serious crimes are rare, therefore in most cases the minimum age of criminal responsibility applied will be 14, in line with the CRC minimum age of criminal responsibility.” (Sinn Fein)

Comments on relevant issues

6.11 Submitting a written response provided individuals and organisations with the opportunity to comment on a number of key issues relevant to the setting of a minimum age of criminal responsibility. The Department was grateful to all those who took the time to provide detailed commentary and will ensure that information submitted will be used when considering the way forward with regards to this issue. A flavour of the information shared is provided under the various headings below.

Advances in scientific research

6.12 The consultation document contained a section highlighting the scientific and neurological advances in research into adolescent brain development, with various studies evaluating the evolving and differing levels of maturity and the child’s capacity to understand the implications of their actions. It was clear from the written responses received that many respondents agreed with the Department that the latest scientific evidence supported an increase to MACR:

“Neuroscience data has found that there are developmental differences in the brain’s biochemistry and anatomy that may limit adolescents’ ability to perceive risks, control impulses, understand consequences and control emotions.¹ Evidence on children’s understanding of the criminal justice process suggests that 13 year olds and younger are impaired in their ability to understand criminal proceedings and only begin to understand what

¹ Enys Delmage, (2013), The Minimum Age of Criminal Responsibility: A Medico Legal Perspective, *Youth Justice*, 2013 13:102.

it means to appear before a judge at around 14 or 15 years of age.² (VOYPIC)

“In our view children aged 10-13 years are not mature enough to appreciate the consequence of their actions, they do not possess the capacity or life experience to understand the impact of their offending behaviour or how it impacts on their own future. (Mindwise)

“.. When considering at what age it is appropriate for children to be considered criminally responsible, it is important to consider research that demonstrates that adolescents’ brains predispose them to risk-taking behaviours and responding to situations emotionally. Adolescents do not have the same abilities as adults to control their impulses and consider the perspectives of others, and can focus on the present rather than the long-term implications of their actions.” (British Psychological Society)

Prevalence of ACEs amongst those in contact with the justice system

6.13 Many respondents discussed the child’s journey into the formal youth justice system as one that must be taken into account when considering setting a MACR. Respondents reiterated that children who offend are often the most vulnerable in society, many of whom will have lived through multiple Adverse Childhood Experiences (ACEs). Comments included:

“Trauma informed practice acknowledges the reality that many of the behaviours which lead young people into contact with the criminal justice system result from the biological sequelae of trauma and acute or chronic stress. This approach recognises that young people engage in criminal behaviour as a consequence of their social circumstances, and history of adversity. The notion of “criminal responsibility” is not applicable to a child who has little control of their circumstances and is vulnerable to exploitation or impulsivity.” (Professor Siobhan O’Neill, Mental Health Champion)

“Many children and young people who come into contact with the criminal justice system have been exposed to adverse childhood experiences which in turn has an impact on mental health and emotional wellbeing. Those who are care experienced are over-represented amongst children and young people who find themselves before the courts.” (Presbyterian Church in Ireland)

Legacy Issues

6.14 One of the respondents did not specify an age for an increase to MACR, but supported the Department to make their decision based on international best practice, UNCRC minimum standards and the views of those experienced in the fields of youth

² Children and Young People’s Commissioner for Scotland, Age of Criminal Responsibility(Scotland) Bill, Evidence to the Equalities and Human Rights Committee, 2018.

justice and children's rights in Northern Ireland. Their comments also referred to the legacy issues of Northern Ireland:

"The Commission's vision is that 'Victims and Survivors are remembered and empowered to shape a future where their voices are heard and their needs met within a reconciled society.' Our mission is to 'contribute to reconciliation by ensuring Victims and Survivors' needs are met, their voices heard and that learning from their experiences contributes to lasting peace for generations to come.'

Ensuring that children and young people's needs are met, through the delivery of targeted interventions that are informed by an approach that effectively addresses the legacy of Northern Ireland's past is imperative to achieve this vision and mission. That legacy is evidenced in the on-going threat of paramilitarism, sectarianism and trauma impacts upon families. We believe that in considering the MACR, the Department should pay particular attention to these needs and impacts" (Commission for Victims and Survivors)

Long-term consequences of having a criminal record

6.15 For many young people, the impact of receiving a criminal record is not fully realised for many years, often not until career or travel plans are affected. The negative long-term consequences of having a criminal record for offences committed whilst still a child, were highlighted by several respondents:

"Having a criminal record can have a huge impact on people, often for a long time after the event, and in many cases, for the rest of their lives. It can present persistent barriers to employment, volunteering, training, education, travel, insurance, and many other areas of life." (NIACRO)

"The absence of a criminal record and associated stigma of being a 'young offender' should be a paramount consideration when reviewing legislation on the MACR." (Law Society NI)

"By criminalising children and giving them criminal records, these children will have their life options limited and are being asked to carry the burden of something they did as a child, through to adulthood. By raising the age of criminal responsibility to 16, this automatically reduces the number of children who are being criminalised and given criminal records, thereby increasing life chances and life opportunities for this group of children." (Children's Law Centre)

Calls for a support framework for those under the age of the new MACR

6.16 Many of the respondents, while in agreement with a proposed increase in MACR, suggested that a suitable framework for support services was required in order to meet the needs of children under the new MACR who were exhibiting offending behaviour. The Department acknowledges the need for alternative support mechanisms to be put in place if an increase in MACR is secured and will be considering all the comments provided in relation to this issue:

“... the minimum age of criminal responsibility is ultimately a matter for the Department of Justice and the Northern Ireland Executive.

.....if the age at which the child should be held criminally liable is changed, there should be corresponding and accessible supportive mechanisms outside of the justice system in place for all involved parties.” (PSNI)

“....support an increase in the MACR in line with the UN Committee’s 2019 General Comment to ‘at least 14 years.’ CJI would also emphasise the need for consideration of the UN Committee’s 2019 General Comment in relation to the core elements of a comprehensive child justice policy, particularly the need for the prevention of child offending, including early intervention directed at children below the MACR.” (CJINI)

“....criminal justice sanctions must be replaced by robust, rehabilitative, welfare-based structures that effectively interrogate why a child has acted in the way they have and seeks to disrupt the path to reoffending.” (Victim Support NI)

“Raising MACR is an effective strategy for removing children and young people from the reach of the criminal justice system, allowing other organisations to take a proactive role offering a more ‘welfare based’ approach for children who commit offence.” (Women’s Aid Federation NI)

“Where children are displaying offending behaviour, it is incumbent on us as a society to provide the most appropriate and effective response. This should be a supportive, welfare based response which takes cognisance of and addresses the needs of the child, rather than a punitive, damaging criminal justice response.” (NSPCC)

6.17 An alternative view was put forward from a respondent who did not support an increase to MACR beyond the current age of 10 years. The following concerns were expressed in relation to the development of a welfare-based support structure:

“Of particular concern are the possible implications for police powers and practice, the rights of victims and additional demands placed on the range of agencies and professionals likely to take on the bulk of the responsibility

associated with adopting a welfare-orientated approach to child offending.”
(Democratic Unionist Party)

Over representation of care experienced children and young males in the youth justice system

6.18 Many of the written submissions argued that the over representation of both young males and looked after children within the youth justice system, was evidence that a lower MACR affected these children adversely and disproportionately due to their complex needs and traumatic experiences. Some comments included:

“.....the overwhelming majority of young people in the justice system are male. This is associated with social circumstances as well as social and gender norms, which put boys and young men at higher risk of risk taking and offending behaviour. From a gender equality perspective, addressing the social norms and root causes of offending behaviour among boys and young men forms part of tackling wider gender stereotypes, which also shape violent behaviour including violence against women and girls.” **(Women’s Platform)**

“The Commission notes with significant concern that most children entering secure custodial care in NI have complex needs. This includes care experienced children and children with mental health issues and neurodevelopmental disorders such as Attention Deficit Hyperactivity Disorder, Autism Spectrum Disorder and cognitive/processing impairments. The Commission recommends, in accordance with the UNCRC Committee’s recommendations, that all children with developmental delays or neurodevelopmental disorders or disabilities should be diverted from the formal youth system, regardless of age.” **(Northern Ireland Human Rights Commission)**

*“As the Voice of Young People in Care, we are particularly concerned by the over representation of young people from care, and that the current criminal justice approach disproportionately impacts children with experience of care. Children in care are particularly over-represented in figures of children in custody in Northern Ireland. Of the children in custody during 2021/2022, 34% were in care.”*³

A low age of criminal responsibility that seeks a criminal justice solution to welfare issues, poverty and adverse childhood experiences, simply accelerates already vulnerable children further into the system and ultimately custody.
(VOYPIC)

³ Youth Justice Agency, Annual Workload Statistics, 2021/2022.

Victims

6.19 A number of the written responses received by the Department, were on behalf of those wishing to represent the views of the victim. Some of the comments included:

“In considering issues such as the minimum age of criminal responsibility, we accept that not all victims will feel the same way about the issue. What we can say as a victims’ organisation is that we are yet to meet a victim of crime who does not wish that no one else has to experience what they have. Victim Support NI therefore campaigns for a world, and a system, where the commission of crime is significantly reduced and fewer citizens become victims of crime.

... strongly recommend that any change to the minimum age of criminal responsibility is accompanied by effective messaging to explain to the public why this change is better for victims, for children and for society at large.”

(Victim Support NI)

Raising the MACR would impact on a victim’s right to be provided information relating to the investigation of an incident, their right to engage and input into restorative and rehabilitative decisions relating to the offender and their right to be kept informed of future assessments of risk relating to that individual.

(Democratic Unionist Party)

7. NEXT STEPS

7.1 The Department has now completed its analysis of all of the responses to the consultation. As stated in previous sections of this paper, the outcome has demonstrated strong support for an increase in the Minimum Age of Criminal Responsibility (MACR) in Northern Ireland. Of all those who responded, 83.7% would support an increase beyond 10 years. A further 5.7% indicated they would also support an increase beyond 10 years if an exception was included for serious offences. Of note, the supporting information provided through the written responses has highlighted the strength of feeling regarding the current MACR, notably from those respondents representing the children's sector.

7.2 Going forward, the Department will consider the issues raised through the consultation exercise and use the views expressed to inform its recommendations for the development of policy and legislative proposals in respect of the minimum of age of criminal responsibility in Northern Ireland. These recommendations will then be subject to Ministerial consideration and approval. Any proposed changes to the current legislation, will of course be subject to Executive and Assembly approval.

APPENDIX 1

Table comparing the minimum age of criminal responsibility in European countries

Country	MACR	Country	MACR
Albania	14	Luxembourg	18
Andorra	12	Macedonia	14
Armenia	16	Malta	14
Austria	14	Moldova	16
Azerbaijan	16	Monaco	13
Belarus	16	Montenegro	14
Belgium	18	Netherlands	12
Bosnia & Herzegovina	14	Northern Ireland	10
Bulgaria	14	Norway	15
Croatia	14	Poland	15
Cyprus	14	Portugal	16
Czech Republic	15	Romania	14
Denmark	15	Russian Federation	14
England	10	San Marino	12
Estonia	14	Scotland	12
Finland	15	Serbia	14
France	13	Slovakia	14
Georgia	14	Slovenia	14
Germany	14	Spain	14
Greece	15	Sweden	15
Hungary	14	Switzerland	10
Iceland	15	Turkey	12
Ireland	12	Ukraine	16
Italy	14	Wales	10
Latvia	14		
Liechtenstein	14		
Lithuania	14		

Source: Child Rights International Network, (2019) Minimum Age of Criminal Responsibility in Europe, available at: <https://archive.crin.org/en/home/ages/europe.html>

Summary of quantitative analysis

Online Citizen Space consultation - responses

There were **413** responses received via the online Citizen Space portal.

Respondents were asked whether they were replying on behalf of an organisation or as an individual. There were 408 responses to this question:

Option	Total	Percent
Individual	365	88.38%
Organisation	43	10.41%
Not Answered	5	1.21%

Respondents were asked to provide their age as we were particularly interested in the views of children. There were 413 responses to this question:

Option	Total	Percent
Under 18 years old	109	26.39%
Over 18 years old	304	73.61%
Not Answered	0	0.00%

The main question related to MACR. Respondents were asked “Do you agree that MACR should be raised in Northern Ireland from the current age of 10 to 14 years?”

There were 413 responses to this part of the question.

Option	Total	Percent
Yes	272	65.86%
No	141	34.14%
Not Answered	0	0.00%

If they answered 'No', they were then asked to consider the options below and select the one which most closely represents your preferred MACR. There were 141 responses to this:

Option	Total	Percentage of Q6 responses (n=141)
10 years	67	47.52%
12 years	30	21.28%
16 years	34	24.11%
18 years	9	6.38%
Not Answered	1	0.71%

Taking the responses to the original question into account, the following gives all 413 responses to what age should MACR be set at:

Option	Total	Percentage of all responses (n=413)
10 years	67	16.22%
12 years	30	7.26%
14 years	272	65.86%
16 years	34	8.23%
18 years	9	2.18%
Not Answered	1	0.24%

This shows that, of the 413 responses received via Citizen Space, over 80% (83.54%, n=345) of respondents believe there should be an increase in MACR from the current age of 10. This increases to 90.07% if the increase comes with a caveat to permit exceptions for very serious offences – see below.

For those who indicated that their preference was for MACR to remain at 10 years (n=67), they were then asked if they would support an increase if exceptions were permitted for the committal of serious offences. Serious offences include murder, manslaughter, rape and aggravated sexual assault. They responded as follows:

Option	Total	Percent
Yes	26	38.81%
No	41	61.19%

This shows that, of the 413 responses received via Citizen Space, only 41 (9.93%) of all respondents would not wish to see any increase in MACR from 10, either with or without a caveat for serious offences.

Finally, for those 26 respondents who answered 'yes' to the above, they were asked what age would they support an increase to. They responded as follows:

Option	Total	Percent
12 years	18	69.23%
14 years	5	19.23%
No age given	3	11.54%

Written responses

Some individuals and organisations took the opportunity to respond in writing rather than via the online portal. This enabled many of them to include information and research to underpin the views expressed. In total, we received 42 written responses, broken down as per the following information.

When asked whether they were replying on behalf of an organisation or as an individual:

Option	Total	Percent
Individual	4	9.52%
Organisation	38	90.48%
Not Answered	0	0.00%

All 42 respondents were over 18 years old, although a small number of organisations also included the views of children and young people as part of their submissions.

When asked the first question "Do you agree that MACR should be raised in Northern Ireland from the current age of 10 to 14 years?", they responded as follows:

Option	Total	Percent
Yes	20	47.62%
Yes with caveat	1	2.38%
No	16	38.10%
Alternative response provided	5	11.90%

One respondent agreed with an increase to 14, but with a caveat that for the most serious offences (unlawful killing, rape and aggravated sexual assault) it should be 12, with the Director of Public Prosecution applying discretion for offences committed by those aged 12 and 13 years.

Of the five which provided alternative answers to this question:

- One agreed that MACR should be increased, but did not advocate any specific age;
- Two recognised that MACR was low in NI compared to other jurisdictions, and stated that if it is to be raised then provision needed to be made for accessible, suitable alternatives outside of the justice system, to provide intervention and support to all involved parties, including victims.
- One responded that, rather than focus on a specific age, a comprehensive, properly resourced Regional Children’s Service for Northern Ireland should be put in place to see what difference it would make, and THEN, review the age at which MACR should be set; and
- One did not respond to any of the consultation issues, but focused on data protection implications.

For the 16 responses that answered ‘No’, the following breakdown showed their preferred MACR. The vast majority (87.5%, n=14) wished to see MACR **higher** than the proposed age of 14:

Option	Total	Percentage of Q6 responses (n=141)
10 years	2	12.50%
16 years	13	81.25%
18 years	1	6.25%

Taking the responses to the original question into account, the following gives all 42 responses to what age should MACR be set at:

Option	Total	Percentage of all responses (n=413)
10 years	2	4.76%
14 years	21*	50.00%
16 years	13	30.95%
18 years	1	2.38%
Not Answered	5	11.91%
Total	42	100.00%

*Including 1 response with caveat for serious offences.

For the two respondents who indicated that their preference was for MACR to remain at 10 years, they did not support an increase if exceptions were permitted for the committal of serious offences – their view was that there should be no change from the current age of 10 years.

List of Written Responses

No.	Name of Individual / Organisation
1	Individual
2	Alliance Party
3	Fermanagh & Omagh District Council
4	Sinn Fein
5	Independent Research & Policy Consultant
6	Commission for Victims and Survivors
7	Children in NI (CiNI)
8	NI Human Rights Commission
9	TUV
10	Women's Platform
11	Parenting NI
12	Women's Aid
13	PBNI
14	Mindwise
15	Western Trust Employee
16	Royal College of Psychiatrists NI
17	Barnardos NI
18	Victim Support NI
19	Southern HSC Trust
20	NSPCC
21	CJINI
22	Information Commissioner's Office
23	Include Youth
24	Senior Social Worker, Education Authority
25	Evangelical Alliance NI
26	British Psychological Society

No.	Name of Individual / Organisation
27	Law Society of NI
28	Green Party in NI
29	Children's Law Centre
30	Bar of NI
31	NICCY
32	VOYPIC
33	Presbyterian Church in Ireland
34	Office of the Mental Health Champion
35	Ulster Unionist Party
36	Nexus NI
37	Public Prosecution Service
38	NIACRO
39	PSNI
40	DUP
41	SDLP
42	Education Authority