

**Name**

Scottish Childrens Reporters Administration

**Publication consent**

Publish response with name

**Q1) Do you agree or disagree with the Council's approach to the distinction between a 'principle' and a 'purpose' of sentencing?**

Agree

**Please provide any reasons for your response.**

We welcome the provision of clear principles of sentencing which can be accessible to the general public but also that there needs to be a distinction to purpose which may be especially relevant in drawing distinctions from other tribunals eg the purpose of brining a young offender to court carries a punitive element whereas in the children's hearing system the purpose is solely rehabilitation and social education

**Q2) Should there be an overarching principle of "fairness and proportionality"?**

Yes

**Please provide any reasons for your response.**

These are core principles which reflect human rights legislation

**Q3) Are the supporting principles which underlie the overarching principle of fairness and proportionality (as listed at paragraph 2(i)-(vi)) appropriate?**

Yes

**Please provide any reasons for your response.**

Yes with one qualification in relation to (ii) where the concentration on treating similar offences the same for consistency purposes can prevent the necessary consideration of crucial differences that will often apply.

We especially support (iii) which reflects a similar provision in the Children Hearings (Scotland ) Act and ensures that state intervention should always have positive purpose

**Q4) Are the supporting principles expressed clearly and accurately?**

Yes

**Please provide any reasons for your response.**

**Q5) Are there any other supporting principles which should be included at paragraph 2?**

Should there be a principle that judges should always seek to ensure that in so far as it falls within their control decisions should be made without excessive delay ?

**Q6) Do you agree or disagree with the approach to the purposes of sentencing as set out at paragraph 4 of the draft guideline?**

Agree

**Please provide any reasons for your response.**

**Q7) Are the purposes as listed at paragraph 5(a)-(d) appropriate?**

Yes

**Please provide any reasons for your response.**

Subject to below

**Q8) Are the purposes expressed clearly and accurately?**

No

**Please provide any reasons for your response.**

Our main reservation lies with 5(b) where we would suggest that rehabilitation does not lie easily with prevention and deterrence. The latter two purposes imply a more punitive approach which may not sit easily with the same sentence as rehabilitation where one is looking at a more individual based approach. We recognise that all are valid for inclusion but would suggest a separation

**Q9) Are there any other purposes which should be included?**

None that are obvious

**Q10) Do you agree or disagree with the approach set out at paragraph 6 of the draft guideline in relation to the efficient use of public resources?**

Agree

**Please provide any reasons for your response.**

**Q11) Is it appropriate to consider efficient use of public resources during the sentencing process?**

Yes

**Please provide any reasons for your response.**

**Q12) Do you agree or disagree that the guideline would lead to an increase in public understanding of how sentencing decisions are made?**

Agree

**Please provide any reasons for your response.**

**Q13) Do you agree or disagree that the guideline would lead to an increase in public confidence in sentencing?**

Agree

**Please provide any reasons for your response.**

As with any guideline that will depend on whether they are recognised and followed. If they are not then this will have a negative impact upon public confidence. This is not a reason not to undertake this exercise which we support but we hope the judiciary do as well

**Q14) What costs (financial or otherwise) do you see arising from the introduction of this guideline, if any?**

That will depend partially on how big a change this will make in sentencing which we are not best to judge

**Q15) What benefits do you see arising from the introduction of this guideline, if any?**

We believe that this is above all an important step in transparency in an area where this would often be seen as remote from public understanding

**Q16) Would you like to make any other comments in relation to any matter arising from this consultation?**

We shall be especially interested in the planned future consultation on youth offending and will be happy to be involved in that area which will be of even more relevance for SCRA