Submission on the General Scheme of the Children (Amendment) Bill 2024

1. Introduction

1.1 The Children Act 2001 is recognised as a comprehensive and largely progressive piece of legislation that has helped to provide a solid foundation for the development of a modern youth justice system in Ireland. Although subject to some amendment – principally in 2006 - and supplemented by a number of strategy and policy documents, the 2001 Act has helped to ensure stability and consistency in the operation of youth justice in Ireland for over 20 years.[1] Largely consistent with international standards, it is nonetheless timely to update the legislation so that it keeps pace with international research and trends with respect to children who come into conflict with the law.[2]

2. Ireland's International Obligations

2.1 As a State Party to the UN Convention on the Rights of the Child ("UNCRC"), Ireland has significant international obligations to ensure that its approach to child justice (now the preferred term) is in line with the UNCRC and the large body of international recommendations and guidance, including the Committee on the Rights of the Child's General Comment No. 24 (2019) on children's rights in the child justice system,[3] the UN Standard Minimum Rules on the Administration of Juvenile Justice,[4] the UN Guidelines for the Prevention of Juvenile Delinquency,[5] and the UN Rules for the Protection of Juveniles Deprived of their Liberty,[6] among others. In the UNCRC, the principal obligations relating to the rights of children in the justice system are found in Articles 37 and 40, although children in conflict with the law are also entitled to enjoy all their Convention rights without discrimination (under Article 2) as well as the right to have their best interests regarded as a primary consideration in all actions (Article 3), the right to have their views taken into account in all matters that affect them (Article 12) and to have their right to development respected (Article 6).[7] Important too are the child's rights to health and healthcare (Article 24), to education (Articles 28 and 29), to an adequate standard of living (Article 27) and to family life and support (Articles 5, 8, 18). In this respect, a holistic child-rights based approach is not only important to the treatment of children in conflict with the law, it is also fully in line with a progressive, evidence-based approach to youth justice.[8]

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[1] Kilkelly, U. and Bergin, P. *Advancing Children's Rights in Detention: A Model for International Reform,* (Bristol University Press, 2022) at 38-49.

[2] See further Kilkelly, U., *Evidence based core messages for Youth Justice. Academic Insights 2023/09 HM Inspectorate for Probation*, available at Evidence base – youth justice – HM Inspectorate of Probation and Kilkelly, U., Forde, L. Lambert, S. & Swirak, K. *Children in Conflict with the Law: Rights, Research and Progressive Youth Justice* (Palgrave Macmillan, 2024).

[3] UN Committee on the Rights of the Child, *General Comment No. 24 (2019) on children's rights in the child justice system* CRC/C/GC/24.

[4] UN General Assembly, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (resolution adopted by the General Assembly 29th November 1985) A/RES/40/33

[5] United Nations Guidelines for the Prevention of Juvenile Delinquency (resolution adopted by the General Assembly, 14th December 1990) A/RES/45/112

[6] United Nations Rules for the Protection of Juveniles Deprived of their Liberty (adopted by General Assembly resolution 45/113 of 14 December 1990)

[7] See further Kilkelly, U., Forde, L. Lambert, S. & Swirak, K. *Children in Conflict with the Law: Rights, Research and Progressive Youth Justice* (Palgrave Macmillan, 2024).

[8] Kilkelly, U., Forde, L. Lambert, S. & Swirak, K. *Children in Conflict with the Law: Rights, Research and Progressive Youth Justice* (Palgrave Macmillan, 2024).

2.2 In this respect, Articles 37 and 40 make extensive provision relating to the rights children are entitled to when they come into contact with the justice system. These include the right to age- and developmentally-appropriate treatment throughout their contact with justice processes, to be supported to reintegrate and to assume constructive lives in their communities, to be diverted from formal criminal justice processes to the greatest extent possible, to extensive safeguards and adaptations to criminal justice procedures to ensure that their procedural rights are adequately upheld, to have their individual circumstances taken into account and to proportionality in decisions about appropriate measures. Where children are deprived of their liberty, a measure which most only take place as a last resort and for the shortest appropriate period of time, children are entitled to be treated with dignity and respect for the needs related to their age and stage of development.[9]

2.3 The Children Act 2001 is generally considered to have provided an important foundation for the child justice system in Ireland, and it incorporates several important children's rights principles into Irish law, including the principle that detention should only be used as a last resort.[10] However, there are still several areas where further progress is needed to bring Irish law and practice into line with the requirements of the UNCRC and wider international standards. The guidance of the Committee on the Rights of the Child has been especially influential in this respect, and in 2023, the Committee urged Ireland to take a number of steps to bring its child justice system fully in line with the UNCRC. In particular it recommended that Ireland take steps to ensure that "children below the age of 18 are not prosecuted as adult offenders, without exception", that Ireland "raise the minimum age of criminal responsibility to at least 14 years of age", ensure that detention is only used as a last resort in all circumstances, and "strengthen measures to provide community-based social reintegration services for children leaving the justice system", among others.[11] Given Ireland's long standing commitment to the implementation of the UNCRC in this area, and its international reputation for its mainly progressive child justice system, the Children (Amendment) Bill 2024 provides an important opportunity to address some of these issues, and to take steps to bring Ireland's child justice system more fully in line with its international obligations.

3. Initial Observations on the General Scheme

3.1 The key aim of the General Scheme of the Children (Amendment) Bill 2024, i.e. to extend key provisions of the Children Act to those who were under 18 at the time of their alleged offence, but who reach 18 prior to the conclusion of proceedings, is very welcome. In this way, the Bill will help to bring Ireland's framework for responding to children in conflict with the law further into line with the requirements of international standards, responding to a key recommendation of the Committee of the

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[9] See further Kilkelly, U., "Youth Justice and Children's Rights: Measuring Compliance with International Standards" *Youth Justice* 2008, 8(3), 187; Forde, L., *The International Standards Relating to Youth Justice: An Overview* (Department of Justice 2021); Kilkelly, U. and Bergin, P. *Advancing Children's Rights in Detention: A Model for International Reform* (Bristol University Press, 2022); Kilkelly, U., Forde, L. Lambert, S. and Swirak, K. *Children in Conflict with the Law: Rights, Research and Progressive Youth Justice* (Palgrave Macmillan, 2024)

[10] Kilkelly U. (2006). 'Reform of youth justice in Ireland: The "New" Children Act 2001 Part 1.' *Irish Criminal Law Journal*, 16(4), 2–7

[11] UN Committee on the Rights of the Child (2023) *Concluding observations on the combined fifth and sixth periodic reports of Ireland* (CRC/C/IRL/CO/5-6), para. 45

Rights of the Child made during the last reporting cycle in 2023.[12] It will also bring Ireland's law more closely into line with international research findings in this area. In this respect, the fact that the Act did not address children who 'age out' of criminal proceedings, thereby losing the protection of the Act was problematic insofar as it resulted in situations where young people were sentenced as adults– including receiving prison sentences – for offences committed as children. Unlike their counterparts whose criminal proceedings were concluded prior to them aging out, such children also lost the privacy protections of the Children Act and were denied the entitlement to benefit from the preparation of a probation report prior to sentencing, and to have their best interests taken into account during this process.[13] According to the Committee on the Rights of the Child, child justice systems should "extend protection to children who were below the age of 18 at the time of the commission of the offence but who turn 18 during the trial or sentencing process."[14] Therefore, the efforts made to address these issues through the Children (Amendment) Bill 2024 – such as requiring the Director of Public Prosecution's permission for proceedings other than remand in custody or bail for children under the age of 14 at the time of the commission of the offence in Head 3 of the Bill, and the inclusion of 'relevant persons' in key protections in Head 4 and the following Heads of the Bill - are thus extremely welcome.

3.2 There are, however, areas where further amendment to the General Scheme of the Bill could help to further support and promote progressive, evidence-based and rights-compliant child justice in Ireland. For instance, in order to further advance legislative compliance with the UNCRC, consideration should be given to including in the legislation a general section making clear that the Convention's general principles (best interests, right to be heard, right to development and non-discrimination) apply to all decision-making under the Act (similar to s. 96 which applies to the courts only) and, further strengthening the measures that aim to protect the privacy of those who have committed offences while under the age of 18. Consideration could also be given to updating and refining the provisions relating to family conferencing, the application of fines (which have no place in a child justice system), probation (intensive supervision) orders, and probation reports prior to custodial sentencing in order to bring them more fully into line with international standards and research. More broadly, extending the Children Act, incrementally, to young adults up to the age of 23 years (an extension of what the Bill currently seeks to do) should also be given careful consideration.

4. Age limits: emerging adults and the minimum age of criminal responsibility

4.1 The amendments proposed in the General Scheme of the Bill to ensure the application of the Children Act to those who were under 18 at the time of the commission of their alleged offence are very welcome. However, there is an opportunity now to go further and to use this opportunity to consider the operation of age limits in the Irish child justice system generally with respect to both the upper and the lower ages of the child justice system.

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[12] *ibid*

[13] See further O'Connor, J., "Reflections on the Justice and Welfare Debate for Children in the Irish Criminal Justice System" *Irish Judicial Studies Journal,* 2019, Vol.3, 19-39; O'Connor, J., *The Sentencing of Child and Adolescent Sexual Offences in the Irish Youth Justice System: Judicial Discretion and the Justice/Welfare Dichotomy* (PhD thesis, Nottingham Trent University, 2021), p. 81

[14] UN Committee on the Rights of the Child, *General Comment No. 24 (2019) on children's rights in the child justice* CRC/C/GC/24 at para. 24

4.2 First, Ireland's approach to its age of criminal responsibility, i.e. the age at which children can be prosecuted, has attracted international criticism for a number of reasons. First, the basic age – of 12 years – is considered too low by international standards[15] (notwithstanding the protections offered by the DPP) and the Committee on the Rights of the Child has urged the adoption of a minimum age of 14 years at least.[16] The General Scheme of the Children (Amendment) Bill, particularly the requirement in Head 3 to require the Director of Public Prosecution's permission for proceedings other than remand in custody or bail for children under the age of 14 at the time of the commission of the offence is very welcome. Despite this, the MACR in Ireland still remains below what is recommended under international children's rights law.

4.3 The Children Act provision (s. 52 as amended) is also out of line with international standards insofar as it permits children as young as 10 years to be prosecuted for very serious crimes. In addition to the very low age used in these cases being especially problematic (these children are effectively prosecuted and tried as adults), the use of two different ages is also inconsistent with the Committee on the Rights of the Child's recommendation that states parties 'set one standardised age below which children cannot be held responsible in criminal law, without exception.[17] This is important both for the rights of these young children, as well as the integrity of the justice system more broadly. As the Committee notes, the minimum age should be set no lower than 14 years of age in light of the fact that both the maturity and ability for abstract reasoning of children aged 12 and 13 is still developing.[18]

4.4 Ireland's law in this area is out of line with that of many of its peers internationally, and it is also out of line with the progressive approach of the Children Act. In respect of both elements, therefore, it is strongly recommended that Ireland introduce a single age of criminal responsibility of 14 years for all offences in order to bring the law into line with the UNCRC and with clear research evidence concerning children's development, maturity and understanding.[19]

4.5 Second, for similar reasons, Ireland should also consider revising the upper age of its youth justice system in order to maximise the application of the protections of the Children Act to young adults. In this regard, the General Scheme of the Bill takes an important step forward in extending the child-specific protections of the Children Act to those who age out during their criminal proceedings. International research suggests

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[15] See further, for example: McAra, L., & McVie, S. (2023). Raising the minimum age of criminal responsibility: lessons from the Scottish experience. *Current Issues in Criminal Justice*, *36*(4), 386–407; Crofts, T. (2022). Act now: raise the minimum age of criminal responsibility. *Current Issues in Criminal Justice*, *35*(1), 118–138; Delmage, E. (2013). The Minimum Age of Criminal Responsibility: A Medico-Legal Perspective. *Youth Justice*, *13*(2), 102-110; Brown, A., & Charles, A. (2019). The Minimum Age of Criminal Responsibility: The Need for a Holistic Approach. *Youth Justice*, *21*(2), 153-171; Ogilvie, J. M., Thompson, C., Lockwood, K., Little, S., Allard, T., Thomsen, L., & Dennison, S. (2024). Examining the characteristics of children who experience contact with the youth justice system in Queensland: implications for the minimum age of criminal responsibility. *Current Issues in Criminal Justice*, *36*(4), 408–432.

[16] UN Committee on the Rights of the Child (2023) *Concluding observations on the combined fifth and sixth periodic reports of Ireland* (CRC/C/IRL/CO/5-6), para. 45

[17] UN Committee on the Rights of the Child, *General Comment No. 24 (2019) on children's rights in the child justice* CRC/C/GC/24, para 25.

[18] UN Committee on the Rights of the Child, *General Comment No. 24 (2019) on children's rights in the child justice* CRC/C/GC/24 at paras. 20-24

[19] Steinberg, L., & Scott, E. S. (2003). Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty. *American Psychologist, 58*(12), 1009–1018

that it is now timely to consider more widespread application of these protections to young adults. In particular, there is growing international consensus that young or emerging adults, up to 25 years, have specific developmental needs that justify an adapted approach, similar to that provided to children under the age of 18 who are in conflict with the law.[20] In addition to taking account of research evidence, extending the protection of the Children Act, incrementally, to those over 18 years would also be in keeping with the objectives of national policy which commits to continually developing policy responses to address emerging issues which impact youth justice policy,[21] and has already committed to extending key aspects of the child justice system to young adults.[22] The *Youth Justice Strategy* itself contemplates suggested amendments to the legislation to consider further measures to account for the transition to adulthood, including extension of the Diversion Programme to those over the age of 18.[23] It is logical to consider progressing these changes through legislative reform now too as other states have begun to do.

5. Inclusion of UNCRC General Principles

5.1 Although the Children Act 2001 is broadly in line with the UNCRC, it remains a gap that the Convention's general principles do not frame the legislation in its entirety, nor are its many decision-makers (other than the courts) bound by key principles of best interests, etc. Given the commitment stated in the General Scheme to bring Irish law in this area further into line with international standards, and the express terms of Article 42A of the Irish Constitution, consideration should now be given to the inclusion of a section of "general principles" under the Children Act. This would strengthening Ireland's compliance with the UNCRC, and advancing Ireland's reputation as a country with a progressive and rights-respecting approach to child justice. The *Youth Justice Strategy 2021-2027* contemplates such an amendment to the Children Act, which would seek to introduce a statement of principles which would apply to the Act as a whole, and which would include:

"A. Upholding the best interest of the child or young person and that this is generally best served by supporting him or her, including through relevant services, so that he or she can participate fully in society and live with respect for the rights of others

B. that detention is used only as a last resort

C. that upholding the best interest of the child (as defined above) is consistent with upholding the interests of society and vindicating the rights of victims

D. that criminal proceedings shall not be used solely to provide any assistance or service needed to care for or protect a child."[24]

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[20] See, for example Matthews, S., Schiraldi, V. and Chester, L. (2018) 'Youth Justice in Europe: Experience of Germany, the Netherlands, and Croatia in Providing Developmentally Appropriate Responses to Emerging Adults in the Criminal Justice System', *Justice Evaluation Journal*, 1(1), pp. 59–81; Schmidt, E. P., Rap, S. E., & Liefaard, T. (2020). Young Adults in the Justice System: The Interplay between Scientific Insights, Legal Reform and Implementation in Practice in The Netherlands. *Youth Justice*, *21*(2), 172-191; Allen, R., *Young Adults on Remand: A Scoping Study for T2A* (T2A: Transition to Adulthood, January 2021); van der Laan, A. M., Beerthuizen, M. G. C. J., & Barendregt, C. S. (2019). Juvenile sanctions for young adults in the Netherlands: A developmental perspective. *European Journal of Criminology*, *18*(4), 526-546; Pruin, I. & Dünkel, F., *Better in Europe? European responses to young adult offending. Full Report* (T2A: Transition to Adulthood, March 2015)

[21] Department of Justice. (2021). *Youth Justice Strategy 2021-2027*. (Dublin: Department of Justice), Strategic Objective 1.11, p. 19.

[22] *ibid.,* Strategic Objectives 2.10, 2.13, 2.15, 3.3, 3.4

[23] *ibid., p. 35-36*

[24] Department of Justice. (2021). *Youth Justice Strategy 2021-2027*. (Dublin: Department of Justice)*, p. 33*

5.2 The Children (Amendment) Bill 2024 provides an opportunity to consider the enactment of such a section, which would ensure that these general provisions are embedded into the framework of the principal Act bringing with it alignment with Ireland's other primary legislation in this area (Child Care Act 1991 etc) and ensuring a more consistent child-rights based approach across the justice system including the protection of children's rights by An Garda Síochána,[25] and while in detention at Oberstown Children Detention Campus.[26]

6. Privacy and Criminal Records

6.1 The extension of the provision which prohibits publication of the identity of persons who commit offences while under the age of 18 to 'relevant persons' within the meaning of the Act, as well as to children, is a very welcome aspect of the General Scheme of the Children (Amendment) Bill 2024.[27] Stringent privacy guarantees for children in conflict with the law are critical to ensure that children's safety and well-being is protected when they are in contact with criminal justice proceedings, ensuring their procedural rights are adequately safeguarded. Ensuring that the identities of children who have committed offences are not made public is also fundamental to the rehabilitative process, ensuring that children can achieve more positive outcomes in their futures and to supporting their reintegration in line with research, international standards and public policy objectives. It is recommended, therefore, that consideration be given to further amending Head 10 of the Act, to remove the so-called 'public interest' exception in s.93(2)(iii) of the Act. Given the negative impact that publicising the identity of a child who has been convicted of a criminal offence can have on their long-term life chances, and their ability to reintegrate successfully following completion of any sanction or punishment, this amendment requires very serious consideration in line with the public interest.[28]

6.2 Ensuring that the criminal convictions of those who have been found guilty of crimes committed while they were under the age of 18 is also critical to ensuring that these goals can be achieved. While the current wording of s.258 of the Children Act refers to convictions becoming spent in respect of offences "committed before the person attained the age of 18 years", it is worth emphasising that this provision should apply to 'relevant persons' as well as to those who were still under the age of 18 at the time of conviction. It may also be useful to consider addressing an anomaly in relation to spent convictions which is identified in the current *Youth Justice Strategy 2021-2027.* The Strategy recommends that records in relation to involvement with the Diversion Programme should be subject to expiry, in the same way as s.258 provides for expiry of convictions for offences committed under the age of 18.[29] It is recommended that this recommendation could usefully be included in the Children (Amendment) Bill 2024.

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[25] Kilkelly, U. and Forde, L. *Children's Rights and Police Questioning: A Qualitative Study of Children's Experiences of being interviewed by the Garda Síochána'* (Dublin: Policing Authority, 2021); Forde, L., & Kilkelly, U. (2023). Children and police questioning: A rights-based approach. *Criminology & Criminal Justice*, *24*(3), 648-669.

[26] See further Kilkelly, U. & Bergin, P. *Advancing Children's Rights in Detention: A Model for International Reform* (Bristol: Bristol University Press, 2022).

[27] Head 10 of the Children (Amendment) Bill 20224

[28] See further, for example Stone, N. (2015). Naming Child Defendants: In the Public Interest? *Youth Justice*, *15*(1), 93-103

[29] Department of Justice. (2021). *Youth Justice Strategy 2021-2027*. (Dublin: Department of Justice), *p. 36*

7. Restorative Justice and Conferencing

7.1 It is recommended that consideration be given to the restorative justice and conferencing provisions under the Act, particularly s.78. While these processes potentially allow for the Children Act to adopt more informal and potentially more age-appropriate approaches to court processes involving children in conflict with the law, these provisions are not frequently used at present.[30] The UN Committee on the Rights of the Child have encouraged states to consider the use of restorative justice practices within the child justice system.[31] The Youth Justice Strategy also acknowledges that these sections are "much underused", particularly through the more formal processes provided for under the Act.[32] As already contemplated within the *Youth Justice Strategy*, it is recommended that useful amendments to the legislation in this regard could require courts to consider the use of restorative approaches and provide reasons if the case is not considered suitable for this approach, or could require the Probation Service to indicate in their reports whether a restorative justice conference or plan is considered appropriate in this case, and to provide reasons for that decision.[33]

8. Fines

8.1 The abolition of sanctions for parents within the General Scheme of the Children (Amendment) Bill 2024 is very welcome. As is noted in the Scheme, such measures have no place in a progressive child justice system. It is also noted that provision has been made within Head 24 for the insertion of a new s.156E, which provides that where the appropriate penalty for a relevant person is determined to be a fine, these fines should not exceed half the maximum amount which would be imposed on an adult on summary conviction for such an offence. It is recommended that further consideration should be given to the issue of fines, specifically that the application of fines to children and relevant persons should be abolished entirely. The Committee on the Rights of the Child has recommended that the payment of monetary bail should not be considered within the child justice system, given that most children will be unable to pay, and that it has the potential to discriminate against poor and marginalised families.[34] Similarly, the continued possibility of fines being imposed on children does not fully take into account the fact that the majority of children will not have the means to pay, and has the potential to cause hardship and discrimination to families who may already experience financial constraints.

9. Considerations relating to sentencing and detention as a last resort

9.1 The inclusion of s.156D under Head 23 is a welcome addition to the Children Act, ensuring that key principles, such as the principle that detention should only be used as

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[30] Kilkelly, U. & Forde, L, *Looking Back at Tackling Youth Crime: Youth Justice Action Plan 2014-2018: A Review of Progress Achieved and Lessons Learned* (Department of Justice, 2021) at p.24; Marder, I. D., & Forde, L. (2022). Challenges in the Future of Restorative Youth Justice in Ireland: Minimising Intervention, Maximising Participation. *Youth Justice*, *23*(2), 201-225; O'Connor, J. (2022) The Developmental Nature of Children and a Proposal for a Specialised Irish Youth Justice System, 6(2), 30-45; Forde, L. (2018) Realising the Right of the Child to Participate in the Criminal Process. ***Youth Justice****, 18(3),* 265-284; Department of Justice. (2021). *Youth Justice Strategy 2021-2027*. (Dublin: Department of Justice), p. 33-34

[31] UN Committee on the Rights of the Child, *General Comment No. 24 (2019) on children's rights in the child justice* CRC/C/GC/24

[32] Department of Justice. (2021). *Youth Justice Strategy 2021-2027*. (Dublin: Department of Justice), p. 33-34

[33] Department of Justice. (2021). *Youth Justice Strategy 2021-2027*. (Dublin: Department of Justice), p. 34

[34] UN Committee on the Rights of the Child, *General Comment No. 24 (2019) on children's rights in the child justice* CRC/C/GC/24, at para. 88

a last resort, that age is taken into account as a mitigating factor, and that there should be as little interference as possible with legitimate activities and pursuits should also be applied to relevant persons who were children at the time of the commission of their offence. It is further recommended that this section should also include a stipulation – similar to s.96(5) of the Children Act – that when dealing with relevant persons who were children at the time of the commission of their offence, the court should consider to have due regard to their best interests, as well as to the interests of the victim of the offence and the protection of society. This would ensure, in line with the recommendation of the UN Committee on the Rights of the Child, that "a non-discriminatory full application of their child justice system to all persons below the age of 18 years at the time of the offence".[35]

9.2 The Children (Amendment) Bill 2024 also presents an opportunity to further strengthen the principle that detention should only be used as a last resort in Irish law. This is particularly important, given the UN Committee on the Rights of the Child has noted the use of a detention as a continued area of concern for Ireland in its most recent Concluding Observations, and recommended ensuring that detention is only used as a last resort.[36] In order to further this aim, it is recommended that consideration should be given to extending the requirement under s.99 of the Children Act for a court to request a probation officer's report where it is considered that the appropriate course of action would be to impose a community sanction, detention order or detention and supervision order to 'relevant persons' as well as to children. This would ensure that all relevant information is available to the courts for the purpose of sentencing, and could operate to further reinforce the principle that detention should only be used as a last resort.

9.3 A further step that could be taken to strengthen the principle that detention should only be used as a last resort in all cases, is by giving further consideration to the wording in Head 15 relating to the consequences for non-compliance with a probation (intensive supervision) order. At present, s.125A(2)(c) provides that where a child has failed to comply, they may revoke the order and deal with the case "in any other way in which it could have been dealt with before the order was made". It is recommended that explicit recognition is given to the principle that the detention should only be used as a last resort should continue to apply in these circumstances. This could be done by amending s.125A(3) to include a specific reference to the fact that detention should only be used as a last resort, in addition to considerations relating to the extent to which the child has complied with the conditions imposed.

10. Reintegration

10.1 A final issue which could usefully be considered as part of the amendments set out in the Children (Amendment) Bill 2024 is the inclusion of further support for young people leaving detention. The difficulties in providing appropriate support to young people who have been subject to an order of detention in transitioning back to their communities have been noted by research, as have the lack of obligations to provide

[35] UN Committee on the Rights of the Child, *General Comment No. 24 (2019) on children's rights in the child justice* CRC/C/GC/24, at para. 30

[36] UN Committee on the Rights of the Child (2023) *Concluding observations on the combined fifth and sixth periodic reports of Ireland* (CRC/C/IRL/CO/5-6), paras. 44-45

aftercare for young people leaving detention.[37] The *Youth Justice Strategy 2021-2027* has also highlighted that consideration should be given for a right to appropriate aftercare support to young people released from detention, similar those which provide for aftercare support for children leaving the State care system under the Child Care Act.[38] It is recommended that further consideration should be given to including such provision for aftercare for children and relevant persons who are leaving detention, in order to further strengthen the Children Act 2001.

11. Conclusion

In conclusion, it is clear that the proposed amendments will strengthen the compliance of Ireland's child justice law with the Convention on the Rights of the Child and our wider international obligations. Attention should also be given to prioritising the additional matters outlined above in order to maximise the opportunity that Ireland now has to continue to advance the rights of children in conflict with the law in line with our international obligations and global research evidence.

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[37] Kilkelly, U. & Bergin, P. *Advancing Children's Rights in Detention: A Model for International Reform* (Bristol: Bristol University Press, 2022); Kilkelly, U. & Forde, L, *Looking Back at Tackling Youth Crime: Youth Justice Action Plan 2014-2018: A Review of Progress Achieved and Lessons Learned* (Department of Justice, 2021) at p.26; Forde, L. (2014) 'Aftercare for Young People Leaving Care and Detention'. *Irish Law Times*

[38] Department of Justice. (2021). *Youth Justice Strategy 2021-2027*. (Dublin: Department of Justice), p. 36