

Citizen Participation and Public Petitions Committee
Wednesday 28 January 2026
3rd Meeting, 2026 (Session 6)

PE2139: Automatic expulsion for children charged with committing a crime against another child

Introduction

Petitioner Maria Giordano

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to introduce automatic expulsion for children charged on suspicion of committing a crime against another child.

Webpage <https://petitions.parliament.scot/petitions/PE2139>

1. [The Committee last considered this petition at its meeting on 23 April 2025](#). At that meeting, the Committee agreed to write to COSLA, Connect, the Children and Young People's Commissioner Scotland, Together (Scottish Alliance for Children's Rights), and the Scottish Youth Parliament.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new written submissions from Connect and COSLA, which are set out in **Annexe C**.
4. [Written submissions received prior to the Committee's last consideration can be found on the petition's webpage](#).
5. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
6. [The Scottish Government gave its initial response to the petition on 23 April 2025](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 78 signatures have been received on this petition.

Action

8. The Committee is invited to consider what action it wishes to take.

Clerks to the Committee
January 2026

Annexe A: Summary of petition

PE2139: Automatic expulsion for children charged with committing a crime against another child

Petitioner

Maria Giordano

Date Lodged

20 January 2025

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to introduce automatic expulsion for children charged on suspicion of committing a crime against another child.

Background information

In previous cases, victims have been treated worse than the perpetrators because of the policies that protect young perpetrators.

This has created circumstances where a person accused of rape is sitting in a classroom with the alleged victim. Schools should be required to automatically expel a pupil if charges are brought against them.

I urge the Government to take a look at this as kids should be protected and should not have to be subject to this. Their education and the rest of their lives are put at risk by ignoring this issue.

Annexe B: Extract from Official Report of last consideration of PE2139 on 23 April 2025

The Convener: PE2139, which has been lodged by Maria Giordano, calls on the Scottish Parliament to urge the Scottish Government to introduce automatic expulsion for children charged on suspicion of committing a crime against another child. The petitioner's view is that victims are treated worse than perpetrators. She notes that, in some cases, an accused person goes on to share a classroom with the alleged victim.

The Schools General (Scotland) Regulations 1975, as amended, state:

“an education authority shall not exclude a pupil from a school under their management to which he has been admitted, except where they are of the opinion that the parent of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school”

or

“they consider that in all the circumstances to allow the pupil to continue his attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there.”

12:45

In its response to the petition, the Scottish Government states that exclusion from school other than in conformity with the regulations has no statutory authority and may leave the education authority open to legal challenge. For that reason, its position is that it would not be lawful to employ a policy of automatic exclusion without considering the individual circumstances of each case. It goes on to state that it has no plans to change the law on exclusions. It also states that where staff are alerted via a multi-agency response that a young person has been charged in connection with an incident involving another pupil, school staff should follow the advice of social work and/or Police Scotland about how to manage the situation while the young people are attending school.

Do members have any suggestions as to how we might proceed?

David Torrance: Perhaps the committee could consider writing to stakeholders to seek their views on the action that the petition calls for. Those stakeholders should include COSLA; Connect, which was formerly the Scottish Parent Teacher Council; the Children and Young People's Commissioner Scotland; Together, the Scottish Alliance for Children's Rights; and the Scottish Youth Parliament.

The Convener: Even though the Scottish Government has said that it has absolutely no intention of doing anything about the matter, are colleagues nonetheless content to seek the views of those organisations?

Members *indicated agreement.*

Annexe C: Written submissions

Connect written submission, 16 May 2025

PE2139/B: Automatic expulsion for children charged with committing a crime against another child

In regard to your letter dated 28 April 25 seeking Connect's views, I'm afraid we do not feel we are qualified to comment in any detail on the action called for in the petition. Parent views are not homogenous and there will be many different opinions on this challenging subject.

It is important to consider the children's and human rights implications of this proposal for all parties, including the right of all children to an education, and we would think an expert such as the Children and Young People's Commissioner Scotland would be better placed to comment.

COSLA written submission, 26 May 2025

PE2139/C: Automatic expulsion for children charged with committing a crime against another child

Thank you for your letter dated 28 April 2025 inviting COSLA to provide our views in relation to the above petition.

Firstly, we would reference our national approach to supporting the wellbeing of children and young people, Getting it right for every child (GIRFEC).

GIRFEC was created in response to Scotland's commitment to equality, inclusion, and the wellbeing of every child. More than a policy; it's a unifying framework to support progress with our national vision to make Scotland the best place for every child to grow up. It aims to provide all children, young people and families with the right support at the right time – so that every child and young person can reach their full potential.

GIRFEC is embedded into Scotland's laws and policies. It provides a single, consistent framework used by all agencies and organisations that work with children, including councils, health boards, third sector service providers, police, and the Children's Hearing System. This integrated approach ensures continuity of care and avoids the confusion of conflicting services.

A policy aimed at embedding an automatic response to any behaviour presented by a child would not be in line with GIRFEC which requires an individualised response from multiagency professionals supporting families, working in partnership with the child and their family. Harmful behaviour presented by children requires a tailored multiagency response to understand the behaviour, the underlying need, the impact on those affected, the most effective response and to then provide the required support and intervention, monitoring outcomes to ensure risk of harm is reduced and impact of harm is attended to and resolved.

GIRFEC is rooted in the United Nations Convention on the Rights of the Child (UNCRC) and is central to the individualised approach, developed over decades in Scotland, to identifying and responding to needs and risks for children.

The commencement of the UNCRC (Incorporation)(Scotland) Act 2024 in July 2024 is a milestone development in Scotland and further underscores our commitment to make sure Scotland is the best place to grow up. Local government takes the obligations to act compatibly with the UNCRC very seriously and views the incorporation of the UNCRC into domestic law is an important tool in embedding children's rights across all public services.

Since commencement, COSLA and professional associations have worked closely and purposefully to progress the intentions of incorporation and the meaningful protection and fulfilment of children's rights. This is exceptionally challenging work to which we remain fully committed. The types of situations inferred by the current petition are an example of the complexities that arise in our society whereby the rights of different children can be in conflict, demanding a considered, thoughtful, skilled, multiagency response in order to navigate a way forward.

It is incumbent on us not to be drawn towards automated responses as apparent solutions as these tend to oversimplify individual sets of circumstances and risk undermining the rights of all involved.

We note the framing within the petition of "children charged on suspicion of committing a crime against another child". This implies that a sanction is to be applied prior to any due process in terms of the judicial system and is indicative of undermining of the rights of the child involved.

Research tells us that responding to childhood behaviour in a criminalising, stigmatising manner serves only to promote escalation and further harm. Scotland has proven approaches to confronting and correcting this childhood behaviour that do not need a criminal justice response.

Over the last decade Scotland has seen significant changes in the youth justice sector since there has been a decisive shift towards prevention by tackling the root causes of harmful behaviour.

Scotland's children's hearings system – operating in the wider context of the proven Whole System Approach to youth justice – has been effectively managing the behaviour of children using a welfare-based approach since the 1970's. This system prioritises 'social education' and rehabilitation over punishment, addresses the underlying causes of offending and harmful behaviour, and is well-suited for managing young people, even those at, or posing, significant risk.

In December 2021, the Age of Criminal Responsibility (Scotland) Act 2019 was fully commenced, raising the minimum age of criminal responsibility to 12 years of age.

The reforms made by the Act signal an important shift in how our society expects the behaviour of children to be managed. The provisions in the Act recognise and respond to evidence that dealing with childhood behaviour in a criminalising,

stigmatising way serves only to promote escalation and further harm. This is neither in the interests of any individual child, nor in the safety of our communities.

This reduction in the minimum age of criminal responsibility aligns with a broader focus on child welfare rather than punitive measures as the primary means of responding to children's offending or harmful behaviour. Removing the trauma and stigma of early criminal conviction increases life chances and opens up opportunities in terms of access to education and employment.

Further, these developments are in line with the conclusions of the Independent Care Review set out in The Promise. The Promise states that Scotland must aim for an age of minimum criminal responsibility in line with the most progressive global Governments, alongside efforts to prevent criminalisation of all children.

It is likely that the minimum age of criminal responsibility will be raised further, particularly as The UN Committee on the Rights of the Child published its Concluding Observations on United Kingdom and Northern Ireland in June 2023 and urged the State party to bring its child justice system fully into line with the Convention and other relevant standards. This includes the recommendation of raising the minimum age of criminal responsibility to at least 14 years of age.

Over the next several years we expect to see the minimum age of criminal responsibility continue to rise, in line with international standards of good practice in respect of children in conflict with the law, and therefore in practical terms the number of children who will ever be charged with any crime will become smaller and smaller, meaning the impact of the proposed petition becomes increasingly redundant.

COSLA and the Scottish Government co-chair the Scottish Advisory Group on Relationships in Schools whose membership includes schoolteacher and support staff unions. They endorsed a [Relationships and Behaviour Action Plan](#) which was published in 2024, and the first [annual progress report](#) on was published on 29 March 2025.

The School Attendance Guidance Included, engaged and involved part 1: promoting and managing school attendance is currently being updated and once this has been published Included, engaged and involved part 2: preventing and managing school exclusions will also be updated.

Notwithstanding the above, we do recognise the point being made in the petition about the need to ensure children are protected from risk of harm, and supported to recover from any harm experienced, including harm caused by other children.

We acknowledge that a significant proportion of harm caused to children is due to the behaviour and actions of other children.

In our view, these rights to protection from harm and right to recovery from harm extend beyond behaviour which reaches a criminal threshold. We feel the focus should be on impact and that all children who are adversely impacted by harm have the right to recovery support and protective measures.

In Scotland we have an increasingly skilled multiagency workforce which, on a daily basis, rises to the complex challenge of managing risk, mitigating harm and balancing the needs and rights of all involved.

We agree with the position currently articulated by Scottish Government that employing a policy of automatic exclusion without considering the individual circumstances of each case would not be lawful under the Schools General (Scotland) Regulations 1975 which set out the criteria for expulsion.

Fundamentally, this petition is contrary to a vast range of policy and legislative developments introduced in Scotland over the past two decades, including, but not limited to, GIRFEC, UNCRC, the Children's Hearing System, the whole system approach, The Promise and the Age of Criminal Responsibility (Scotland) Act 2019 and any movement to support the proposal within the petition jeopardises the significant progress we have made over decades of work to embed a person-centred, trauma-informed, rights-respecting approach across our workforce, systems and services for children and their families.