

Fact Sheet 15: Movement Restriction Conditions (MRCs) in the Children's Hearings System

Context

The policy intention to introduce electronic monitoring (EM) in Scotland for young people was first indicated in the then Scottish Executive's document [Putting our communities first: A Strategy for tackling Antisocial Behaviour](#) (2003: 29). While the policy agenda in relation to youth justice was significantly different in 2003 to that which pertains today, with its emphasis on tackling "persistent young offenders", the Scottish Executive did note with respect to EM: "no-one wants to restrict a young person's liberty lightly. It is a serious matter to consider such an intervention and would only be used to tackle serious issues" (2003: 30).

Legislation, Regulations and Guidance

Under s. 135 of the [Antisocial Behaviour etc. \(Scotland\) Act 2004](#) (which amended s.70(10) of the [Children \(Scotland\) Act 1995](#)), the power to make a Movement Restriction Condition (MRC) as a condition of a Supervision Requirement was granted to Children's Hearings. The legislation authorised the use of MRCs only in cases where a young person was assessed as meeting secure criteria. Complementary to the legislation and regulations the [Good Practice: Intensive Support and Monitoring](#) (Scottish Government, 2009) guidance was released. More recently [The Children's Hearings \(Scotland\) Act 2011 \(Movement Restrictions Conditions\) Regulations 2013](#) have been drafted, replacing the previous [Intensive Support and Monitoring \(Scotland\) Regulations 2008](#).

In the [Children's Hearings \(Scotland\) Act 2011](#) the MRC is defined simply in s. 84 as:

*"(a) a restriction on the child's movements in a way specified in the movement restriction condition, and
(b) a requirement that the child comply with arrangements specified in the movement restriction condition for monitoring compliance with the restriction."*

Regulation 3(6) outlines how a Compulsory (or Interim Compulsory) Supervision Order with a MRC condition will only be competent when supported by a child's plan which "*must include details of the services to be provided...to meet the care, education and health needs of the child*". At minimum a "*crisis response service...accessible on a 24 hours per day basis*" will be in operation along with "*alternative accommodation*" for the child or young person when required. Finally regular review and evaluation of the condition is imperative and the movement restriction "*must not exceed 6 months*".

Implications

Given that the [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (2010) make it clear in paragraph IV. A. 6. (19) that “*Any form of deprivation of liberty of children should be a measure of last resort*” exhaustion of all reasonable alternatives prior to recourse to secure accommodation or custody is essential. The [Children’s Hearings \(Scotland\) Act 2011](#) makes this requirement explicit in s. 83(5)(c). In the first seven years of their existence, only 174 MRCs were imposed across all of Scotland, with Glasgow City Council accounting for 43% of all such conditions. In a third of local authorities, no Supervision Requirements with MRCs have ever been imposed. If we are serious about genuine implementation of Getting it Right for Every Child (GIRFEC), realising the Whole System Approach (WSA) and ensuring compliance with legislation, perhaps robust, child-centred and creative application of EM has a role to play?

In the [National Youth Justice Practice Guidance](#) at [Chapter 7: Managing High Risk](#) further information about this topic is available.

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