

Movement Restriction Conditions (MRCs) and Youth Justice In Scotland: Are we there yet?

Stewart Simpson and Fiona Dyer, CYCJ

October 2016

Contents

Contents	1
1. Executive Summary	2
2. Introduction	2
3. Legislation	3
4. Scotland: The Current Picture	4
Secure Care and Custody	4
Alternatives to Secure Care and Custody	7
5. The Current Practice Perspective	7
Practitioner knowledge and buy-in.....	8
Guidance.....	9
Knowledge Gaps	10
6. Learning from practice	10
Case Study 1: Amy.....	11
Case Study 2: Barry	13
Case Study 3: Carrie	14
Case Study 4: Darren	15
7. Discussion	16
8. Recommendations	17
9. References	20
Appendix 1	21
Implementing Movement Restriction Conditions (MRC's)	21
Manager's Survey 2015.....	21
Appendix 2	23
Movement Restriction Condition (MRC) - Case Vignette Template.....	23

1. Executive Summary

The Scottish Government stated policy intent is to continue to promote effective alternatives to the use of secure care and custody for children and young people who offend. Secure care is the most intensive and restrictive form of alternative care, designed to keep safe those children and young people who pose a very high risk to themselves or/and others at a certain point in time. Movement Restriction Conditions (MRCs) were introduced in Scotland as part of the Antisocial Behaviour etc. (Scotland) Act 2004. Although as highlighted by Orr (2013), their use to reduce recidivism has not been proven, they are part of Scottish Justice Legislation within the Children's Hearings (Scotland) Act 2011 as an alternative to secure care.

This paper builds on the previous research undertaken by Orr (2013) and considers whether the use of MRCs in Scotland has changed during the past three years. To understand and assess any change the statistics produced by G4S who hold the electronic monitoring (EM) contract within Scotland, were examined. A qualitative survey was circulated to Whole System Approach (WSA) leads within all 32 local authorities (Appendix 1). In addition, some views and experiences of Children's Reporters and panel members within the Children's Hearings System, (CHS), gathered as part of the Centre for Youth & Criminal Justice (CYCJ) secure care national project, have also been included in this paper. The paper looks at additional literature relevant to Scotland, and sets out some learning points from case vignettes provided by local authorities (Appendix 2).

The paper will show that practitioner perceptions of MRC have broadly remained unchanged and that there has been minimal increase in the numbers of MRCs in place as a direct alternative to secure care. This is despite attempts to promote the use of MRCs as a robust community alternative to secure care and custody through the introduction of the WSA and the new Youth Justice Strategy, *Preventing Offending, getting it right for children and young people* (Scottish Government, 2015), which develops this further under the advancing WSA workstream.

Whilst fully acknowledging the small number of cases within this study and subsequently limited experience from which to draw upon, this does not detract from the question as to why MRCs are not more widely utilised.

2. Introduction

Scottish Government policy promotes the use of alternatives to secure care and custody wherever possible (Scottish Government, 2011 & 2015). The WSA which was introduced in 2011 is underpinned by 'Getting it Right for Every Child' (GIRFEC), and research from the Edinburgh Study on Youth, Transitions and Crime (McAra & McVie, 2010). WSA involves putting in place streamlined and consistent planning, assessment and decision making processes for young people who offend, ensuring they receive the right help at the right time. It works across all systems and agencies, providing one holistic approach for young people who offend. The ethos of WSA suggests that many young people involved in offending behaviour could and should be diverted from statutory measures, prosecution and custody through early intervention and robust community alternatives. Movement Restriction

Conditions (MRC) as part of an intensive and robust wraparound support are one such alternative.

The WSA has contributed to significant progress in responding to offending by young people through early intervention and prevention strategies, resulting in the number of young people offending in Scotland (reported offences) reducing by more than half since 2008-2009. Despite these strides forward and the many improvements made across Scotland, the numbers of young people in secure care and custody at any one time have not reduced proportionately to the level that might be expected.¹

The previous paper on MRC use in Scotland (Orr 2013) suggested several factors were influencing the decision not to recommend/impose an MRC: negative practitioner perceptions, lack of will, and a lack of confidence in the efficacy of the measure from decision makers. This paper explores what if anything has changed since 2013, and outlines lessons to be learned, good practice in use of MRC and what more can be done to increase MRC use as an alternative to secure care and custody for young people in Scotland.

Some case vignettes, which provide some interesting discussion regarding the use of MRCs as “step-down” from secure care and potential benefits of the “tag” element of the order not previously reported are included within the paper. There are examples of the use of a MRC where a young person displays risk to self. The case vignettes begin to explore some of the important messages from practice which could be further explored to gain a clearer picture about the potential positive and negative impacts of MRC use in Scotland. The paper concludes by highlighting examples of good practice, what further learning is needed, specifically around the impact of MRCs on recidivism and alternatives to secure care, and what support is required to further extend the use of MRCs in Scotland.

3. Legislation

In Scottish legislation, a child is defined as someone aged up to 16 years or aged 16 or 17, if subject to a Compulsory Supervision Order (CSO) or an ‘open case’ to the Scottish Children’s Reporter Administration (SCRA).²

Those young people who are aged 16 or 17 and not subject to a CSO or an ‘open case’, will, in many cases, be dealt with via the adult court system. The current legislation in the form of the Criminal Procedure (Scotland) Act 1995, s49 (1), provides that these young people can be subject to advice and/or remittal to the Children’s Hearings System.

Within the Children’s Hearings System MRCs are used in three ways;

- where young people place themselves at risk/ are at risk through absconding, self-harming behaviours (e.g. substance misuse) or may experience risk to self through other means (Children’s Hearings (Scotland) Act 2011 - Secure Criteria)

¹ <http://www.gov.scot/Resource/0049/00499452.pdf>

² as outlined by the Children (Scotland) Act 1995, s93, Children’s Hearings (Scotland) Act 2011 s199 and the Criminal Procedures (Scotland) Act 1995 s307.

- as a direct alternative to placement in secure care or custody
- as part of reintegration into the community and “step down” from secure care.

Where a Children’s Hearing wishes to make a young person subject to a MRC, they must be satisfied that the young person meets the criteria for secure care³ and that all other community alternatives have been exhausted. An assessment of the young person’s suitability for a MRC should include the views of the young person and their parents or carers.

The Children’s Hearings Scotland Practice and Procedure Manual (Children’s Hearings Scotland, 2013) sets out the duties of children’s panel members to ensure that hearings explore the options and alternatives. MRCs are intended to be a direct alternative to secure accommodation for a child and as such must be discussed as an option by every hearing considering making a secure authorisation. However, as secure care offers a lot more than a restriction of liberty, a MRC should have support and therapeutic measures attached to meet the needs of these young people in the same way. A MRC alone will not do this.

The United Nations Convention on the Rights of the Child (UNCRC) Article 37 (B) also highlights that loss of liberty for young people should only be used as a last resort and for shortest period of time, and by young people, they refer to everyone under the age of 18.

4. Scotland: The Current Picture

Secure Care and Custody

Secure care in Scotland was reviewed as a result of the recommendations made by the Securing Our Future Initiative (SOFI) which reported in 2009. Following that review (Scottish Government, 2009) the total number of secure placements was reduced from 124 to 90. Secure care usage has been on a downward trend in Scotland since this reduction until 2014, as Table 1 shows (Scottish Government, 2015). In 2014 there was an increase of 8% on 2013 and a further increase of 15% in 2015. [Secure care was again reviewed in 2016](#) with the recommendation to create a secure care board.

The data below may be suggesting that we are starting to see an increased use in secure care and custody over 2015/16 following a significant downward trend since the peak in 2007/08. However, the situation in Scotland is changing, and the figures for 2015/6 are likely to show a drop in numbers of young people who ordinarily reside in Scotland being secured. The numbers of young people placed by other UK jurisdictions in the Scottish secure centres have been steadily increasing since December 2015 when there were seven cross border placements to 32 in August 2016.

³ (a) that the child has previously absconded and is likely to abscond again and, if the child were to abscond, it is likely that the child’s physical, mental or moral welfare would be at risk;
(b) that the child is likely to engage in self-harming conduct; or
(c) that the child is likely to cause injury to another person.

Table1: Total number of admissions to Secure Care in each year

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Number of admissions	307	346	272	314	273	237	215	232	248

* Note the same child may be admitted to secure care more than once in any year.

Comparatively, over the past four years, we have not seen a significant or proportionate increase in the use of MRCs. Table 2 shows that the peak use of MRC was in 2006/7 with very low numbers of orders made across 2011-2013. The most recent data shows an increase in MRC use with a total of 27 orders made between March 2015 and February 2016. It could be argued that this has had an impact on Scottish secure care placements, which have reduced.

Table 2: Total number of MRCs made in each year

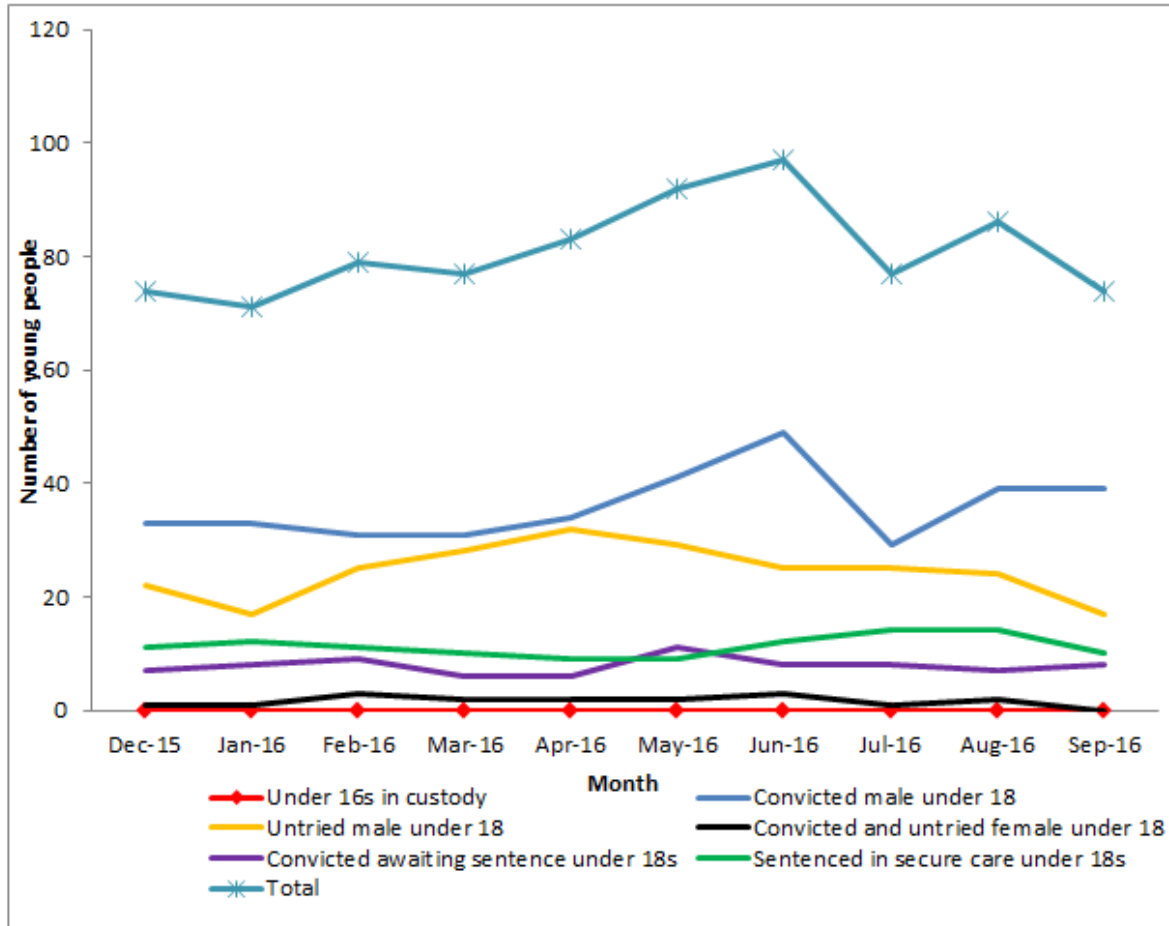
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total orders made	37	25	28	30	10	18	4	12	31	27

However, MRC use in Scotland remains low, so there is little new data to draw on since Orr's paper (2013). A total of 27 MRCs were made between March 2015 and March 2016 across nine different local authority areas, which is less than a third of all Scottish local authorities. As the largest authorities, Edinburgh and Glasgow have a higher MRC use than other local authorities with the CHS imposing 24 MRCs in Edinburgh between March 2013 and October 2015, and 29 in Glasgow during the same time-frame (G4S, 2016).

Although there has been a slight increase in the use of MRCs, the data would indicate that this is not as a direct alternative to secure care or custody as often as perhaps it might be.

Graph 1 shows data obtained from the Scottish Prison Service (SPS) (December 2015 to September 2016) of the numbers of young people under age 18 in custody and those sentenced to secure care by the adult Court each month.

Graph 1 Data on the number of under 18s in custody Dec 2015-September 2016



These figures show a general increase in the number of young people in custody, particularly in the number of untried young males in custody, although figures for July show a reduction in each of these figures. The number of young people sentenced in secure care has remained generally around ten. The custody figures would also suggest the average daily under 18 population from December 2015 to September 2016 has been 70. Whilst at this time, it is out with the scope of this paper to consider the merits of electronic monitoring with respect to its use as an alternative to remand, the custody figures for under 18's highlight a future possibility for its use in this regard, as is the Scottish Government intention.

Again, this paper has not examined the reasons for these young people being placed in secure care or custody and cannot comment on whether alternatives such as intensive and robust wraparound supports or MRCs could have been applied. What is clear is that MRCs are not, on the whole, being used as an alternative to secure care or custody.

Alternatives to Secure Care and Custody

The Scottish Government guidance on Alternatives to Secure Care and Custody (2011) highlights that irrespective of the system in which young people find themselves in (the CHS or Courts) young people should be supported to remain in the community where possible. [A Guide to Youth Justice in Scotland](#) (CYCJ, 2016) sets out good practice in risk assessment and management of young people who place themselves or others at risk of serious harm. Key areas which contribute to good outcomes for young people include the provision of stable accommodation and pro-social opportunities in the community; robust monitoring and surveillance and; speedy responses to crises and further offending behaviours.

It is well documented that the number of young people who offend (reported offences) in Scotland has reduced by 45% between 2009 and 2013 (Lightowler *et. al*, 2013). Despite this, Dyer (2016) points out that many young people still appear in court, with the percentage of cases where advice was requested staying consistently at 10% and those remitted to the CHS at approximately 5% since 2008/2009. This suggests that little has changed for young people in the adult court system, despite availability and some promotion of MRCs as a community alternative within the Children's Hearing or as a Restriction of Liberty Order at Court.

Within the adult population, the use of EM is seen as being most effective as a direct alternative to custody (Graham, 2015), reinforcing the current policy stance with increasing the use of EM as an alternative to remand and short custodial sentences and MRC as an alternative to secure care. EM has been used and promoted more effectively across the adult justice System. What are the factors influencing decision makers differently within the CHS and youth justice systems?

In adult systems, EM was considered least successful where individuals were experiencing family turbulence, accommodation instability and/or were not motivated to engage with the EM process. For young people being released from custody on a Home Detention Curfew (HDC), many breached their Order through limited/no support being offered as part of their Order. Family turbulence is likely to be the experience of many young people who meet the secure care criteria. A snapshot (January to March 2016) of placement types prior to placement in secure care, taken from Scotland Excel data, shows that of young people coming into secure care 24.7% were from a children's home and 24.1% from a residential school, 6.8% came from another secure centre or close support facility, and 35.7% of placements were made from the community (parental home, kinship care, foster care, independent living, and homelessness). Only 24.7% of these community placements related to young people who were living at home with parents prior to their placement in secure care.

5. The Current Practice Perspective

A survey of WSA leads was undertaken in November 2015. The questions posed replicated the findings of the 2013 evaluation of MRCs in practice (Appendix 1), the aim being to consider whether practitioner views have remained the same or changed. Whilst the 2013 study received responses from 22 of 32 Scottish local authorities, only 12 local authorities responded this time. There may be a variety of reasons for this, however, considering the

collection method used, many potential respondents chose not to complete the survey and of those who did, several did not identify which area they were responding from meaning it was difficult to target specific areas for follow up. For those who did not complete the survey, this may be due to time pressures or due to the reduction in the number of dedicated youth justice practitioners and teams across Scotland.

In addition to surveying those within social work services, data has been accessed from a separate piece of research undertaken as part of the [secure care review](#). The secure care national adviser met with two small groups of senior Children's Reporters for focus group discussions on Children's Hearings and decision making around secure care. Thereafter, a questionnaire was shared at the SCRA/CHS Hearings Management Group which includes SCRA locality areas and Area Support Teams (ASTs), who support children's panel members in local areas on behalf of the National Convener. The returns represent 17 of Scotland's 32 Local Authority areas.

Practitioner knowledge and buy-in

When asked about increasing the use of MRC's in Scotland, seven out of a potential 12 local authority respondents highlighted that it was not recommended enough in their area by the lead professional. They felt this was a barrier to increased use due to their lack of knowledge/understanding of such an order, with no specific barriers highlighted by the remaining five. Those who commented further suggested that MRCs remain contentious for practitioners, their managers and children's panel members. Two respondents suggested that practitioner and manager "buy-in" is needed to enhance usage and three respondents stated that internally, either they were trying to keep MRCs on their local agenda through in-house promotion or were developing local guidance following the relaunch of the national guidance launched in May 2015 on how MRCs can be used.

SCRA and CHS respondents reported some consistent messages around MRC use and secure care authorisations. Firstly, all individual panel members, ASTs or Children's Reporters stated that to their knowledge local authorities had not implemented a secure care authorisation. Whilst we have no way of knowing if this is an appropriate decision or not, questions remain as to whether there is sufficient consideration of MRCs as an option within Children's Hearings. The role of Chief Social Work Officers in deciding whether to implement secure authorisations and/or if at this point, an MRC may be more suitable also merits further exploration. Research on the attitudes and perceptions of Chief Social Work Officers will be published by CYCJ in 2017.

Secondly, both SCRA and CHS respondents described limited community alternative resources for young people at very high risk. One AST response reported a disparity between the resources available and those needed to support young people, resulting in them remaining in secure care. Another ASTs opinion was that limited resources and financial pressure on one local authority, led to young people returning to the same resource as prior to them being placed in secure care, with the outcome being a return to secure care when the placement broke down. Considering this issue of resources, there is a need to assess what resources are available to meet young people's needs, or whether attempts to return them to the community are based upon what is available and not what is appropriate. The responses above suggest that there is a need to consider wider issues such as what components make a robust community based package of support to which is credible in the

eyes of decision makers and most importantly, will contribute to the effectiveness of an Order, such as a MRC.

There was a consistent view across all the responses that there is a need for sufficient “step up” supports to prevent young people entering secure care as well as “step down” resources for those leaving secure care. It was considered that these resources are not always available to young people resulting in them being placed in secure care, remaining in secure care and experiencing difficult transitions due to the geographical positioning of secure care services in Scotland.

Feedback from local authority respondents, children’s panel members and children’s reporters highlights that resources are an issue in decision making. There needs to be appropriate and sufficient resources to manage risk within community settings as part of an MRC for workers and panel members to have the confidence to recommend and make such an Order. Having the EM element without support has been shown not to work for young people (see case studies). Having appropriate resources, which will include being creative, social workers should assess for a MRC and where appropriate make this recommendation within their reports if secure care is being considered, or young people appear to be heading in that direction through their behaviour/risk. If not included in social work reports, there is a risk that panel members will not consider this a viable option as an alternative to secure care. In cases where this does not happen, social workers therefore need to have the knowledge and confidence to make this recommendation and the resources available to offer the right support.

The use of emergency secure transfers is another means by which young people are placed in secure care⁴. For this to occur, the Chief Social Work Officer and Head of Unit must be satisfied that the young person meets the secure care criteria and that the response is in the child’s best interests. This can only be for a maximum of 72 hours without a further decision being made by CHS or the Court. There was a sense of an increase in the use of this power in some local areas, as reported to the Secure Care National Advisor. However, there is a need to further explore whether there has been an actual increase in the use of such powers and if so whether the use of emergency powers contributes to a lack of consideration of alternative responses to crisis and high risk, such as MRCs

Guidance

There was consensus from all WSA leads (12 local authority respondents) that clear guidance is needed for children’s panel members. The view from practice was that whilst an MRC must be considered by a Children’s Hearing, there is reluctance from many panel members to consider restricting the liberty of a child through the use of a ‘tag’. On the other hand, there appears to be more willingness to restrict a young person’s liberty through the use of secure care. Several reasons for this were proposed including: panel members agreeing with the intensive support element but not the MRC; panel member anxiety about the benefits of MRCs linked to a lack of a clear assessment from social work regarding how the young person could be managed in the community and; uncertainty regarding the

⁴ The Children’s Hearing (Scotland) Act 2011 s143 allows for young people who are; 1) subject to a CSO, 2) subject to an interim CSO, 3) provided with accommodation on a voluntary basis by the local authority or 4) subject to a permanence order; can be placed in secure accommodation without the authority of a children’s hearing.

positive and negative effects on young people and their families. What seems apparent is that greater anxiety exists with regards to the management of cases within the community despite restriction and therefore the desire for greater scrutiny. Whereas, irrespective of support, treatment or the service offered, the question that needs to be asked is whether containing young people in secure is more about containing professionals' anxieties, in the short term, rather than seeking to robustly and defensibly manage risk? If this is the case, a further question needs to be posed in terms of what needs to be in place to make community based restriction feel sufficiently robust?

Comparing the responses of those compiling reports for hearings with comments from SCRA and CHS survey respondents, the perception of the problem appears to be quite different. It was notable that none of the SCRA or CHS respondents indicated issues with a lack of confidence or willingness in MRCs per se, rather, comments referred to lack of recommendations in reports to the hearings, cases not being suitable for an MRC or lack of confidence in the community resources available to support MRC as part of an alternative package. The survey responses and interviews with Children's Reporters suggest that enhanced guidance and training in relation to consideration of options and alternatives to secure care might be helpful across the CHS.

Panel members noted that as far as guidance was concerned there had been some perceived positive changes, with one AST reporting that recent local authority guidance had led to an increase in assessments highlighting community alternative resources and their possible use. Although this appears to be a step in the right direction, it has not resulted in an increase of use of MRCs within this geographical area.

Knowledge Gaps

Some 92% of local authority respondents said they do not have sufficient knowledge about either positive or negative effects or impact of MRC use on young people and their families. Practitioners were particularly interested in post-restriction recidivism (75% of respondents) as well as the impact of MRCs on recidivism during the restriction period (50%). Of the respondents, 50% wanted further evaluation of whether MRCs are value for money and 42% on whether MRCs contribute to net widening.

Whilst indeed there is a need to understand the impact and benefit of MRCs and respond to the sceptics, it is important to highlight that to date, there is equally limited research with regards to the impact of other orders such as Community Payback Orders (CPOs) and Compulsory Supervision Orders (CSOs) or in fact the impact of secure care in Scotland. Yet there does not appear to be the same barriers, anxiety or scepticism about the imposition of these, either with practitioner groups or from decision makers.

6. Learning from practice

Given the current limitations of available data to inform an evaluation of MRC use and effectiveness in Scotland, detailed case vignettes may assist our understanding.

Two local authority areas provided the following four case examples. One is a semi-rural local authority where MRC use is infrequent, the other, a large urban local authority where

MRCs have been used more frequently in recent years. The pro-forma in Appendix 2 was used to collate this information.

Case Study 1: Amy

Amy is a 16 year old female, who lived with her biological parents until age three. Following her parents' separation, she continued to live with her mother until the age of 13. At primary school, there were reports that Amy was the victim of bullying which led to her completing primary 6 and 7 at a different school. At the age of 13, Amy moved to live with her father and step-mother due to a break down in her relationship with her mother and difficulties controlling her behaviour. Following a short stay with her father, this placement also broke down leading to Amy being accommodated by the local authority on a voluntary basis with foster carers.

Amy's placement broke down after several months due to her misuse of substances. Due to her association with older peers there were also concerns regarding the level of risk to which she may be exposed. At this point, she moved to live in a local children's unit and was made subject to a CSO.

Following her being charged with low level offences, absconding, continuing to misuse substances and associating with older peers, a further move of placement was sanctioned. Amy was reported to have engaged with this placement for a short time before returning to absconding and misusing substances. Due to these concerns, a Children's Hearing was convened and Amy was placed in secure care due to concerns around her vulnerability and absconding.

Following several months within secure care, the decision of a review Children's Hearing was to make a MRC following assessment of Amy's suitability.

Restriction in Practice

The MRC was in place for approximately three months with the restriction being a 9pm - 7am curfew. This was agreed as part of a process of regular multi-agency meetings to consider Amy's risks and needs and to review the effectiveness of the sustainability of the MRC. During this time Amy was required to return to her residential unit by this time. With regards to the termination of the order, the reason for this was due to Amy becoming unwilling to engage in elements of the support package, such as education and was eventually viewed as a barrier to her moving on into adulthood and successfully gaining employment. Amy was described as motivated for the first two to three weeks of the order; however, the motivation to engage in the support package deteriorated gradually.

The regime in respect of the order involved Amy returning to the residential unit by 9pm. When Amy was in the community, the support available to ensure Amy did not breach her curfew involved Amy keeping contact with the residential unit regarding her whereabouts and Amy became proactive in phoning the unit to inform them with her whereabouts and request for a lift home if there was a risk she would not return in time. Despite these positives, the restriction did not prevent Amy from engaging in risk taking behaviour out with the restriction period. It is within those parameters that the worker involved remained

uncertain how beneficial the Order had been on the whole in comparison to the largely consistent safety and security of a secure care placement.

Case Analysis

The worker involved in this case viewed it as broadly successful, with the use of the MRC as part of “step-down” from secure care, but highlighted that there were also several learning points and limitations to its success. Considering the information within the case study, it is also useful to consider the primary reason for the young person being placed in secure care was due to risk to self as opposed to her being involved in offending behaviour which placed others at risk. Considering how this is helpful for practice, to date, the literature has not provided any focus on those young people whose vulnerabilities increase their risk to self, the wider flexibility of the order or link with Child and Adolescent Mental Health Services (CAMHS).

Regards the benefits of the MRC, much emphasis within the literature has been placed on the use of the intensive support and “wrap around” elements of MRCs and suggests that this is more effective than the restriction element. Indeed, when considering risk of harm to self-cases, further work is required in understanding how and if the “wrap around” element of the intensive support can be tailored to this approach, and what if anything should be different for girls and young women, as opposed to young men. Within this particular case, CAMHS were involved at the early stages of the MRC, however, this involvement ended shortly after its imposition.

In Amy’s case, it would appear that this case “bucks the trend” with the young person being described as responsive and motivated by the restrictive element of the order. The worker highlighted that although there remained occasions where Amy did not comply with the MRC through failure to return on time, largely, Amy would make contact with key workers when she was concerned that she may miss her curfew, allowing for “check-in” to ensure she was safe and offering a means of knowing her whereabouts. One significant incident took place whilst Amy was subject to her MRC where it is described that she had been out with friends and contacted her support staff for a lift home. On getting to the arranged meeting place the staff found Amy unconscious and requiring medical treatment. Whilst concerning and similar to her previous behaviours, the view of her worker was that the MRC had served a purpose, in that, by Amy contacting support staff, they were able to seek medical attention for her and keep her safe when things went wrong.

Finally, considering the intensive support package in place, the worker involved highlighted that the package of support designed included: private tutoring to address education needs, structured activities (e.g. outdoor activities and Youth Achievement Awards), independent living skills and 1:1 work on risk taking behaviours. The worker highlighted that until Amy reached age 16, she engaged well with the structure and developed a strong bond with one particular worker. Whilst Amy has continued to engage in supports, she has opted to disengage with the education element, perceiving this to be a reasonable choice because of her age.

A key learning point for those involved was the importance of the role of the family. Although Amy was within residential accommodation as part of “step-down” from secure care, her

family difficulties still remained. The message from those involved was that consideration should have been given to undertaking family work prior to the MRC. This would have allowed an opportunity to address difficulties which had been long standing and played a major contributory role in Amy's risk taking behaviour. It was also noted that the supportive element of the order was just as, if not more, important for Amy as the controlling elements, allowing her the opportunity to engage in activities and develop positive relationships.

Case Study 2: Barry

Barry was aged 16 at the point when a MRC was imposed. He was detained in secure accommodation on an emergency basis after being found in possession of several thousands of pounds worth of class "A" drugs. At the point when Barry was detained, the team around Barry had already initiated an assessment for a MRC.

Barry was detained in secure care for several weeks to allow for a period of stability. It is known that prior to this offence, Barry had previously experienced several periods in secure care. The worker involved pointed to there being recognition that his detention could not continue indefinitely and it was clear that past attempts to reintegrate Barry to the community had failed.

Following a Children's Hearing imposing a MRC and support package, an intensive foster care placement was identified and careful planning involved the carer taking leave from employment to be responsive to Barry's needs during the early days of the placement.

In terms of the package of support put in place, Barry met with his allocated social worker and a resource worker weekly, as well as receiving input from a Skills Development Scotland Worker and throughcare worker. The focus of this support was to establish a structure and routine to his day to help him access an employability training course and consider his future aspirations and goals. Family contact was also considered important within the planning process. Regular contact was arranged for Barry with his mother and siblings.

Restriction in Practice

Barry was subject to a MRC for a period of three months, initially including a 7pm - 7am curfew which reduced following a review multi-agency meeting to 9.30pm - 6.30am. The worker involved described a planning process which included multi-agency partners and Barry. This process ensured the order would be tailored to Barry's needs and risks and considered carefully the timing of the order and resources needed to meet these. Regular reviews were also held to ensure robust management of the plan. The order ended following a review Children's Hearing.

Case Analysis

The worker involved was of the view that the restriction element of the order was unsuccessful, however, despite episodes of non-compliance, Barry returned to his placement on time, on the majority of occasions.

The most successful part of the order, in this case, was deemed to be the intensive fostering placement and being able to access a training course early on in the order. This allowed

Barry to establish a sense of security in relation to his living arrangements and it is reported that several months on from the end of the order he remains in placement.

In terms of accessing a training course quickly, this was reported to have had merit in providing Barry with a meaningful structure. There is no doubt that both of these supports would have contributed to motivating Barry to engage with the process to the extent he did.

Despite Barry returning to placement on time, there was still some uncertainty about whether the MRC itself had been purposeful. Reflecting on the experience, the worker's view was that young people need to be highly motivated to be able to comply with the order. In this case, Barry appeared to become frustrated by the curfew after a period of two months. Considering that there are few consequences of failing to comply with the order, the worker's experience suggests that there is a need to take stock of when the restriction element has served its purpose and whether risk can continue to be managed in the community without it.

Nellis (2013b), points to international learning and suggests that a flexible approach, including 'days off' from the MRC, would promote motivation to continue the order. The Council of Europe guidance strongly promotes the idea of lessening restrictions over the course of the order and highlighting this option at the start. From the perspective of young people, this approach will give early key messages that compliance will be beneficial and where it is possible to lessen restrictions; will give a tangible reward.

Case Study 3: Carrie

Carrie is a young female, under 16, who met the criteria for secure care through absconding from home and placing herself at risk. The context of her absconding centred on her online relationship with an adult male. The worker involved described that the adult male had coerced Carrie to leave home and travel to the south of England to live with him. Carrie's family appeared to lack the control to prevent Carrie from meeting the older male.

Initially, intervention attempts focused on protecting Carrie from assessed risks associated with this relationship which included Carrie being placed within a residential setting, the expectation being that she could be monitored and supervised more effectively as a result. Following her repeatedly absconding from the residential placement, she met the secure care criteria through absconding and risk of harm to herself when she absconded. The recommendation to a Children's Hearing was to impose an MRC with the equipment installed within the residential unit. Carrie was made subject to a 9pm - 7am curfew and the order was in place for three months.

Case Analysis

The worker involved with Carrie did not report any issues that arose from the MRC or any lessons to learn.

Considering the benefits of the order, the worker highlighted that Carrie was willing and able to comply with the order and being able to restrict her movement took control away from the adult male. The worker noted that Carrie was able to use the MRC as an excuse when the adult male tried to coerce her into leaving home.

Considering the package of support in place for Carrie, in addition to the support provided by the residential placement, 1:1 work with the allocated social worker took place on a weekly basis. This input included therapeutic work using CEOP materials to develop an understanding of risk, power and control and further support was provided in relation to improving self-confidence. The worker considered that the MRC provided a period of containment to complete this therapeutic work.

Reflecting on the merits of the order for Carrie; the worker was of the view that the MRC provided an opportunity to help her regain control of a situation where she felt pressured and controlled, as well as providing a window of opportunity to engage her in therapeutic work. The worker highlighted that in similar cases a MRC may also be successful in addressing risks and managing controlling situations.

Case Study 4: Darren

Darren is a 15 year old male from an urban area in Scotland. The circumstances that led to Darren being made subject to a MRC included: risk to others and through his involvement in gang violence, being charged with offences of a violent nature and anti-social behaviour. In terms of factors associated with potential risks to self, substance misuse (both drugs and alcohol) and absconding were also issues of concern.

Prior to and during the period that the order was in place, Darren lived at home with his mother and the MRC was used as a direct alternative to Darren being placed in secure care. Darren had previous experience of being looked after away from home both in secure care (remand) and within a children's unit, however, these responses to his needs and risks did not lead to a reduction in his level of offending behaviour.

The process of assessment and intervention in this case involved the application of the Structured Assessment for Violence Risk in Youth (SAVRY) to inform criminogenic need and an offence analysis to assist with understanding Darren's behaviours. Wider assessment included family functioning, developmental needs and a mental health assessment from the local CAMHS. This information and assessment gathering process in turn, informed the intervention plan which included weekly contact with Darren to provide offence focused and motivational work around goal setting, and developing a positive environment by engaging Darren in outdoor activities designed to create risk scenarios and increase his problem solving skills. The MRC was in place for a period of two months, with the worker reporting that termination of the order came about due to Darren continuing to offend. Whilst the MRC appeared to address the frequency of his offending behaviour, the worker noted that during the restriction period the nature and seriousness of his offending behaviour instead increased. At a review Children's Hearing the view of the team around Darren recommended that the order was not sufficient to manage the risks.

Case analysis

Considering the merits and challenges in relation to the imposition of the MRC in this case, the view of the worker involved was that broadly, the MRC was effective in reducing the frequency of episodes of risk taking behaviour and crisis for Darren and allowed him to remain at home. It was the worker's view that whilst the "tag" was in place, the combination of the "tag" and the intensive support package offered opportunities to engage Darren, as well as unexpected changes. For example, Darren attended an interview and successfully

obtained a training placement. It was thought most likely that work around goal setting and motivation to change had been the catalyst for this success.

Whilst there were some successes in this case, there were also challenges and learning highlighted. There was a perception that the imposition of the MRC had reduced the number of episodes of risk taking behaviour for Darren, however, there remained challenges in terms of Darren failing to comply with his order and his worker was of the view that these episodes were very concerning.

Three clear messages were also evident when reflecting on the use of a MRC for Darren. Firstly, the support package was felt to be the main driver for change for Darren, but there was a need to ensure that expectations of what could be achieved were realistic. For example, whilst Darren accessed a training placement, this was full time and became unmanageable for him. Secondly, the duration of the MRC and motivation to continue with the order, were issues. The worker viewed that the longer the MRC was in place, the less effective it became. Finally, a salient point was made in relation to the impact of the MRC post restriction period. In this case, it was noted that in the short term, the MRC had effected some change. However, when supports were reduced, Darren's behaviour would deteriorate. Overall, whilst there was an opportunity to engage with him, and he was motivated to do so, it appeared difficult to affect consistent positive change in his behaviour.

7. Discussion

Drawing on the learning from the cases shared by practitioners, it is clear that there is a need to take a holistic approach to assessments of young people and ensure supports are put in place to motivate young people to comply with MRCs. In all of the cases, there was evidence of compliance. Despite episodes of failing to comply, there was no evidence of full non-compliance.

All four young people, in the main, appeared to try to comply with the restrictions. Considering the information provided regarding the two young women made subject to MRCs due to risk to self and vulnerability associated with potential sexual exploitation and substance misuse, both case workers noted that the MRC provided an opportunity to engage them in relevant interventions. Whilst it is unclear whether MRC use has increased with regards to 'risk of harm to self' cases, it was hypothesised prior to writing this paper that all of the cases identified within the research would relate to offence related matters. In which case, there is a need to explore further how many MRCs have been made in such cases, what are the benefits and can MRC use be promoted as a result?

In one of the cases, reduced risks associated with substance misuse and absconding were evident and in another, reduced risk of absconding and sexual exploitation. Exploring further the potential role of a MRC in managing risks associated with sexual exploitation, the Sexual Exploitation Risk Assessment Framework (SERAF) (Clutton & Coles, 2007) highlights the significance of "older boyfriends" or controlling adults within a relationship context, pointing to the use of control within these relationships as a potential pathway into sexual exploitation. Indeed, the 2007 pilot found 88% of female clients who were open cases to Barnardo's had an "older boyfriend" or experience of controlling relationships. Considering therefore, Carrie's case (Case Study 3), there are evident similarities with respect to potential risk and evidence from this case that a MRC may therefore, in this case, offer the

possibility to manage risk associated with sexual exploitation. Previously, we would have likely considered that such risks could not be managed outwith a secure setting or perhaps viewed an MRC as punitive, rather than protective and offering an opportunity to support a young person with the risks associated with sexual exploitation.

Considering the effectiveness of the MRC in relation to the two cases where offending behaviour had been the main concern, one worker noted that during the restriction period there were incidents of non-compliance through failure to return home which increased the time-frame of the order. However, no reference was made to offending behaviour during the restriction period. The worker of the other offence related case noted that during the restriction period there was evidence that the MRC had reduced the frequency of episodes of offending behaviour, however, the seriousness of the offences reported, was largely the same as prior to the restriction period.

In all four cases, the clear message from the workers highlighted that the support package in place was key to effecting positive changes. There was, however, some contrast in terms of the impact of the “tag” element with two workers viewing this as making a very positive contribution to reducing risk and creating opportunities to engage with young people, but both workers noting little change in relation to non-compliance in one case and in the other, changes in the type of offending behaviour.

Comparing the information gathered in this report to Orr’s (2013) report, undoubtedly MRCs remain contentious across practitioners, managers and decision makers. The messages from practice remain the same with uncertainty regarding the impact of recidivism during and post MRC, the effectiveness of MRCs and the effects of the order on young people and their families. Questions also exist about how aware practitioners are of the scope of MRCs in addressing both issues of risk to self and others, and the frequency of practitioner consideration of MRCs as a viable option.

Messages from those involved in decision making, such as panel members, suggest that whilst MRCs are considered as part of a process when secure care is being discussed, MRCs are not routinely recommended by report authors. Additionally, those who responded pointed to the need for sufficient and credible resources to manage risk in the community, for example, young people not returning to placements that previously had been unsuccessful in meeting their needs. To be able therefore to provide decision makers with confidence that MRCs are a viable option, a clearer definition of community alternative provisions and guidance for local authorities on how to deliver robust and sufficient assessments, and packages of support which evidence how risk might be mitigated and young people’s needs met, might be helpful.

8. Recommendations

This paper aimed to examine if MRC use had changed in Scotland in recent years and the reasons for this; what lessons could be learned, what good practice in MRCs might look like; and what more might be done to enhance the use of MRCs.

Both this and Orr’s paper (2013) report a need to increase levels of confidence and understanding among report writers in relation to the potential benefits and creative use of MRCs as an alternative to secure care or custody. Full and considered assessments are

required to be undertaken and recorded within reports regarding the recommendation of MRCs, or how are decision makers expected to have sufficient confidence to make such an order? It is apparent that decision makers' understanding of the implications and benefits of imposing a MRC is questionable and requires to be addressed to support the decision making process. In addition, where a detailed assessment and plan is not evident when being asked to consider a MRC it is crucial they insist on this being undertaken. Flexibility within the order has been shown to be more effective, and this needs to be taken into account when decisions are being made.

In relation to the effectiveness of the restriction elements, and the merits of the support package, the paper highlights examples of how the "tag" element benefitted four young people with differing circumstances who presented a risk to themselves or others, through their behaviour. Whilst these examples offer us an insight into the use of alternatives to secure care and custody and how support packages can be tailored to need, they are just four examples, and further research is needed to explore the resources used across Scotland as part of such intensive support packages, as well as the views and experiences of young people.

For young people in Scotland we can only use EM as part of a MRC, which is an alternative to secure care. Perhaps we need to adapt the range of legal and policy frameworks and view EM as being versatile enough to meet the different needs of young people. As we have seen, the use as an alternative to secure care is not quite accurate, as secure care is more than just a restriction of liberty. Perhaps EM could be used as part of a step-up and step-down process within the CHS. We welcome the Scottish Government's intention to use EM as an alternative to remand and short-term prison sentences that will impact upon young people aged 16 and over within the adult justice system, but more needs to be offered to young people within the CHS.

In summary, if we are to consider and develop MRCs as a robust alternative to secure care, this paper identifies several key areas for action:

1. Where secure care is being considered, there is a need for a clear assessment of whether risk can be managed within the community or whether a young person could only be contained within a locked building. All social work reports to Children's Hearings where secure care is likely to be under consideration need to clearly set out their assessment and recommendation regarding intensive support and MRC.
2. As stated in legislation, Children's Hearings must always discuss and assess if a MRC is an appropriate alternative option to secure care when secure care is being considered for a young person. This assessment should be as robust as possible.
3. If a MRC is being ruled out as an option, the reasons for this decision should be clearly verbalised and written, outlining the decision and reasons why a young person could not be supported to remain in the community.
4. The meaning of a community alternative package needs to be defined with clear guidance provided on this, outlining the importance of such a package within the context of a MRC. EM alone is not sufficient (or legal) as an alternative to secure care or as an expectation for young people to adhere to.

5. There is a training need identified for local authorities and panel members which includes the impact on the young person and their family, a demonstration of equipment and examples of creative orders being used as part of 'step-up' and 'step-down'.

6. We need to examine the legislation and policy surrounding the use of MRCs and be more creative in how we apply such measures. There are future possibilities that would require legislation change, such as, young people being remitted to CHS from Court for a MRC as an alternative to a custodial sentence or remand, or the use of a MRC as part of 'step-up' or 'step-down' from secure care. Could the scope be extended to this?

9. References

Clutton, S & Coles, J (2007) Sexual Exploitation Risk Assessment Framework: A pilot study, Barnardo's

Dyer, F. (2016) Young People at Court in Scotland, Centre for Youth & Criminal Justice (CYCJ) Glasgow

Graham, H. and McIvor, G (2015) Scottish and International Review of the Uses of Electronic Monitoring, the Scottish Centre for Crime and Justice Research (SCCJR), REPORT No.8/2015

G4S (2016) Electronic Monitoring to the Criminal and Youth Justice systems in Scotland Statistical Bulletin January 2015-December 2015, Glasgow:G4S

Moodie, K. (2015) Secure Care in Scotland, a Scoping Study: Developing the measurement of outcomes and sharing good practice. Centre for Youth & Criminal Justice, Glasgow

Nellis, M. (2013a) Survey of Electronic Monitoring (EM) in Europe: Analysis of Questionnaires 2013 Strasbourg: European Committee on Crime Problems (CDPC), Council for Penological Cooperation (PC-CP). Available online at: www.europis.org/resources_package/report-mike-nellis-survey-of-electronic-monitoring-in-europe/ (Accessed 9/3/16)

Nellis, M. (2013b) 'Surveillance, Stigma and Spatial Constraint: The Ethical Challenges of Electronic Monitoring' in Nellis, M., Beyens, K., & Kaminski, D. (eds.) Electronically Monitored Punishment: International and Critical Perspectives, London: Routledge.

Orr, D. (2013) "Movement Restriction Conditions (MRCs) and youth justice: Learning from the past, challenges in the present and possibilities for the future", Centre for Youth and Criminal Justice (Briefing Paper 2), Glasgow: CYCJ

Scottish Government (2011) Alternatives to Secure Care and Custody Guidance www.gov.scot/Resource/Doc/351924/0118157.pdf

Scottish Government (2015), Children's Social Work Statistics Scotland, 2014-15 www.gov.scot/Resource/0049/00497773.pdf

Appendix 1

Implementing Movement Restriction Conditions (MRC's)

Manager's Survey 2015

Name:

Local authority:

Following the publication of the CYCJ briefing paper Movement Restriction Conditions (MRC's) in Youth Justice (Orr, 2013) and the launch of the revised MRC guidance in May 2015, our aim is to understand the current situation for practice in terms of implementing MRC's.

We would be grateful if you could take some time to complete this short questionnaire to assist us with thinking about how to meaningfully support practice in this area.

1. **How many cases (approximately) do you have in your area where young people under 18 are subject to an MRC?**

2. **How is data on MRC's recorded in your area?**

3. **In the 2013 CYCJ briefing paper on MRC's there were a range of suggested barriers to increased MRC use, please circle any of the following remain relevant in your area?**

- Few recommendations to hearings by lead professionals
- Lack of awareness by practitioners of MRC's as an option
- Ethical/ideological reservations by practitioners
- Lack of resources to support "wrap around" support linked to an MRC

4. **What could be done and by who to assist the usage of MRC's in practice?**

5. Thinking about guidance and support in terms of implementing MRC's, would you consider there are particular groups that require input on the use of MRC's e.g. social work practitioners, children's panel members etc.

6. Please tick **THREE** of the following statements which you would consider key to enhancing MRC use for offence related cases in your area.

- Understanding whether MRC use reduces reoffending during the restriction period
- Knowing whether MRC use impacts on recidivism post restriction period
- Understanding both positive and negative effects of an MRC on the individual
- Knowing whether MRC's are value for money
- Having information about whether MRC use may result in net widening

7. Anything else

Appendix 2

Movement Restriction Condition (MRC) - Case Vignette Template

1. Describe briefly the situation that lead to the young person being subject to the order (e.g. risk to self/others/absconding etc., as well as the age and type of behaviour they were involved in.)

2. What was the duration of the young person's order?

3. What types of support were included within the support package?

4. Can you give examples of what worked for the young person e.g. within the support package/ any benefit of the MRC in relation to monitoring and supervision?

5. For cases where an MRC didn't work so well, what issues arose and for who (e.g. panel members, social work etc.)

6. What learning/things would you did differently from the experience of this case?

7. Any additional information