

SCRA response to the Scottish Government's consultation

Background

The Children's Hearings System is Scotland's distinct system of child protection and youth justice. Among its fundamental principles are:

- That children who offend and children who are in need of care and protection are dealt with in the same system
- That the welfare of the child remains at the centre of all decision making

SCRA operates the Reporter service which sits at the heart of the system. SCRA employs Children's Reporters who are located throughout Scotland, working in close partnership with other professionals such as social work, education, the police, the health service and the courts system.

SCRA's vision is that vulnerable children and young people in Scotland are safe, protected and offered positive futures. We will seek to achieve this by adhering to the following key values:

- The voice of the child must be heard.
- Our hopes and dreams for the children of Scotland are what unite us.
- Children and young people's experiences and opinions guide us.
- We are approachable and open.
- We bring the best of the past with us into the future to meet new challenges.

Response

We welcome the opportunity to comment on these regulations. The key point we wish to make is on the issue of notification, which also arises in our response to the Procedural Rules which will be submitted to the Scottish Government on 27 January. It would be helpful to read the two responses alongside each other, but in summary, we believe that there are a number of areas in the draft rules where the notification provisions are drawn too broadly and result in a disproportionate interference with the privacy rights of the child and/or relevant persons. We have similar concerns over the notification provisions in regulations 4 and 10 in this draft instrument.

Regulation 4(c) provides that where an order is made by a Justice of the Peace, "any person...who has (or recently had) a significant involvement in the upbringing of the child", must be notified of the making of the order. However, the order ceases to have effect either after 24 hours or when the Sheriff has determined an application for a Child Protection Order.

We do not believe it is appropriate to notify those persons who may meet the significant involvement test at this point as they will have no locus to participate in the Sheriff's determination of the CPO application. The person(s) meeting the significant involvement test will be notified by the Reporter under s.43(2) of the 2011 Act if a CPO is made and can participate appropriately in the process from that point. To notify them earlier

is an infringement of the privacy rights of the child and relevant persons and informs them of a legal process that they have no rights to participate in.

A similar point applies in relation to the notification provisions in Regulation 10.

We would be happy to speak further with the Scottish Government on this issue and assist with redrafting the SSI.

SCRA
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