

Comments from SCRA on draft of Early and Effective Intervention – Practice Guidance

We welcome the development of this guidance on early and effective interventions. We want to support the development of approaches that provide an early and effective response to children involved in offending behaviour, and that promote a considered approach to decisions on whether to refer a child to the reporter. We are keen to work with partners to ensure that children do not require to be referred to the reporter in order to get the help they need.

However, we also want to ensure that those children who require compulsory measures of supervision are provided with that supervision when they need it, and that any approaches that are developed do not prevent that.

We have a number of comments to make on the draft document, in relation to some of the key messages of the guidance, some more practical issues and then comments on some of the detail of the text.

Key messages of the guidance

1. A critical question for Early and Effective Intervention groups is whether to refer the child to the reporter. Recognising that the legislation refers to a “reasonable cause to believe that compulsory measures of supervision may be necessary”, we suggest that a “likely need for compulsion” would be the appropriate wording to be used – phrases such as “an obvious need for compulsory measures” (used at pages 10 and 12) and “compelling reasons indicating that there is a need for compulsory measures” (used at page 2) set the threshold too high.
2. At times the document states that the need for compulsion arises when other options have been exhausted (for example at page 2). In our decision making, reporters recognise that some children require compulsion at a much earlier stage due to the level of risk and need.

Although rare, the appropriate and proportionate response to some children who first become known for offending will be a compulsory intervention (even an intervention such as secure accommodation) – it is very important that they can receive that compulsory intervention when they need it and not require to go through a series of less intensive interventions before they do so. The guidance should make this clear.

3. The guidance requires to recognise that some offences are so serious that the police will require to jointly report them to the PF and reporter. In such circumstances, the process in the guidance will not be followed and the report will be submitted as required by the Lord Advocates Guidelines.
4. It is important that the guidance makes it clear that referral to the reporter must not be an alternative to services being offered. If the level of concern

regarding the child is such that there is a likely need for compulsion, this would suggest that there is a greater need for a service to be provided.

5. Related to the previous point, we disagree strongly with any comparison between the time taken for a reporter or hearing to come to a final decision and the time for an intervention to be put in place through an Early and Effective group (see in particular the 5th paragraph on page 3). Although it will have taken some time for a final decision to be taken, services required should have been put in place long before that decision.
6. The document rightly focuses on the need for compulsory measures of supervision in the group's decision making about referral to the reporter. However, the document must also reflect that some children are already the subject of compulsory measures or are already the subject of an open referral to the reporter and the need for compulsory measures is being actively considered by the reporter or children's hearing.

In both of these situations, different considerations apply and it is important that this is stated in the guidance:

- If a child is subject to a supervision requirement and the nature of the offence is such that it requires to be considered by the Early and Effective Interventions group, there should be a presumption that the child is referred to reporter. We understand that this reflects the practice in many existing groups.
- If the child is already the subject of an open referral, there should be a similar presumption. At stage, the need for compulsory measures is already being considered by the reporter or hearing and it is important that such relevant information is available. Again, we understand that this reflects the practice in many existing groups.

7. Thank you for inviting our input regarding the factors to be taken into account in considering the need for compulsion. We produced the attached document to support the implementation of the Ministerial Task



Reporter
Requirements.pdf

Group's work in 2007

From that document, we suggest that the following would be helpful at the foot of page 3:

In considering whether a child is likely to require compulsory measures of supervision, and therefore whether to refer the child to the Reporter, there are some general considerations that apply:

- *A child may be referred to the Reporter at any time, irrespective of the stage of assessment or action, where the need for compulsion is considered necessary by the referrer;*
- *A child should not be referred to the Reporter in order to access a service. A child should receive the help he or she requires when he or*

she needs it, from the appropriate agency or agencies, irrespective of legal status;

- *The principle of minimum intervention¹, although not legally applicable to referral decisions, would suggest that referral and compulsion should be considered where it is likely to improve the child's position or to be of benefit to the child; and*

The key factors that the Reporter takes into account in reaching a decision on the need for compulsion are:

- A. The level of concern for the child's welfare, taking into account the child's development, parenting and the family and environmental factors (in considering the child's development the frequency of the child's offending and the seriousness of that offences committed will be key considerations - the greater the extent of concern, the more likely that compulsion is required.*
- B. The history of cooperation in any previous intervention and the impact of any such intervention - the less cooperation or impact, the more likely that compulsion is required.*
- C. Current motivation to change and willingness to cooperate (this will include a consideration of the child's acceptance of their involvement in offending behaviour) – the less the motivation to change or the willingness to cooperate, the more likely that compulsion is required.*

Practicalities of the document

8. As this will be first guidance document produced under the new arrangements of the Youth Offending Framework, it would be useful to make the status of the document clearer in the introduction. This should make it clear that, while not mandatory, having been approved by the Youth Offending Framework strategic group, all partners are supportive of the guidance and want to commend its adoption across the country.
9. It would help the document to be of real practical use if it is simpler. Much of the information in the earlier part of the document (for instance, the context, the description of *Getting it Right for Every Child*, and the information about the evaluation) could be in appendices to the guidance – this will ensure that the important practical messages at the back of the document are given more prominence, while still making the important contextual and background information available.
10. We welcome the clear statement that the context for these groups is *Getting it Right for Every Child*, and the emphasis on the need to consider the whole needs of the child while addressing the offending behaviour. However, it might be helpful to reemphasise some of these messages when describing the operation of the Early and Effective Intervention group on page 13.

¹ Children(Scotland) Act 1995 section16 (3)

Detailed comments on the text

11. In referring to messages from research evidence in the 3rd paragraph on page 1, it would be helpful to provide a reference for these – a research review or briefing may be particularly helpful for readers of the document.
12. In paragraph 2 on page 2, we propose that “without referral to the children’s hearings system” is replaced by “without requiring formal referral to the children’s reporter or Children’s Hearings system in order to get that help.”
13. In paragraphs 4 and 5 on page 2, “Children’s Hearings system” should replace “Scottish Children’s Reporter Administration” and “Children’s Reporter”.
14. The final paragraph of page 2 should be significantly amended for the reasons outlined in paragraphs 1 and 2 above.
15. In paragraph 1 on page 3 the word “Hearings” should be added.
16. In paragraph 2 on page 3, the words “without unnecessarily referring them to the children’s reporter” should be replaced by “without requiring referral to the children’s reporter in order to receive that service”.
17. As the final sentence of paragraph 5 on page 3 is incorrect (see paragraph 5 above), it calls into question the purpose of this paragraph. In any event, the statement that the 80 day timescale is seldom met is incorrect: in our last annual report the average number of working days from receipt of referral to hearing decision for referrals on offence grounds was 68 days.
18. The section on information sharing at pages 5 and 6 requires to reflect a clear understanding of the law on information sharing. We are not aware of anyone suggesting that the approach to information sharing under *Getting it Right for Every Child* does not comply with the law. However, this section appears to suggest that requiring a legal basis for sharing personal information is a “traditional method” that has been changed by *Getting it Right*.
19. In the final paragraph on page 6, “formal systems such as” should be deleted as, presumably, it is through the Children’s Hearings system that compulsory measures would be sought.
20. Having emphasised the importance of meeting the wider needs of a child (in the section on *Getting it Right for Every Child*) and the child’s interests being paramount, at page 7 the document refers to “change their behaviour” (in the first line) and “preventing future offending” (in the 2nd paragraph) as being the principal aims of intervention. In line with the approach in *Getting it Right* I propose that reference to the meeting of wider needs be added.

21. Whilst supporting the approach referred to in the 3rd paragraph on page 7, we think that the idea could be expressed more simply than as it is currently stated in the first 2 sentences: for example, “A ‘graded’ approach, where the more that a child offends the more serious the consequences, is not what this guidance recommends.”
22. At paragraph 4 on page 8, the guidance states that the Criminal History System will provide an accurate picture of offending behaviour by young people. It would be helpful if the guidance could state that it is important that this accurate picture is available to those taking decisions on the child, whether it be an Early and Effective Intervention group or the reporter. As CHS also is the acronym for the Children’s Hearings System, it will avoid confusion if CHS is not used in the document.
23. The position of victims of youth crime and the whole question of community confidence is clearly an important aspect of the work of the youth offending framework. However, given this ongoing work, we do not think it is helpful to include the statement “this should give youth justice the degree of credibility that is currently missing from the current set up” in this guidance.
24. The 4th paragraph on page 10 should be significantly amended for the reasons stated in paragraphs 1 and 2 above.
25. In beginning to describe the process at page 10, it would be helpful to introduce and describe the concept of the “coordinator” at this stage.
26. In the penultimate paragraph on page 10, it states that the “central coordination point” should have access to “all information known about the child”. We presume that it is expected that there will be some qualification on the information that is available and suggest that “relevant and proportionate” are added.
27. At the top of page 11 a different aim of intervention is stated, namely to ensure that the child and their parents understand the need to prevent future offending. As stated above, in line with *Getting it Right for Every Child*, a wider aim is appropriate. However, even if a narrower aim is retained, it must be more than the child and parents *understanding* the need to prevent future offending.
28. In the bullet points in the 2nd paragraph on page 11:
 - The first one should also refer to *current* welfare concerns;
 - Whether the child is subject to a supervision requirement or warrant should be added to the list of information to be obtained.
29. At the top of page 12, the guidance refers to considerations that are applicable to a “direct referral to universal services”. However, as 3 of these considerations (child not accepting responsibility, uncooperative parents and no relationship with the police) are factors that suggest that compulsion may be required, we question why they are referred to here.

30. The 2 paragraphs under “Formally refer the matter to SCRA” at page 12 require to be amended for the reasons stated in paragraphs 1 and 2 above. In addition, as stated in paragraph 6 above, this section must also reflect that some children are already the subject of compulsory measures or are already the subject of an open referral to the reporter and the need for compulsory measures is being actively considered by the reporter or children’s hearing.
31. In the final paragraphs of pages 12 and 13, the guidance refers to the victim being “informed of progress” “where appropriate”. As this overlaps with the remit of the Victim and Community Confidence group, we think that their views should be sought on what is required here. Our view is that a stronger statement than “where appropriate” is required in order to ensure that victims receive the information that they are entitled to. Section 53 of the Criminal Justice (Scotland) Act 2003 refers to victims being provided with information on the *outcome* of the case, whilst balancing the right of the child who offended to have their details kept confidential and a recognition that there may be circumstances in which information should not be given. As this legislative provision underpins the provision of information to victims by reporters, we propose that a similar approach is adopted when information is given to victims where the child is not referred to the reporter.
32. In line with the focus of the Victims and Community Confidence group, the particular position of child victims of youth offending must be recognised in the document – *Getting it Right for Every Child* applies to these children as well as to those who offend.
33. As you know our approach to the involvement of reporters in Early and Effective Interventions groups has been that:
- Where possible, the reporter should not attend the meeting as a regular member;
 - However, in newly constituted groups the reporter may have a role in assisting or training other agencies in a non-case specific way;
 - Although the reporter may engage in pre-referral discussion about a case, the purpose of the discussion is to assist the other person to decide whether to refer the child to the reporter and the reporter may not prevent nor require a referral.
- From what we have been informed of the interim findings of the evaluation, there is no suggestion that this approach should change. It would be helpful that the guidance on the groups reflects this message regarding the involvement of reporters.
34. In describing the development of an action plan in the 4th paragraph on page 13, it is important that the guidance recognises that some children considered by the group will be well known to agencies already and will already have an action plan and lead professional. In such situations, a key message to be emphasised is that only one plan is developed for the child.