



11 March 2011

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, because they are often the same children
- That the welfare and best interests of the child are at the centre of all decision making
- That the child's views must be taken into account

SCRA operates the Reporter service which sits at the heart of the system. SCRA employs Children's Reporters and support staff who operate throughout Scotland in every local authority area and who work in close partnership with other professionals in areas such as social work, education, the police, the health service and the courts system.

On receipt of a referral, the Reporter will conduct an investigation, involving an assessment of the evidence supporting the ground for referral, the extent of concerns over the child's welfare and behaviour and the level of co-operation with agencies, which all leads to an assessment of the need for compulsory measures of supervision.

In making this assessment of the need for compulsory intervention, the Reporter will rely on the investigation and assessment of other agencies, most commonly Social Work and Education staff who are often asked to provide reports outlining the social background and the attendance and behaviour of the child in school. In most cases, the Social Worker will recommend a course of action but ultimately it is for the Reporter to decide whether there is a need for compulsory intervention or if other measures would be more appropriate and effective in addressing the child's behaviour. If the Reporter decides that the evidence and the need for compulsion exist, then the child is called to a Children's Hearing.

Each Hearing is made up of three Panel Members, who are all trained volunteers from the local community. The Hearing makes a decision about whether the child needs compulsory supervision and if so, makes an order called a Supervision Requirement. This is a plan of work, support and services to assist the child/young person. Conditions attached may include, for example, where the child/young person is to live, with whom she/he may have contact, or attendance at programmes to address their behaviour. Most children on Supervision Requirements live at home. It is the responsibility of the local authority to implement a Supervision Requirement.

Summary Response

The issue of human trafficking has become increasingly prioritised in policy terms over the last few years and we are aware of three separate inquiries (including this one) that have examined different elements of the problem. With that in mind, SCRA conducted an informal survey of Authority Reporters in February 2009 to discover the extent to which we had received referrals in respect of trafficked children. As a result of this work, we identified only two cases where there were serious concerns that the child might have been trafficked or was at risk of being trafficked (both in Glasgow), along with a very small number of other cases where the child's circumstances were unclear but where trafficking was a

possibility. In the context of the number of children referred to the Reporter on an annual basis (42,532 in 2009/10) this is a very small number indeed. We go on to discuss some of the issues raised by these cases in our more detailed response below, though we are wary of drawing systemic conclusions from such a small evidence base.

Detailed Response

Definitions

It is striking that one of the cases we have come across involved a child who was considered to be at risk of being trafficked *from* Scotland to another country (the child's mother had arrived in Scotland as a heavily pregnant unaccompanied minor some years previously). It is important therefore that when we address the issue of trafficking and consider definitions, we consider not only those children who have been trafficked into the UK, but also those who are at risk of being trafficked either from one part of the UK to another, or from the UK to another jurisdiction.

Identification

It is clear from the experience of our staff around the country that cases of trafficked children being referred to the Reporter are extremely rare. In fact, as noted above, we have been able to identify only two cases in the last few years where there was enough information to cause serious concern. It is difficult to know exactly why this might be, though it is likely that the "hidden" nature of child trafficking is a major contributory factor. In other words it may well be that such children are simply not coming to the attention of the organisations like social work and the police who would refer to the Reporter in the first place. Identification of children who have been trafficked or who may be at risk of being trafficked is crucial to getting a grip on this issue and ensuring that children can be properly protected.

Protecting children

However, identification is only the first step – it is equally important that the right supports and interventions are provided for children and young people via the most appropriate routes. The second of the two cases we have identified exemplifies both these issues very clearly. The child in question came to the attention of the Reporter due to a referral for breach of the peace while residing in a children's home. Though they were going through the immigration and asylum system at the time and demonstrating concerning behaviour, it does not appear that a referral to the Reporter on welfare grounds was considered. However, the Reporter's investigation into the offence referral quickly uncovered extremely serious child protection concerns, including a number of indicators that strongly pointed towards the child having been trafficked. Grounds were drafted to bring the child to a Hearing based on those welfare concerns and a Supervision Requirement was made to provide the necessary interventions and supports to secure that child's safety.

We would like to take the opportunity provided by this Inquiry to make the point very clearly that there is no bar to a child being referred to the Reporter if they meet one of the grounds for referral set out in s.52(2) of the Children (Scotland) Act 1995 and are considered to be in need of compulsory measures of supervision. Immigration status (or lack of clarity around such status) does not and should not prevent a referral if the child is in need of the kind of compulsory support and intervention that the Children's Hearings System offers. The Scottish Government's trafficking guidance makes this point clearly. It is important to remember that anyone can make a referral to the Reporter (including for example officials of bodies that operate on a cross-border basis like the UK Border Agency or UKHTC who may not be as familiar with the Scottish system). There is perhaps a need to ensure better integration of the asylum and child protection systems to make sure that children's needs and vulnerabilities are appropriately addressed.

With this in mind, we suggest that SCRA be granted status as a First Responder in order to allow the Reporter to refer a child into the National Referral Mechanism (NRM) where there is a concern that they may have been trafficked. The Reporter's place at the nexus of the Hearings System and the fact that they are in receipt of information from a range of different agencies means that they are well placed to identify children who may be showing trafficking indicators. Reporters are also experienced in assessing evidence and making decisions in a child's best interests. We are conscious of the need for additional training to allow Reporters to take on this role effectively.

We would note however that neither the Reporter nor the Children's Hearing has the power to override or interfere with immigration or asylum proceedings, including decisions over removal, regardless of what decisions may have been made on that child within the Hearings System context. Nor would we seek such powers.

Training

As is so often the case good, relevant and targeted multi-agency training is important to ensure a common understanding of the problems and to help formulate effective integrated responses that make best use of the resources and professional expertise available. Knowledge of the role that the Children's Hearings System can play, including when a referral to the Reporter might be appropriate, would be an important part of that training package. We already work with both the police and social workers in the delivery of such training and would be happy to extend the same assistance to the UKBA or to other bodies working in this area. We are also conscious of the need to ensure that Reporters are fully aware of trafficking indicators and the range of appropriate responses to such concerns, particularly if granted the power to refer into the NRM.

The voice of the child

There has been much recent debate and discussion around the effective participation of children in the Hearings System. The Children's Hearings (Scotland) Act 2011 has made some welcome provisions in this area, in particular the introduction of a right to advocacy support and a requirement for the Hearing to satisfy itself that the child's views have been sought and reflected in the reports it has before it. Additionally, SCRA and its partners in the system have recognised that there is no need to wait for a legislative imperative before changing culture and practice to better enable children and young people to have their voices heard.

We pretend to no special knowledge about the asylum and immigration system, or about the National Referral Mechanism, but the efficiency and fairness of such systems can only benefit from all those involved doing everything possible to ensure children and young people are able to participate fully and effectively in the process. We believe that the good practice developed within the Hearings System could usefully be shared and would be happy to discuss this in more detail with partners.

Conclusion

SCRA believes that the Reporter and the Children's Hearings System more generally can play an important part in addressing the issue of child trafficking. We hope that a greater awareness of the System's role amongst those dealing with trafficked children, along with the suggestions we have made in our response above, will help to ensure that these very vulnerable children receive the most appropriate interventions and support.

SCRA

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