

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.

General response

SCRA welcomes the opportunity to comment on the Scottish Government's proposals for a Children's Rights Bill.

Children's rights are at the heart of the Children's Hearings System and much emphasis is placed on giving effect to Article 12 of the UNCRC by facilitating the child's effective participation in the Hearings process. SCRA is fully committed to protecting and enshrining children's rights in everything that we do. We commend the Scottish Government for endeavouring to introduce a rights-based approach in relation to all of its areas of responsibility.

We recognise that one of the options for the forthcoming Children's Services Bill is a rebalancing of child and parental rights. We are slightly concerned however that paragraph 73 of the consultation paper might be interpreted as suggesting that children's rights are of lesser importance than adults' rights. We would welcome a clear statement from the Scottish Government that children's rights will be paramount in matters that affect them.

It will be important to consider fully the potential implications for the Children's Hearings System of any changes to policy that might be prompted by the implementation of the proposals, or of any challenges that

might subsequently be made in relation to ministerial decision making. We would urge that provision be made where possible to ensure that any such changes that might impact on the operation of the System take place in a considered and carefully planned fashion.

Detailed response

The duty on Ministers

We consider that having the duty apply across the Scottish Government to all Ministerial portfolios can only help to mainstream a rights-based approach in all areas of government. It is to be welcomed that the scope of the duty has not been restricted to those departments dealing directly with children and young people's issues. However, we feel that the Government should keep matters under review as regards whether the duty could be rolled out across the rest of the public sector at a later date. We recognise that the forthcoming Children's Services Bill may involve placing more specific duties on public sector organisations working within the children's services arena and look forward to the opportunity to comment on the detail of these proposals when they become available.

We consider that in order for the Government to fully satisfy the spirit of the "due regard" test, it would be beneficial to have some mechanism for ensuring that the views of children and young people are taken into account where appropriate.

Reporting and monitoring

While we recognise that there is a desire not to overburden the Government with reporting requirements, we are of the view that a five year cycle is too long. First of all, the sheer number of decisions to which the duty could apply over that period would mean that any report would have to be either extremely weighty or very selective in what information was provided. We would also suggest that if the Parliament is to meaningfully monitor the Government's progress, there should be an opportunity for MSPs to consider at least two such reports in any parliamentary session. This would allow them to become familiar with the issues and provide more robust scrutiny before the inevitable disruption that follows each election and the resulting turnover of members. It would also be helpful for there to be clear mechanisms for compliance, monitoring and evaluation included within the Bill, so stakeholders can be certain about how success will be measured.

Conclusion

We welcome the proposals as a positive step forward and would be happy to engage further with the Scottish Government as matters are developed further.

SCRA
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