



24 September 2010

## 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 in every local authority area and who work in close partnership with other professionals in service areas such as social work, education, the police, the health service and the courts system.

Children are referred to the Reporter from a number of sources and for a variety of reasons. The Reporter investigates each referral to decide if compulsory measures of supervision are needed to protect the child and/or address their behaviour. If these measures are necessary, and if evidence is available to support one or more of the grounds for referral, the child is then referred 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 which will most commonly provide that the child should be supervised at home by a social worker. In other cases, a child could be required to live away from home, for example, with foster carers, in a local authority home or in a residential school. It is the statutory responsibility of local authorities to implement Supervision Requirements.

## General Response

SCRA welcomes the opportunity to comment on the GMC's consultation on the role of doctors in child protection. Doctors and other health professionals have a vital role to play in child protection and may often be in the best position to identify potential risks to children at an early stage. Clearly the issues raised in our response are specifically in relation to the Scottish context and the interface between doctors and the Children's Hearings System.

We have responded to a number of the questions posed in the discussion document, but also wish to take the opportunity to outline the different stages within the Children's Hearings System, where the contribution of doctors and other medical professionals can be of immense value:

## **Referral**

It is interesting to note that very few children are referred to the Reporter from health sources. This is particularly striking in relation to the 0-2 age group, whose main point of contact with universal services may be via health professionals. In a recent SCRA study into this age group, the percentage of children referred by health professionals (including doctors) fell from 1.7% in 2005/06 to 0.85% in 2008/09. At the same time, the numbers referred by the police have risen (from 81% to 83% over the same period). It is difficult to know exactly why this is. It may be that where a risk is identified by a health professional, the referral subsequently comes from another agency such as the police. Or it may be due to an information gap in terms of doctors being aware that they can refer a child directly to the Reporter if they are concerned about their welfare. Often, the involvement of police or social work will be the most appropriate response, but there may be circumstances where doctors feel that a direct referral to the Reporter is necessary and they should be confident in how to do that. We would be happy to work with the GMC to help develop training materials or more detailed content for the guidance in this area.

## **Provision of information at investigatory stage**

Following a referral, the Reporter is required to investigate with a view to determining whether compulsory measures of supervision are necessary. They may request information from a number of sources including social work, education and the police. While there is no specific duty on health professionals to provide information to the Reporter, it can be of enormous value to the investigative process. However, it is fair to say that the extent to which this information is provided timeously and on request can be variable. We recognise the time and work pressures that doctors are under and suggest that SCRA and GMC produce a protocol defining the circumstances under which the Reporter would seek such information. Doctors could then be confident that, where a request comes in, it is because the information has been considered necessary for the Reporter to make an informed decision.

## **Attendance at court for a proof**

Where a child or relevant person denies the grounds for referral, or where the child lacks capacity (usually due to age) to understand them, the case goes to Sheriff court for proof. In our experience the contribution that can be made by doctors acting as witnesses can be important and we would be happy to assist with the development of any training or guidance in this area.

## **Attendance at a Children's Hearing**

When the grounds for referral have been either accepted or established, the Hearing can proceed. The set-up is relatively informal and the child is encouraged to participate as much as possible. The social worker will usually be present and the Hearing may wish to involve other professionals who can contribute to their ability to make an informed decision in the child's best interests. Some doctors are very willing to attend Hearings and can make a substantial contribution to proceedings, but others can be reluctant, perhaps due to time and work pressures or not knowing exactly what is expected of them. Again, we would suggest the development of a mutually agreed protocol between SCRA and the GMC to set out the circumstances in which doctors would be invited to attend Hearings so that there was confidence on both sides that doctors would only be asked to attend where their presence would be of material assistance to the Hearing in making its decision.

## **Response to specific questions**

**Question 1. What problems do you see in relation to consent and confidentiality when doctors work with children and their families where there are child protection concerns? If possible, please provide examples of good practice, or areas where problems commonly arise.**

We are aware that sometimes there can be confusion over where child protection concerns supersede confidentiality and issue of consent around information sharing. The Scottish Government's guidance on child protection (currently in draft) sets out very clearly that *"...if a child is considered to be at risk of harm, relevant information must always be shared"*. It would be helpful for the GMC's guidance to clearly reflect this principle so that doctors have confidence to share information where there are child protection concerns.

**Question 2. Doctors must ensure that a child's safety and welfare is paramount and takes priority over other considerations. But they should also ensure that the child's family members are treated with dignity and respect, take account of the rights of family members, for example, to make decisions about their lives and lifestyle, and provide additional support or help they may need. Do you agree with this? If possible, please provide examples of circumstances where a child's and family's needs and rights have been met and respected in the context of child protection proceedings, or occasions where they have been in conflict and how this conflict was managed by doctors.**

We have no specific comment to make here.

**Question 3. What are your views or experiences about how well doctors work with other doctors, professionals and agencies, when there is the possibility of harm to a child?**

As stated above, in our experience doctors' engagement with the Children's Hearings System can be variable. We are aware of circumstances where doctors have made a significant contribution to the Hearings system's ability to protect individual children by providing information to the Reporter and to the Hearing, as well as attending proof proceedings at Sheriff court and even attending the Hearing itself. Unfortunately, this degree of engagement and involvement with the system is probably the exception rather than the rule. Please see our comments above for more detail.

**Question 4. In your experience, what factors help or hinder clarity about who has what roles and responsibilities to protect children and young people? This might include, for example, local working arrangements, and apply to doctors working in different areas of practice, or the way doctors work with other professionals.**

We have no specific comment to make here.

**Question 5. What training and other support do doctors need to undertake their particular roles in child protection, for example, in preparing and training to give evidence to the family court? If possible, please provide examples where doctors are (or are not) receiving appropriate training or other support.**

We are unclear how much training doctors receive on the operation of the Children's Hearings System. We would be happy to work with the GMC or other relevant organisations to help identify training needs, produce materials or specific content for the guidance.

**Question 6. Is there anything else you would like us to consider when deciding the scope and content of guidance we give to doctors about child protection issues? For example:**

- the factors that affect doctors' readiness to raise concerns of suspected child abuse or neglect or to act as a professional or expert witness
- any gaps or issues lacking clarity in existing guidance available to doctors on child protection issues, from the GMC or other professional and government bodies

We have no specific comment to make here.

## Conclusion

In summary, we hope that the guidance will be able to include the following content:

- An explanation of the operation of the Children's Hearings System and its important role in child protection
- A clear statement of the significant contribution that doctors can make to the effective operation of the Hearings system
- A section setting out the grounds for referral and making clear that doctors can refer directly to the Reporter if they feel the need to do so
- A section on the Reporter's investigatory role and encouragement for doctors to respond promptly to requests for information from the Reporter
- An explanation of what is involved in a doctor attending at court for a proof hearing
- An explanation of what is involved in a doctor attending a Children's Hearing and encouragement for them to do so where possible

We would be happy to work with the GMC and/or other bodies such as the RCGP to produce protocols that would allow the above content to be included in the guidance with confidence that doctors' involvement in the Hearings System would only be requested where necessary and where they could add value.

**SCRA**

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