

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 draft regulations, which regulate the arrangements for monitoring compliance with a Movement Restriction Condition made by a Children's Hearing.

Title

An MRC is a condition within a Supervision Requirement *restricting the child's movements in such a way as may be specified in the supervision requirement*. The MRC also requires the child to comply with monitoring arrangements for the restriction of movement. The prescribed method of monitoring compliance is by way of an electronic tag. Movement Restriction Conditions form part of the Intensive Support and Monitoring Services (ISMS), and as the name suggests, along with an MRC the child must receive intensive support. The responsibility for delivering the intensive support package rests with the local authority.

Specification

SCRA believes that it would assist greatly if the regulations could be drafted in a way that makes the CSO more comprehensible to the child and family. We believe that the current draft is guilty of over-specification

on this point and results in the Hearing's decision making process becoming very complex and inappropriately focused on technical issues. It should not necessary for the Hearing to consider technical matters, rather their decision making should be focused on:

- Are the conditions for making a CSO/ICSO with a MRC satisfied?
- At what times, for what duration, and to/from what place, should the child's movements be restricted?

We would suggest that the regulations provide that all the Children's Hearing requires to say in the Supervision Order regarding monitoring is something along the lines of "The arrangements for monitoring compliance with the above condition shall be as specified in the [name of the regulations]. The child is required to comply with these arrangements." Such a condition would meet the requirements of the 2nd part of the definition of an MRC in section 84.

The regulations would then detail the various elements of the monitoring that will be put in place when a CSO or ICSO contains an MRC:

- the LA preparing the child's plan– as per draft regulation 3;
- the chief SW officer of the LA carrying out the functions in draft regulation 4(2);
- Serco (or another named contractor if the contract changes) monitoring compliance in accordance with the draft regulation 7;
- the method of monitoring compliance will be the method specified in draft regulation 7(1)(a) unless that is not reasonably practicable, in which case it will be the method in draft regulation 7(1)(b), using the devices specified in draft regulation 8.

We believe strongly that this would make the CSO far more comprehensible to the child and family, as well as ensuring that there was no need to have extra unnecessary Hearings just because for example, the name of the Serco official changes.

Should this preferred solution not be accepted by the Government, there are other ways of simplifying the regulations. For example, it is not clear why Regulation 4(2) requires the Hearing to designate a particular local authority officer – we suggest that it could simply provide that the Chief Social Work Officer will carry out those functions.

We consider that Regulation 5(a) is superfluous as it gives the impression that a Hearing can just vary a designation without a review Hearing taking place, but this is not possible in terms of the primary legislation. If an MRC requires to designate the responsible local authority officer or contractor this must be stated in the CSO/ICSO. Therefore if this person or the contractor changes then the CSO will require to be varied giving rise to the usual duty on the local authority to request a review when variation is required. There would be little option at such a review other than varying the CSO (assuming the Hearing still considered the MRC to be necessary). This in fact further supports the argument for simplification. The Hearing should be concentrating on the real issues for the child in relation to the MRC, not on such technical matters.

Regulation 5(b) is equally superfluous as if the hearing varies the CSO the Principal Reporter will be under a duty to notify the child, RPs, local authority etc of the variation (assuming the new rules reflect this duty in the current rules).

Restriction of movement

We note that an MRC can either restrict a child's movements to or from a place. However, regulation 6(1)(a) and (b) only require a Hearing to restrict the child's movements to a place, and require that the place is where the child resides.



As an MRC is also intended to be able to restrict a child's movements from a place, regulation 6(1) should say that the restrictions that must be imposed are:

- Specification of the place where the child is to be restricted to **or** from;
- The days of the week and times of the day when the restriction is to apply;
- If the restriction is to a place, the period or periods must not exceed 12 hours in any one day (if the restriction is from a place, we understand that there is no limit on the length of time that the restriction applies).

We recognise that this is probably a simple oversight and suggest that it be included in the regulations.

Conclusion

We are entirely supportive of the content of the draft regulations, subject to the comments above.

SCRA
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