



## 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:

- whether concerns relate to their welfare or behaviour, the needs of children or young people in trouble should be met through a single holistic and integrated system
- a preventative approach, involving early identification and diagnosis of problems, is essential
- the welfare of the child remains at the centre of all decision making and the child's best interests are paramount throughout
- the child's engagement and participation is crucial to good 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, the legal profession 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

SCRA welcomes the opportunity to comment on the Scottish Government's proposals for a Children and Young People Bill. We are supportive of the Government's stated commitment to "address the challenges faced by children and young people who experience poor outcomes throughout their lives", and to ensure provision of "services that are child-centred, responsive and joined up".

### Duties on Ministers

We agree that Scottish Ministers should be placed under a duty to advance, promote and raise awareness of the rights of children and young people. However, for this duty to have any meaning it must permeate throughout government at the very earliest stages of decision-making, and particularly into those functions that can impact significantly on government policy without themselves having any direct policy-making responsibility. At times, it can be unclear where in the process and to what extent children's rights have

been considered, even in policy areas where it should be expected to sit centre stage. We look forward to any detail that can be provided on how Ministers might be able to bring more transparency to decision making and ensure that this full consideration of children's rights takes place at the appropriate junctures.

### **Duty on public bodies to report on children's rights progress**

We are supportive of this proposal and of SCRA being one of the public bodies under a duty to report progress. Our internal Participation Group has done some excellent work over the last two years to improve the ways in which children and young people can participate, both in their own hearings, and in driving improvements to the system as a whole. The involvement of our Modern Apprentices has had a hugely positive impact on this area of work, allowing the voices of children and young people to directly impact and influence policy and practice.

For convenience, we would anticipate reporting every year (probably as part of our regular annual report) rather than on a 3-yearly basis and we assume that a more regular reporting arrangement would be acceptable at the discretion of the individual organisation.

### **Well-being and outcomes**

We are supportive of the proposal to set out a definition of well-being in the Bill, but would wish to highlight the need for consistency of terminology across other pieces of legislation. We note that the consultation paper refers to amendments that will be made to the Children (Scotland) Act 1995, but it would also be helpful in our view to consider other pieces of legislation, for example the Children's Hearings (Scotland) Act 2011. Alternatively, it will be important to ensure that the difference between "well-being" and "welfare" is fully understood, otherwise the result may be two systems that do not pull in the same direction. We are aware of challenges presented currently by terminology not being used and understood consistently across different sectors, which can impact on the effectiveness of joint working.

In relation to outcomes for children and young people, we note that the Children's Hearings (Scotland) Act 2011 provides for a feedback loop from local authorities to the National Convenor which will enable more information on the success of interventions to be collected and analysed. This feedback loop is based on how "the overall well-being" of children subject to Compulsory Supervision Orders is affected by those Orders and is therefore consistent with the terminology proposed for the Children and Young People's Bill. This, along with SCRA's own data, will help to feed into the work being undertaken via the Children's Hearings Improvement Partnership to produce a common set of outcome measures across the Hearings System. The proposals to produce a SHANARRI based set of outcomes for all children presents a real opportunity to align all of these data sets and outcome indicators across the board, to ensure that they are complementary and can produce a comprehensive picture of how interventions and action at different levels and by different agencies are impacting on children's well-being. We are hopeful that this will assist in identifying the most effective interventions and driving improvements in decision making and services.

### **GIRFEC**

While the principles of Getting it Right for Every Child (GIRFEC) are widely understood and command support from all sectors, we are aware that the translation of these principles into practice is not always consistent across Scotland. If legislation leads to more consistent and effective implementation of the key principles, it is to be welcomed. We do have some doubts about the extent to which legislation on its own can shift practice and/or culture, and any primary legislation will need to be supported by statutory guidance, with a clear leadership role taken by the Scottish Government. senior management and representative bodies across the sector.

We note that in Highland, GIRFEC has resulted in a reduction in "inappropriate" referrals and that one of the consequences of this has been a reduction in report requests, so freeing up social work time as well. However, we also note that there is a collective feeling amongst agencies that the balance in terms of referral thresholds needs to be kept under review. We are aware for example that there has been a steep increase in CPOs in Highland, and that a review conducted by the CPC found that a significant number might have been averted had referral to the Reporter taken place at an earlier stage. It is important



therefore to be careful about wording around referral consideration and critical that referral to the Reporter is not seen as a “last resort” or as the culmination of an escalating process of intervention.

### **Named person**

We recognise that the Named Person role is considered to have worked well in Highland, where it has driven a shift in culture and practice, resulting in people being more aware of their (and others’) responsibilities. Our understanding is that the Named Person role works very much in tandem with that of the Lead Professional as they have complementary roles (albeit very distinct responsibilities) and if the intention is to enshrine one role in legislation, perhaps it is worth considering doing the same with the other.

It will also be necessary to ensure that there is clarity of differentiation between the Named Person and Lead Professional roles, and the responsibilities of other professionals, in particular the Chief Social Work Officer.

One element which will be necessary for the Named Person to fulfil their function, is for all agencies to have a clear and common understanding of when information can be shared, particularly where that sharing is not taking place in the context of an immediate child protection concern. Any guidance also needs to take into account existing barriers, for example the limits of statutory powers to share information.

It is critical for the role of the Named Person to be meaningful in terms of the benefits that it provides for children. It should not, in our view, simply be an administrative exercise that results in a child having a Named Person that they have no meaningful contact or relationship with. We would suggest that there is a need for clear guidance for professionals in terms of what is expected of the Named Person, and also for clear and concise information for children which tells them what they have a right to expect from that individual. We would also suggest that the Highland experience be utilised to establish which aspects of the role have been particularly valued by children and young people so that good practice can be identified and built into the national model. Finally, we note the issues raised by other agencies (e.g teachers) about the potential impact of this responsibility on their ‘day job’ and are concerned that unless these are properly addressed, the role may not achieve all that is intended.

### **Single Child’s Plan**

Again, we recognise the broadly positive experience in Highland, where increasingly Child’s Plans have come to reflect multi-agency contributions and have been put in place at an earlier stage, which can often provide a better basis for consideration of referral to the Reporter.

SCRA (as a national body) is aware of significant differences across the country in the way such plans are put together and populated. There is an opportunity off the back of this legislation to clearly identify best practice in terms of what a single Child’s Plan should contain and to ensure that this is rolled out across Scotland. We do not believe that there is any compelling argument that individual Local Authorities require significantly different content in their Plans and consider that sufficient flexibility could be built into a standard Child’s Plan. We understand that the Highland Child Protection Committee (CPC) has agreed to develop a revised and simplified version of the single Plan and suggest that this could be used as a basis for an agreed national Child’s Plan.

Within that context, we would strongly support the provision of a specific section covering consideration of referral to the Reporter and outlining what is intended to be achieved by compulsory measures of supervision if such are considered necessary. We would also be strongly supportive of a section clearly stating the child’s views, both at the stage of assessment of need and agreement of action. A critical consideration must be that the Plan is simple, straightforward and usable, not just for professionals (including children’s panel members), but also for children and families.

We also believe, based on our professional experience that thought needs to be given as to how the Child’s Plan is used in the legal process, which may require sections where the evidence of individual agencies is explicitly marked out. Sufficient information needs to be included to allow effective decision making and a good chronology is one key aspect.



### **Duty to co-operate**

We are fully supportive of the proposals to place duties on public bodies to work together to design, plan and deliver jointly their policies and services to ensure that they focus on improving children's and young people's wellbeing. The Principal Reporter is currently a statutory Community Planning partner and we see ourselves having an important role locally and nationally in supporting the planning and delivery of services.

We can also see that the duty might have the potential to help move the Lead Professional role out of social work and into other agencies, such as health, where appropriate. We do wonder however, what is intended to happen if a public body fails to comply with the duty and whether there will be some kind of enforcement mechanism.

### **Kinship care**

We consider that this order has the potential to improve matters for kinship carers and go some way towards addressing the situation where children can end up staying on supervision for longer than is necessary solely in order to maintain security of placement. However, more detail is needed about how it would operate in relation to other legislation and we would therefore welcome more information about the practical effects of the order. For example, will it grant kinship carers automatic relevant person status in the Children's Hearings System? How will it impact on a parent's existing rights? The answers to these kinds of questions need to be addressed in order to assess whether and to what extent the order can make a positive contribution to the legal toolkit and to the situations of kinship carers themselves.

### **Extension of the Commissioner for Children and Young People's investigatory powers**

We agree with the proposals to extend the Commissioner's powers to enable him to investigate individual cases, though we understand that the scope of the power is not entirely clear. We agree with the Commissioner that the power should enable him to investigate "whether there has been a violation of (or non-compliance with) the UNCRC by a service provider" and that the assumption should be that any issues are resolved at a local level (where this is in the child's best interests). We also agree that in order for this role to be meaningfully discharged by the Commissioner, it is likely that additional resource will be required. Finally, it will be important to clarify where the Commissioner's new powers fit in with existing complaints procedures and particularly with the role of the Scottish Public Services Ombudsman.

### **Corporate parenting**

We are supportive of the concept of corporate parenting, but consider that there is a risk that in broadening the definition too far, the effect will be to dilute the potential impact and blur lines of responsibility and accountability. As with our point regarding the need for clarity of delineation between various professional roles, it is important to be clear who is responsible for the corporate parenting role and how they will be accountable.

The period at which a young person transitions into adulthood and out of care can leave them particularly vulnerable and it is important that the corporate parenting role here embraces a proactive and non-judgemental approach, offering support rather than waiting for the young person to request it.

### **Conclusion**

We fully support the Scottish Government's policy intent in this area and would be happy to engage in fuller discussion on any of the points above. We look forward to seeing more detail of the proposals emerge as work progresses.

**SCRA**  
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