



SCRA response to the Education Committee's call for evidence

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 contribute to the Education Committee's inquiry on this important issue. We also commend the open approach that the Committee has taken prior to the commencement of the inquiry, which has enabled key organisations to help shape the remit and allowed additional time for discussion and consideration of responses. We believe that this has the potential to significantly improve the quality of evidence provided to the Committee.

We have separated our response out under headings which represent the key issues from SCRA's point of view. We have also attached with this response a significant amount of previously unpublished data drawn from our Referrals Administration Database. This data gives an additional insight into a number of the areas on which we comment below.

We recognise that the Committee's previous inquiry involved a particular interest in children looked after at home. For that reason, we have attached data that shows the breakdown of Supervision Requirements by placement in each Local Authority area. In addition, we are currently undertaking research into children who have been on supervision for more than five years, reflecting a concern about the length of time some children spend on supervision when it is intended to be a relatively short-term measure. This research will include home supervision requirements and the transition between placements at home and away from home. We expect to be publishing the report in the autumn.

Consistency and decision making

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. We note the proposals to legislate in relation to GIRFEC within the forthcoming Children and Young People's Bill and if this leads to more consistent implementation of the key principles, it is to be welcomed. Likewise, greater consistency in the content of key pieces of documentation, for example the Child's Plan, would be helpful as SCRA (as a national body) is aware of differences across the country in the way such plans are put together.

The Children's Hearings (Scotland) Act 2011 creates the office of National Convenor and Children's Hearings Scotland as a public body to support her. One of the key drivers of the reform process is to improve the standards and consistency of Hearings decisions. The successful establishment of Area Support Team structures and the publication of national standards are important steps along the way to achieving this goal. In addition, SCRA has an ongoing commitment to review Reporter decision making and to improve our performance for current and future cases to ensure that the right decisions are being made to safeguard the welfare of children in the short and long term.

It is also notable that both the Reporter and the Children's Hearing rely in large part on the timely provision of good quality reports and assessments from social workers and other professionals in order to inform their decision making.

Risk factors

We would agree that parental alcohol and drug misuse are often prevalent risk factors in the backgrounds of vulnerable children. SCRA research has shown that 39% of children referred to the Reporter had parents who abused alcohol and 35% of children had parents who misused drugs. Parental drug and/or alcohol misuse is even more prevalent in the lives of very young children. SCRA research found that two thirds of children under two years old referred to the Reporter had parents with drug and/or alcohol addictions.

However, there are also other equally important issues which may be present in the child's background, such as parental mental health, domestic abuse in the home and previous family history relating to the care of siblings. All of these need to be factored into decision making where present. The Children's Hearings System is based on a presumption that every child is treated as an individual with their own needs and that decisions are made based on their particular circumstances.

The third of these factors was brought out by SCRA's Adoption and Permanence research in 2011, which found that there is a need for discussion and guidance on rehabilitation with birth parents. This needs to balance the rights of parents and the child and consideration should be given to the level of risk a parent presents to their child from what is known about their history of care of their other children. For example, if other children have been adopted or accommodated, and/or the parents' offending history (especially relating to offences against children).



Assessment

Multi agency assessment is critical In drawing together the facts and experiences held by the different agencies involved in the child's life. The use of a nationally recognised assessment tool for child protection would be welcome and would help to drive improvements and consistency of practice here.

It is also important for the reports and assessments to focus on the child and not just on the parents. The parents are an important part of a child's life but it is the child about whom decisions are being made. Reports for decision makers within the legal system, be it Reporters, Children's Hearings or the courts, need to be produced timeously but also need to contain the requisite information to enable the best decision to be taken. The use of a proper chronology is especially important to draw out all the major events in a child's care.

We would note that neglect cases can be especially difficult to deal with and often relate to children on the edge of care. Very often professionals are dealing with accumulating concerns over a period of time, rather than a single "big" crisis point. This means it can be difficult to judge when an intervention should be made. Especially as things may improve at times, depending on various factors within the life of the child or their family members, before regressing again. Likewise, there can be difficulties where there is apparent co-operation with services, and the Caleb Ness enquiry is a particular reminder of the importance in differentiating clearly between superficial co-operation and meaningful engagement when determining whether or not to intervene on a compulsory basis.

Section 16(3) of the Children (Scotland) Act 1995 exists to ensure that formal legal intervention should only take place in the life of a child where it is better for the child than doing nothing at all. We support that provision and the minimum intervention principle, but have also noted a danger that it can be used to justify no action being taken even where concerns are significant.

The main statutory ground of referral in neglect cases is section 52 (2)(c) of the Children (Scotland Act 1995 which requires proof that a child is likely to suffer unnecessary harm or that there is a likelihood of serious impairment to his health or development. There have been particular challenges in proving that ground where the neglect is emotional rather than physical, or where the child involved is an adolescent and is perhaps seen as more resilient than a younger child.

Emergency statutory intervention.

Public opinion has been volatile on the issue of emergency intervention in the lives of children The deaths of children such as Declan Hainey and Brandon Muir have prompted calls for greater and earlier intervention, whereas the Cleveland and Orkney reports highlighted the dangers to family life of overzealous intervention. The Orkney report was the foundation for the current Child Protection Order (CPO) procedures found in the Children (Scotland) Act 1995. It is a point of principle that any statutory intervention in the life of a child needs to be proportionate to the concerns raised, capable of withstanding a challenge of unfair interference in family life and focused on the current status of the child.

A table of last year's CPOs is attached with this response, together with data showing consequent decisions taken about whether to place the child on supervision. The figures confirm other informal studies by SCRA in this area and in particular that :

- Very few child protection orders were found on subsequent review to be unnecessary and a majority led to the child's continued placement away from home
- Significant variation exists in the use of child protection orders around the country for reasons that are not known to SCRA

There is perhaps a need therefore for more work to be undertaken into the reasons behind the variation of use in CPOs across the country.



Outcomes

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, 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. We also note the Scottish Government's intention to legislate for an agreed definition of wellbeing and outcomes based on the GIRFEC SHANARRI indicators. It will be important for these pieces of work to link together.

Where the state does intervene in a child's life it should do so in a way that benefits the child and any consideration of whether or not a child should be taken into care also has to consider what will happen thereafter, often into the long term. The SCRA permanence research highlights the number of moves often experienced by children in care despite the evidence of harm that multiple moves can do to the long term development of a child.

We would suggest that research needs to be undertaken, the results of which can inform all partners about "what works" in helping improve the parenting of children by vulnerable parents.

Resources

It is hard to respond to an inquiry on this subject without mentioning the issue of resources. Across the public sector, agencies are having to deal with increasing financial constraints and this inevitably makes it all the more important that all partners in the Hearings System work together to ensure the most effective use of resources and capacity. Of course, "resources" are not just financial but more importantly people as well. For example, without foster carers the state struggles to care appropriately for very young children and this informs decisions on whether or not taking a child into care is a good thing or not for its long term wellbeing. Likewise, the importance of the work of qualified social workers in working with families should not be underestimated. Effecting change in such families is a complex and skilled task that should be undertaken by professionally qualified staff at all times. There is a particularly long-standing issue relating to the availability of Child and Adolescent Mental Health assessments, an issue that was addressed in the previous Parliamentary term by the Health Committee. This is significant because the contribution of health services, particularly pre-birth, under two and in the teenage years, is vital. Availability of mental health services for parents, particularly mothers, and teenagers are frequently inadequate and this compromises decision making on capacity to care.

Conclusion

We would be happy to explore any or all of these issues further with the Committee.

SCRA
August 2012

Appendix A: SCRA Data

Table 1: New Supervision Requirements made (Home/Away) by Local Authority

Table 2: CPOs made by Local Authority and conversion rate to Supervision Requirement

Table 3: CPO conversion rate to Supervision Requirement (Home/Away) by Local Authority

