

## Hearings Management Practice Guidance

### **Foreword from Boyd McAdam, Interim Chief Executive, CHS, and Neil Hunter, Principal Reporter/Chief Executive, SCRA.**

We are pleased to introduce Panel Members and Children's Reporters and all relevant CHS and SCRA staff to this updated practice guidance, which has been drawn up to ensure that there are effective and robust arrangements in place for the scheduling and management of children's hearings going forward under the Children's Hearings (Scotland) Act 2011.

It was back in 2003 that guidance was last issued on the management of hearings. Since then there have been considerable changes in the pattern and nature of hearings which have impacted on the length of many hearing sessions and on all participants in the hearing.

In response to feedback from practice and the experience of panel members and Children's Reporters in relation to hearings management and scheduling, CHS and SCRA established a working group to consider the issues.

The results of a consultation, which took place over a period of four months, is evident in the initial guidance which we launched in March 2013. This updated version takes account of the 2011 Act.

This version will be subject to further review and amendment as necessary and may take into account a full review later this year to see what is working and what is not in the different parts of Scotland.

As Chief Executives of our respective organisations we place a high level of importance on improving practice in this area.

While we shall promote and where necessary direct improvement at national level, our expectation is that the new partnerships between ASTs and Localities within SCRA will tackle difficulties at local level ensuring an effective response where improvement is necessary.

Nothing in the guidance is intended to fetter the decision-making of hearings or Children's Reporters. The nature of children's hearings is such that hearings cannot always run to time or every delay be anticipated.

We will however, monitor the overall management of hearings and where improvements are required to policy or practice, within either of our agencies, will ensure they are delivered.

We forward to you the Hearings Management Practice Guidance with the expectation that both within SCRA and the panel community the document will be welcomed and implemented and we look forward to working together with you all to review and refine this guidance.

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Neil Hunter  
Principal Reporter/Chief Executive  
SCRA

A handwritten signature in black ink, appearing to read 'B McAdam', written in a cursive style.

Boyd McAdam  
Interim Chief Executive  
CHS

# Practice Guidance on the Management and Scheduling of Children's Hearings

## 1. Guiding Principles and Commitments

- 1.1 CHS and SCRA are committed to ensuring that this guidance is implemented and embedded in such a manner as to maximise the positive experience of a children's hearing for all who participate and especially children and young people. The guidance is subject to regular monitoring at local and national level to ensure its effectiveness and will be reviewed on an annual basis.
- 1.2 Nothing in this guidance is intended to restrict or in any way to interfere with the independence of the decision making of a children's hearing.
- 1.3 SCRA's vision is 'that vulnerable children and young people in Scotland are safe, protected and offered positive futures'. This vision is supported by the Scottish Government National Performance Framework and is underpinned by SCRA's values. It ensures that the needs of children and young people are at the centre of everything we do.
- 1.4 As the body responsible for the management and scheduling of children's hearings, SCRA is committed to making sure that hearings management and scheduling practice are underpinned by this vision and core values, so that children, young people and families experience as efficient and well planned a process as is possible.
- 1.5 CHS' vision is 'of a Children's Hearings System where everyone works together, making sure that all children and young people are heard, respected, valued, cared for and protected.'
- 1.6 As the body which is responsible for supporting the national Children's Panel, CHS is committed to working with SCRA and all relevant partners to make sure that the most effective and efficient management and scheduling processes are in place to enable panel members to focus fully on each child and young person and their family, and to undertake their role as a decision making panel member within each children's hearing.
- 1.7 CHS and SCRA are committed to achieving an improved and consistent approach to hearings management and scheduling practice, with the specific aim of:
  - improving the quality of service that children, young people and families experience

- ensuring that due attention can be given to the needs of each child and young person in each hearing
- improving planning and time management practice, thus reducing the number of hearings and hearing sessions which 'overrun'
- reducing the number of 'unnecessary hearings' and examining the reasons for such
- improving the time available for effective recording of reasons and decisions made by panel members
- achieving better panel member retention rates and making sure panel members feel valued and respected
- promoting the reputation and credibility of the Children's Hearings System

1.8 AST leadership teams (Area Conveners, Depute Area Conveners and Lead Panel Representatives) and SCRA Locality Managers should ensure that the principles and approaches set out in Working Together (the SCRA Locality/AST Operating Framework) are applied, understood and respected in their joint working arrangements.

1.9 The nature of a children's hearing means that complete certainty on timing can never be achieved. Children's hearings often focus on the most intimate and difficult aspects of a child and family's life and circumstances. There are many human variables that impact on timing, such as changes in circumstance, the relationships between family members, the impact of people who may not have been expected to attend and the punctuality of those attending.

1.10 However, those qualifications should not restrict the ambition of ensuring a properly timed hearing session. Achieving this is critical to:

- children, young people, families and relevant persons, so that they are not kept waiting for lengthy periods of time, potentially adding to any stress and anxiety
- panel members, so that their voluntary commitment is not abused by being kept beyond the time they have committed for hearing business
- other agencies, for whom hearing management has staff resource implications
- the future security of the Children's Hearing System, so that panel members are not lost through excessive drain on time given freely by panel members and in some circumstances their employers
- the credibility of the Children's Hearings System, through improving perceptions of reliability and efficiency of the management of hearings
- the health and wellbeing of all engaged in the hearing

## **2. Timing of Hearings, Number of Hearings and Length of Hearing Sessions**

### **2.1 SCRA Guidelines for Scheduling**

- 2.1.1 All hearing sessions will be planned on the basis that they should not last longer than 3 and ½ hours from when the first hearing starts. Most hearing sessions will be scheduled to finish before, or begin after lunchtime.
- 2.1.2 There should be no more than 3 hearings scheduled for any one session, taking into account the traffic light allocation system (see section 5), plus emergencies where it is necessary to schedule these. Local areas are expected to have clear protocols to deal with emergencies (see section 3).
- 2.1.3 Time slots should be set to allow a standard time of one hour for each hearing, including 15 minutes for the writing up of reasons, unless application of the traffic light system has indicated that the hearing may require more or less time than the standard hour time slot (see section 6).
- 2.1.4 SCRA should ensure that refreshments are available to panel members.
- 2.1.5 Where a 'traffic light' approach identifies a predictably time consuming situation, which is more than likely to lead to the hearing taking more than an hour to conclude, an additional 30 minutes, or a double time slot, should be timetabled as appropriate.
- 2.1.6 Where the hearing is in an outreach centre SCRA must ensure that a member of staff is available to open up the building and receive visitors.

### **2.2 Panel Members' Commitments to Effective Time Management**

- 2.2.1 Panel members should ideally arrive at the Hearings Centre 30 minutes prior to the start of the first scheduled hearing and not less than 15 minutes in order to allow time for effective planning for the session. This is especially important where decisions have to be made as to allocating the chairing of the hearing, where this has not been allocated via the rota. SCRA must ensure that a member of staff is available to open up the building and receive visitors, to accommodate this.

- 2.2.2 The Chairing member should aim to start the hearing at the scheduled time wherever possible and the decision to delay the start of a hearing should not be taken lightly, due to the potential impact on later hearings in the session and on families and all three panel members in terms of the length of the session. Panel members will not always be able to start on time, for example where a child or family member is delayed due to an emergency and arrives late at the hearing centre.
- 2.2.3 The Chairing member of the Hearing has the key responsibility of ensuring effective time management so that each hearing does not last longer than required for the needs of the child, and Chairing members should encourage a focused approach, avoiding 'filling the allocated time', where it is clear that the hearing has considered all points relevant to reaching a decision.
- 2.2.4 The Chairing member should ensure where possible that each set of reasons is written after the hearing rather than accumulating to the end of the session.
- 2.2.5 There will always be some necessary panel member reviews and deferring of Hearings, some of which are necessary as a result of factors outwith the control of panel members or SCRA staff. However, panel members and SCRA staff have a duty to ensure there are no unnecessary additional hearings. Unnecessary additional hearings can have a detrimental impact on and cause inconvenience to children, young people and families, as well as taking up critical spaces in the diary and diverting staff resources.

### **2.3 CHS Responsibilities**

- 2.3.1 CHS has a responsibility to ensure effective recruitment and retention of sufficient numbers and balance of panel members, so that there are not excessive demands placed on particular individuals or areas.
- 2.3.2 CHS will ensure that there are effective mechanisms, training and support in place for those who are completing and managing the panel member rota in each AST area.

### **3. Emergencies**

#### **3.1 SCRA Guidelines for Scheduling**

3.1.1 The management of emergency hearings should form a key part of the agenda for the regular meetings between the relevant SCRA managers and AST representatives. Local areas should have clear agreements in place as to the most efficient way of scheduling and arranging cover for emergency hearings.

3.1.2 If it is intended to place an emergency hearing within an existing hearing session, every attempt should be made by the Children's Reporter to have contact made with the three panel members sitting on that session, in advance, to check on their ability to cover the additional hearing.

#### **3.2 AST, CHS and SCRA Responsibilities**

3.2.1 SCRA will keep a record of the number and nature of emergency hearings. At Locality and AST level planning and mapping of emergency hearings activity will form part of the agenda for regular liaison meetings between SCRA and relevant AST members.

3.2.2 ASTs will refer any issues of concern relating to the scheduling and management of emergency hearings which they cannot resolve locally with SCRA, to the Director of Panel and Area Support or the Practice and Policy Officer at CHS to take forward with SCRA.

### **4. Siblings and Individual Hearing Time Slots**

4.1 In considering the timing of hearings where siblings are involved, Children's Reporters will always consider whether more than one time slot is required.

4.2 Factors which may prompt a decision to lengthen the time or to schedule separate hearing slots include:

- the number of siblings involved and potential impact on the time likely to be required in order that the hearing can fully consider the individual circumstances and needs of each sibling
- linked to this, the impact on time required to record in writing the reasons for decisions reached
- whether different agencies are involved for each child

- the age and stage and individual circumstances of each child, for example where there are children with differing methods of communication and/or levels of understanding
  - whether each child is in a different placement for example different foster carers, or one child at home and another placed with carers.
- 4.3 Where there are different relevant persons for each child (e.g. fathers, foster parents), the presumption should be that there will be different hearings for each child unless a conjoined hearing has the full and informed consent of each party on the day of the hearing.
- 4.4 Where the hearings are separated it will be the responsibility of the Children’s Reporter to schedule each for a full hearing. It will be the responsibility of the Chairing member to ensure that full consideration of reports is given in each hearing.
- 4.5 Circumstances where one scheduled hearing time slot may suffice could include:
- where the children are very young and have been referred for identical care reasons
  - where the circumstances of the referral are based on parental/carer circumstances rather than issues to do with the individual child
- 4.6 For the convenience of the family and for consistency of practice, even when there is the need for separate slots for each sibling, every attempt should be made to accommodate the hearings within the same session unless there are good reasons based on the circumstances of the children or relevant persons why that should not occur.

## **5. Assessing the Potential Difficulty of a Children’s Hearing: The Traffic Light System**

- 5.1 In arranging a children’s hearing, Children’s Reporters should always have regard to the composition, or what might be described as the ‘balance’ of a session.
- 5.2 While there may be pressure to pick a particular slot to suit (for example) the availability of a professional, the known nature of other cases in the session needs to be considered so that wherever possible the potential length of a session can be controlled.
- 5.3 When scheduling hearings Children’s Reporters may be unfamiliar with other cases in the session. Therefore a marking which indicates the potential difficulty of a hearing (the ‘traffic light’ allocation) should be



used to provide a visible guide for anyone else considering scheduling a hearing in that session.

- 5.4 The Children's Reporter will not always know or be able to predict all difficulties in a case. However, experience in some localities has shown that a 'traffic light' approach can be a useful tool to grade cases into categories. This system uses the colours of traffic lights to denote likely difficulty and time required for the panel members to carefully and fully consider all the relevant information and reach a sound decision. This is without prejudice to the decision making of the hearing and will not be information provided to panel members.
- 5.5 Under this system, 'green' is used to log potentially easier and less complicated cases where less time is likely to be required to reach a sound decision, 'amber' denotes cases where a full hearing slot is likely to be required and 'red' highlights cases where the nature of the information, difficult circumstances or history suggests that more time is required for consideration and decision making.
- 5.6 Examples of situations where a 'green' indicator might be allocated could include:
- grounds that are going to court for proof with no likely immediate child protection issues
  - reviews for a 17 yr old where there are no fresh grounds and termination is being recommended
  - cases where a permanence order has been granted and termination of the CSO has been recommended.
- 5.7 Examples of 'amber' situations which will probably require a standard hour time slot could include:
- most annual reviews
  - most initial hearings
  - a deferred hearing but where there are no substantial conflicts between the relevant persons and or between parties
- 5.8 Examples of 'red' situations which will probably require an additional half hour or, in extreme cases, an additional hour (an extra hearing time slot) could include:
- where the family's first language is not English and an interpreter is required or where there are other complex communication needs
  - where there is substantial conflict between the relevant persons and or between parties
  - where previous hearings have lasted over an hour

- where legal assistance is being provided for multiple parties in a complex situation
- where a case is coming for disposal after a lengthy proof or appeal
- where there is an intention to use video conferencing for the participation of any party
- where any party has additional support needs which require particular attention, for example children or adults with significant health problems who may need additional time

Particularly where more than an hour is scheduled, careful consideration should be given to time management, bearing in mind the individual circumstances of the child or young person and their family. The chairing member should be sensitive to the needs of participants, for example the encouragement of appropriate comfort breaks.

- 5.9 The above are examples only which are not binding. Application of the 'traffic light' rating will depend on what knowledge the Children's Reporter has or can gain from social work or others. An ideal hearing session will have a balance of red, green, and amber but that will often not be possible. No hearing session should have more than two hearings labelled as 'red.'

## **6. Cancellation of Arranged Hearing Sessions**

- 6.1 Where thought is being given to not using any hearing sessions, for example due to a holiday period or training, this should be planned between the Locality Reporter Manager and the panel member rota scheduler and relevant AST member, usually a panel representative.
- 6.2 Where no hearings are scheduled for a planned hearing session, but panel members have been placed on the rota to sit on hearings for that session, the panel members and rota scheduler will be told as soon as possible, and certainly at least seven days beforehand. SCRA should always provide a brief reason for panel members as to why a session has been cancelled which should also be available to the AST as required.
- 6.3 The use of texting has been introduced in some areas by agreement between SCRA and the local AST and panel members and has proved a successful and quick means of communication. Emails or phone calls are alternative means which ensure panel members get the message as soon as possible.
- 6.4 There may be exceptional circumstances where a hearing has been notified (i.e. papers have been sent to all relevant parties including the

panel members on the rota for that hearing) and it is then decided to postpone, for example an illness/death of a child or relevant person. The Children's Reporter will ensure that in such circumstances, the three panel members who are on the rota for that session are informed as soon as possible.

- 6.5 Children's Reporters should not cancel hearings in situations where it is for the hearing to decide whether or not to proceed, for example non submission of social work reports where the hearing has already been notified.

## **7. Observers**

- 7.1 Observers at children's hearings can be arranged by SCRA staff or, in the case of trainee panel members or AST members, by the ASTs. Therefore there is a need for good communication between SCRA and the AST in relation to observers. There is a presumption that only one observer should be present at any one hearing. In exceptional circumstances where more than one observer wishes to be present at a hearing agreement must be sought in advance from the child, family, Locality Reporter Manager and member of AST leadership team, where possible.
- 7.2 When an observer is arranged by SCRA staff, the AST will be informed with appropriate notice as part of the regular communication between the SCRA locality and the AST or as soon as possible where an observation has been arranged at short notice. Where an observer is arranged by the AST this will be a planned arrangement and therefore where possible, the AST should inform the local SCRA office two weeks in advance of the hearing session to allow any agreed notification to panel members. Trainee panel members have priority as observers to a hearing session.
- 7.3 In general, where there is an observer wishing to attend a hearing session SCRA will notify this to the panel members for the session along with the hearing papers. Where the observer is a Panel Practice Advisor SCRA will notify panel members only after agreement about this with the local AST.
- 7.4 It is important to remember that the chairing member has a responsibility to manage the number of people present within the hearing room and to encourage the full participation of the child and all participants. Further guidance on observers, including who has a right to attend and the objection of a child or relevant person, can be found in the Practice and Procedure Manual for panel members.

## **8. Panel Member Continuity**

- 8.1 In accordance with the Children’s Hearings (Scotland) Act 2011 (Rules of Procedure in Children’s Hearings) Rules 2013 a children’s hearing can make a request to the office of the National Convener that one of the members be a member of the next children’s hearing in relation to the child. CHS has produced a Practice Briefing Note in relation to this. This is the only situation where panel members may request specific panel member attendance at a specific hearing.
- 8.2 Where a request for continuity is made and approved by the National Convener, the children’s reporter will liaise with the local rota organiser in relation to the date of the next children’s hearing, unless one of the members is already a member of an upcoming hearing session which can accommodate the child’s hearing in accordance with the principles in this guidance.

## **9. Ongoing Communication, Monitoring and Review**

- 9.1 Panel members are lay tribunal members who give their time to serve on hearings and Children’s Reporters will respect the voluntary status of panel members when considering changes in scheduling practice. SCRA will consult with the AST before making any substantive changes to the rota.
- 9.2 CHS and SCRA are committed to ensuring that there is effective ongoing local dialogue between panel members, relevant AST members and local Children’s Reporters, to anticipate and prevent possible tensions and difficulties around hearings management and scheduling and to resolve these at local level wherever possible.
- 9.3 Where SCRA identify a need for a change of day/time for a session, the matter will be referred to the AST as soon as possible to allow the rota scheduler and relevant AST members to consult with panel members and to plan ahead in terms of the rota. Panel members and AST members have personal and professional commitments and should be fully consulted where there are plans to change the standing rota, for example dropping a Thursday afternoon session and replacing it with a Tuesday morning.
- 9.4 This document is described as ‘practice guidance’ to allow for local flexibility where the geography of Hearing Centres requires some specific local arrangements to be made, for example where there are a small number of hearings each month. Where alternative local arrangements are required, the SCRA Locality Reporter Manager must be able to demonstrate that these arrangements have been developed

in consultation with the local panel members and their AST and that the arrangements are working to the satisfaction of all parties, within the terms of the Working Together Framework (SCRA Locality/AST Operating Framework).

- 9.5 The Area Convener and Locality Reporter Manager will review implementation of this guidance and local hearings management and scheduling practice at least quarterly, looking at how this policy is operating and using such data as can be made available. The Locality Reporter Manager and Area Convener will apply the principles set out in the 'Working Together' operating framework in relation to establishing this review process.
- 9.6 Where particular issues arise locally, the Area Convener or relevant AST representatives and Locality Reporter Manager will attempt to resolve this through dialogue and negotiation. In the event that this is not possible, they should refer the situation to the Director of Panel and Area Support (CHS) and the Head of Practice and Policy (SCRA).
- 9.7 The Head of Practice and Policy (SCRA) and the Director of Panel and Area Support (CHS) and relevant senior staff from both organisations and representatives of the panel community will meet each year to undertake a national review of hearings management and scheduling practice.
- 9.8 The National Convener and Principal Reporter will ensure that this national review of hearings management and scheduling practice is undertaken and will consider the outcomes and recommendations of the review and take relevant action via the senior management teams of each organisation.

## **10. Impact of Children's Hearings (Scotland) Act 2011**

### **10.1 Requirements of Scheduling**

10.1.1 The 2011 Act presents additional challenges for the effective scheduling of hearings. Pre-hearing panels can be challenging to arrange and Children's Reporters must ensure that effective preparation and planning is undertaken when scheduling pre-hearing panels. Contact reviews add to the range of time limited emergency hearings requiring to be accommodated.

### **10.2 Pre-hearing Panels**

10.2.1 A pre-hearing panel MUST be convened by a Children's Reporter where a request for a relevant person determination is made,

either by a child, relevant person or an individual seeking to make a relevant person claim and therefore Children's Reporters must bear this in mind in scheduling.

- 10.2.2 Pre-hearing panels also cover in their remit consideration of the removal of the obligation of a child or relevant person to attend a children's hearing where such a request is made to the Children's Reporter as well as consideration of the likelihood of the hearing considering secure accommodation, all of which were previously covered by the remit of business meetings.
- 10.2.3 For many pre-hearing panels there is little difference from previous business meetings under the 1995 Act in terms of scheduling requirements, but there is far greater take up in the award of rights as a relevant person. Some of these will prove contentious and challenging especially where parties exercise their rights of attendance. In those cases, where it can be anticipated, Children's Reporters may need to schedule as much time as for a hearing for these types of pre-hearing panel.
- 10.2.4 Where it is not practical for a pre-hearing panel to be arranged and pre-hearing matters have to be considered by the full hearing, this should be considered by the Children's Reporter when considering the time required for that hearing.
- 10.2.5 Information provided for a pre-hearing panel will be attributable and in line with guidance produced by CHS and SCRA.