



Public Petitions Committee – The Operation and running of
child protection services across Scotland

SCRA written submission to the Scottish Parliament’s Public Petitions Committee on:

PE1673: Operation and running of child protection services in Scotland.

Children in Scotland can be cared for away from their birth family as a result of:

- 1) Family or kin care decisions made between family members, sometimes underpinned with a civil court order for residence or contact;
- 2) decisions made voluntarily and supported by a local authority under section 25 of the Children (Scotland) Act 1995;
- 3) compulsory measures of supervision (a compulsory supervision order) made by a children’s hearing under the Childrens Hearings (Scotland) Act 2011;
- 4) an adoption or permanence order made under the Adoption (Scotland) Act 2007.

Many more other children have social work support which does not fit into the four above categories to work towards improving their situation at home; and they receive that support on an elective/informal basis. The fabric of social work support and the care Scotland provides to children is a complex weave of statute and services which differ in each of our 32 local authorities - this makes providing a simple answer to whether there is ‘not enough support’ or a single ‘mind-set’ very difficult. There is undoubtedly a concern that community based family support services have been vulnerable to public spending constraints and that some ‘whole family’ preventative work across Scotland is not always available. It may take some time for any such fluctuations to show in the data. Ensuring that comprehensive family support services are available at local level is key to ensuring that all options are explored in relation to the best interests of children and young people.

In general terms the Children’s Hearings System has operated (under different primary statute) since 1972 – and continues to require two key elements in order for a child or young person to be referred to a Children’s Hearing:

- 1) Evidence of a ground for referral¹
- 2) The need for a Compulsion Supervision Order to be necessary in the child’s case²

These two key elements alone ensure that decision making in relation to children who come to the Children’s Hearing is robust and tested and the Hearing System acts to ensure clear checks and balances are in place and the spectrum of rights are considered. If the evidence for a ground for referral is questioned then it requires to be proved in a Sheriff Court; if the need for compulsion cannot be demonstrated then a Children’s Hearing cannot make a Compulsory Supervision Order. This approach has remained largely unchanged and continues to ensure the system deals with children who require compulsory intervention, at the point of need.

¹ 2011 Act s67(2)

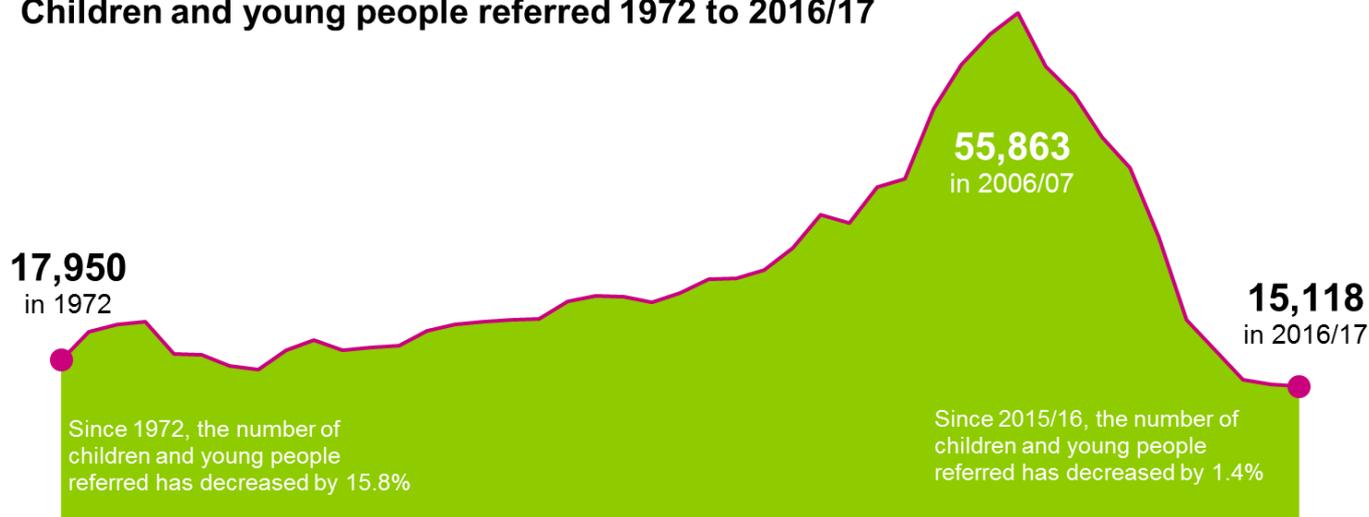
² 2011 Act s68(1)(b) and s69(1)





Alongside this, the most recent published SCRA statistics³ show: a long term decreasing trend in the number of children referred to the Children’s Reporter following a peak in 2006/07 of 101,008 referrals of 55,863 children and young people.

Children and young people referred 1972 to 2016/17



There is a corresponding decrease in the number of children subject to Compulsory Supervision (although the rate of this decrease is less than for referrals):

Table 5.2 Number of children and young people with Compulsory Supervision Orders in place at 31 March, by type and year

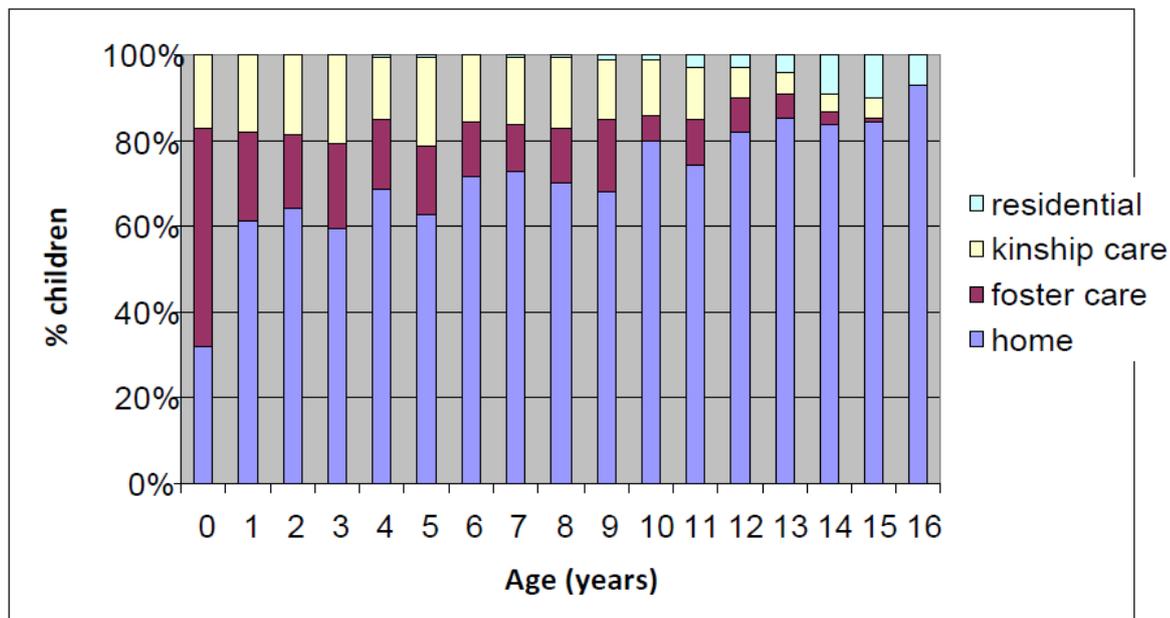
Types of Compulsory Supervision Orders	2014	2015	2016	2017
With parent/relevant person	5,163	4,751	4,522	4,486
With other approved foster parent	3,264	3,106	3,018	2,873
With relative/friend – other	1,355	1,294	1,345	1,257
With relative/friend - approved foster parent	681	661	615	586
Children’s unit	342	352	332	314
Other residential placement	203	234	243	216
Residential school	255	247	229	203
Other	50	35	45	41
Other non-residential placement	11	19	17	11
None recorded	96	34	13	9
Total	11,420	10,733	10,379	9,996

³ <https://www.s.cra.gov.uk/wp-content/uploads/2017/10/SCRA-Full-Statistical-Analysis-2016-17.pdf>





Figure 2. First type of Supervision Requirement by age (% children)*



*Kinship – SR types ‘Relative/friend approved foster carer’ and ‘Relative/friend other’.
Residential – SR types ‘Local Authority home’, ‘Other residential placement’, ‘Residential school’, and ‘Special school’.

The 2016 / 2017 figures show that a Compulsory Supervision Order requiring a child to reside with a parent or relevant person remains the largest category of Compulsory Supervision Order.

We therefore appear to be considering less children for compulsory measures of care and less children are affected by those compulsory measures. Compulsory measures, when applied in the form of a Compulsory Supervision Order, are most commonly in relation to a child remaining at home with a parent or relevant person. These statistical trends appear to be in line with the majority of the core principles of the Hearing system laid down in Children’s Hearings (Scotland) Act 2011:

- 1) the need to safeguard and promote the child’s welfare throughout his or her childhood⁴;
- 2) the hearing must, as far as is practicable and taking into account the age and maturity of the child:
 - (a) give the child an opportunity to indicate whether he or she wishes to express views; (b) if he or she does so wish, give him or her an opportunity to express those views; (c) have regard to any views expressed by the child⁵;
- 3) a hearing may make, vary or continue an order.....only if the hearing considers that it would be better for the child if the order were in force than not.⁶

Early, effective and decisive action in relation to children is having, and will continue to have an impact: alongside ‘pre-referral screening’ and ‘Non Offence Referral management processes’ which require

⁴ 2011 Act s25(2)
⁵ 2011 Act s27(1)-(3)
⁶ 2011 Act s28(2)



agencies to appropriately share information and undertake a structured process of linking children and their families to appropriate support, in conjunction with any consideration of whether compulsory measures may be required. In addition a Compulsory Supervision Order requiring a child to live at home continues to be one of the most common measures made by Children’s Hearings and provides a level of statutory support which does not require children to be ‘taken into care’ or removed from home.

The reduction in the number of referrals to the Reporter has been accompanied by an increase in the appropriateness of referrals to the Reporter and in the complexity of the lives of children and young people being referred. For example there has been a proportionate increase in the number of infants under 3 years referred on care and protection grounds. Previous SCRA research into child protection orders⁷ (published 2015) demonstrated a “..trend of increasing numbers of CPOs, particularly for very young children (SCRA, 2009).” (Page 33).

Very young children are more likely to be looked after away from home and separated from their parents in line with collective concerns about achieving permanency for these children. There are, from time to time tensions which emerge and which the Hearing System has to resolve, on issues of removal, parental (and sibling) contact and permanence planning. Here again the Hearing system acts as a critical independent ultimate decision maker, taking into account the balance of rights and the overarching concern for the best interests of the child.

In 2018 SCRA published a 13 year retrospective study on looked after children’s lives and how they have changed over that time; **Complexity in the lives of looked after children and their families in Scotland: 2003 to 2016**⁸. To our knowledge, this is the first study to quantify complexity in child protection and to measure change in complexity. We found that although the complexity of problems in the lives of looked after young children themselves has not increased over the 10 year timeframe of this study, the complexity of problems faced by their parents has increased significantly as has family fragmentation. Key results are therefore:-

- Looked after children’s lives are more fragmented since 2003 – with higher levels of separation from birth families at an earlier age
- Looked after children live more often with non siblings than they did 13 years ago
- The nature of compulsory supervision has changed with much more emphasis on removal from parental care at an earlier age, the supervision of contact arrangements with parents and an emphasis on permanence for children
- Hearings are more complex because of a higher presence of legal representation and number of relevant persons
- Parental problems are significant and often multiple in nature, with high levels of involvement in criminality, substance use, abusive relationships, experience of childhood adversity and unemployment

⁷ <http://www.scra.gov.uk/wp-content/uploads/2016/03/Child-Protection-Orders-Research-Report-2015.pdf>

⁸ <https://www.scra.gov.uk/wp-content/uploads/2018/03/Complexity-in-the-lives-of-looked-after-children-and-their-families.pdf>





So whilst the overall use of referral to the Reporter, use of compulsory measures and removals from the care of parents has decreased, the proportionate use of such measures for very young children has increased. Clearly the vulnerability of very young children and infants is much greater than older children. The degree of reassurance required by agencies around safe parental care is also greater and the risks significantly higher. Our understanding of the issues of early life experience, stress, adversity, attachment and the importance of permanence have significantly advanced over the last decade or so. And, in turn, families are exercising their rights and are more actively and vocally involved in the statutory process – the 2018 SCRA study shows an increase of 115% in the Appeals that were made of children’s hearing decisions. The Children’s Hearings System continues to provide a unique statutory response which is flexible and tailored to the specific circumstances of individual children when they require support. That nature of that support continues to vary along a continuum – from the small number of children who are removed from their parents care very early and never return; to the children who are supported to remain at home. The complex nature of this continuum continues to require assessment and research - but at no point does it indicate that care is the only or the easy solution and nothing indicates that this mind set is prevalent or even present amongst those who work across the Children’s Hearings System.

