The Children’s Hearings System
Taking Stock of Reforms

Context

1. Children’s Hearings Scotland (CHS) is a Non-Departmental Public Body established under the Children’s Hearings (Scotland) Act 2011 (the 2011 Act). CHS assists the National Convener with the delivery of his functions primarily in relation to the recruitment, training, and support of volunteer panel members within the Children’s Hearings System.

2. There are approximately 2,500 volunteer children’s panel members across Scotland who sit on around 35,000 children’s hearings each year. Each panel member is a member of the national Children’s Panel established by the 2011 Act and can be appointed from age 18 upwards. These volunteers cover an average of 14 hearings sessions a year lasting 3+ hours: each session may cover 3 individual hearings.

3. In addition, there are approximately 500 volunteer Area Support Team (AST) members who support panel members in their local area by carrying out functions delegated to them by the National Convener. AST members are supported by a local authority clerk and by the National Team. CHS has 20 permanent members of staff to support the approximately 3000 volunteers and 22 local authority clerks.

4. This submission will give a brief overview of progress in each of the three broad areas of the National Convener’s functions (recruitment, training and support) before addressing the specific questions asked by the Committee.

Panel Member Recruitment

5. Approximately 500 children’s panel members are recruited each year in order to maintain the necessary number of volunteers. This has been a constant figure for a number of years pre-dating the creation of CHS. Significantly more applications than vacancies are received each year. For example in 2016:
   - 1295 applications were received and assessed by ASTs
   - 512 individuals were recommended to begin pre-service panel member training
   - 504 began pre-service training.

6. In August each year we run a national panel member recruitment campaign. Target figures are determined by AST assessment of their likely need for panel members to be available to sit on hearings and to respect the statutory gender balance. CHS has standardised the process. Successful applicants are invited to begin 7-day pre-service panel member training from January - April. Only on successful completion of this training will an individual be appointed to the national Children’s Panel.

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1 There were 34,896 children’s hearings in 2015/16 and 36,904 in 2014/15. In addition, panel members sat on 4,098 and 4,305 pre-hearing panels in each year respectively. SCRA, Statistical Analysis 2015/16 and Statistical Analysis 2014/16, both available at www.scra.gov.uk

2 After being put forward 8 individuals subsequently did not proceed to training for personal reasons.
Panel Member Training

7. Arguably the biggest change in relation to children’s panel members since the 2011 Act has been the training they receive. When the National Convener assumed full functions in June 2013 a new national training programme was implemented to replace the regional programmes that existed at the time. This national training programme is based around 7 panel member competencies and comprises:
   • successful completion of a SQA Professional Development Award (PDA)
   • successful completion of a core training programme.

8. All children’s panel members recruited from 2013 are required to complete successfully the PDA within the first term of their panel member appointment (three years). The PDA is a SCQF level 7 qualifications and is made up of three modules – Needs of Children and Young People within the Children’s Hearings System, Principles and Practice for Children’s Panel Members and Management of Children’s Hearings. The notional number of learning hours to complete the PDA is 120 hours.

9. In 2016 the National Convener established a core training programme for serving children’s panel members that requires panel members reappointed from June 2016 to undertake successfully 6 modules over the course of their three year appointment. The topics are: effectively communicating with children and families, managing conflict in children’s hearings, attachment and resilience in looked after children, revisiting decisions and reasons, the Children and Young People (Scotland) Act 2014 and GIRFEC, and Information Governance. Further details of the national training programme for children’s panel members can be found in our National Training Prospectus.

10. In addition, panel members are encouraged to attend learning and development sessions within their local area organised by the AST. These sessions may include contributions from e.g. the local children’s reporter, social work department, education or third sector organisations.

Support to Panel Members

11. Local AST members provide much of the support in areas such as pastoral care, rota management, local learning and development, local networking and practice observation. Nationally, support comprises areas such as panel member practice support, information governance, finance and IT. The National Team looks also to improve the functioning of the system but better management information is required which digital developments will enhance over the next few years.

COMMITTEE QUESTIONS

Have the reforms in the Children’s Hearings (Scotland) Act 2011 produced the desired outcomes?

12. The statutory functions of CHS are described above. In delivering them CHS looks to improve consistency, training and advice. CHS has produced:
   • National Standards for the Children’s Panel. Published in 2012 there are 8 national standards for all panel members, AST members, CHS staff and Board Members. These standards, which are imbedded in training, have provided a better foundation for
consistent practice by panel members cross Scotland that existed previously.

- **Practice and Procedure Manual.** First published in 2013 (updated 2015) this sets out the law, procedure and practice for children’s panel members. Practice notes are periodically issued and a national quick guide has been produced for all panel members.

- **A single national training organisation for children’s panel members.** Prior to the establishment of CHS, panel members had access to a common national training manual. Then, four separate training organisations were involved in training provision: now, all panel members receive the same national training wherever they live.

- **A national Panel Member Observation and Feedback Framework.** All children’s panel members are expected to be observed against the same core competencies and using the same observation record. The assists in both identifying learning and development needs, as well as ensuring practice is consistent with the National Standards.

- **Publication of the first Feedback Loop Report.** Although this represents a step forward, a lack of readily accessible and consistent data across the system has frustrated the fulfilment of the requirement set out in s.181 of the 2011 Act. Furthermore there are also difficulties in distinguishing and evaluating the impact of compulsory supervision from other factors which impact on outcomes for children and young people (e.g. changes within the family home).

13. Much positive progress has been made. In our most recent survey of the CHS community in 2015/16, 98% of respondents agreed or strongly agreed that they have a clear understanding of their role and what is expected of them: 87% agreed or strongly agreed that they received information to help keep their practice current.

14. However, there has been an underinvestment in the volunteering provided by children’s panel and AST members. This has impacted directly on the pace of progress we have been able to make as an organisation. CHS has 20 permanent staff to support approximately 3000 volunteers and is dependent on the capacity of local volunteer managers. The national panel member observation and feedback framework undertaken by Panel Practice Advisers (PPAs) requires much more development.

**Are current strands of policy work across children’s services sufficiently co-ordinated and complementary?**

15. There has been increased productive partnership working at both national and local levels driven by the collective responsibility assumed by agencies to realise the benefits offered by the 2011 Act. There is a strong will to work together to overcome the challenges facing the hearings system, including responding better to the needs of children and young people. There remain a number of challenges including culture change; the need for better multi-agency understanding; resourcing operational improvements and keeping the voice of the child at the centre of all that we do.

16. The Children’s Hearings Improvement Partnership (CHIP) of which CHS is a member has contributed to an enhanced understanding at senior level of the system across all key agencies. Its discussions have led to the publication and dissemination of several important documents: e.g. a good practice guide on non-disclosure; ‘helping me make choices’ (a guide for professionals working with children and young people in the hearings system); a Vision for the Children’s Hearings system; ‘The next steps towards Better Hearings’ (a research report on what makes a hearing work well and which will form a key focus of work over the coming year). An area that requires further co-ordination across children’s services is the
collecting of information on outcomes at a national level.

**Thinking back over the last 10 years, to what extent has the ability of children to participate in their hearings changed? What factors have had the greatest influence on any changes?**

17. The participation of the child and his or her family is central to the ethos of the children’s hearings system. Positive progress has been made over the last 10 years. When the implementation of s.122 of the 2011 Act relating to provision of advocacy services by Scottish Government is rolled out, further progress will be made.

18. CHS works in partnership with SCRA over areas such as the roll-out of new style hearing rooms and small scale pilot projects (e.g. to test the use of ‘emoji cards’/ panel member profiles). CHS has also worked with young people to develop age-appropriate materials about panel members and hearings to help them understand the system better.

19. Since 2008 SCRA has undertaken four children and families surveys to understand more about views and experiences at hearings. The most recent survey found:

- 77% of young people felt they were the most important person at their hearing (up from 71% in 2012/13)
- 76% of young people had given their views to the hearing (up from 73% in 2015)
- of those young people who gave their views, 74% felt they had been listened to (down from 88% in 2015).

20. There is still work to be done in this area. Our ambition is for all children and young people who attend hearings to feel they were the most important person at the hearing and to have the opportunity to participate in the decision-making process. This further work is currently being progressed through consideration of the ‘Next Steps Towards Better Hearings’ report and we are committed to using this report to continue to drive sustained improvement where that is shown to be necessary. This includes:

- a joint CHS/SCRA/Social Work Scotland National Action Plan
- local multi-agency working groups to consider implementation of the findings
- a CHS working group to consider implications for the CHS Community

**Do we have appropriate standards in place for the operation of children’s hearings and guidelines for the functioning of a hearing, and are they consistently applied? If not, what improvements need to be made?**

21. Panel members are independent decision-makers and the 2011 Act is specific that the National Convener (or Principal Reporter) cannot direct or guide a children’s hearing. However, the practice manual guidance and materials mentioned above support best practice, and there are mechanisms in place to highlight where practice is not meeting these standards. PPAs (see para 14 above) observe hearings in order to provide quality assurance and feedback at individual panel member level. PPAs support panel members to reflect on their practice in hearings and make improvements where required.

22. Panel members also have access to a dedicated intranet – the Children’s Hearings

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3 SCRA, Children and Families Survey 2016, (2016). The latter two questions were asked for the first time in 2015.

4 2011 Act, s9.
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Information and Resource Portal (CHIRP) – that contains practice notes, case notes, FAQs and other relevant information to supplement the information contained within the Manual. The CHS National Team has two posts (one currently vacant due to maternity leave) with a partial remit to offer direct support to panel members with their practice.

**Do social work departments provide the optimum support to children and young people who are part of the children’s hearings system and have sufficient resources? If not, what improvements need to be made?**

23. The primary concern of panel members is that social workers have resources to prepare and provide to Children’s hearings sufficient information to enable panel members to engage with the young person and make the most appropriate decision. Social work may wish to comment on caseloads and whether social workers consider they have the time and capacity necessary to deliver what is required.

24. The consensus of participants in the recent Better Hearings research report was that preparation and support are essential for a good hearing to take place. This applies to both professionals and children and families. Social workers identified barriers to their preparation such as heavy workloads and inadequate time to produce reports and prepare children and families.\(^5\)

25. In 2015 the CHIP published a practice note for practitioners to assist with the support to children involved in the children’s hearings system – ‘Helping Me Make Choices’. The impact of this note is currently being evaluated by the CHIP and initial findings from the SCRA Children and Families survey suggest that the existence of the guidance is not well known amongst children and families.\(^6\)

**Do local authorities fully implement the recommendations that are made by children’s hearings and does the system of the ‘feedback loop’ work as intended?**

26. The first substantive report under s181 of the 2011 Act (‘the feedback loop’) was laid in the Scottish Parliament by the Minister for Childcare and Early Years today, covering data for the 2014-15 academic year. The report reflects some progress in establishing the infrastructure necessary to facilitate the collection of requisite data from the SCRA and local authorities. There is nevertheless still some way to go in being able to assess implementation of all CSOs and in measuring outcomes for all children who are the subject of compulsory measures. So, while it is beginning to highlight issues, the feedback loop is not yet working as intended.

27. The report highlights four main concerns:
   - children and young people are not always being moved to secure accommodation promptly when the local authorities decide this is required
   - the time taken for social work departments to make contact with the child after they are placed in secure accommodation needs attention
   - for all children and young people subject to a CSO there is no agreed approach across Scotland to monitor improvements in outcomes
   - data systems in local authorities in respect of children’s hearings decisions do not

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\(^6\) SCRA, Children and Families Survey, (2016) at p11. This is not an unexpected finding, since the guidance is aimed at practitioners rather than children and families themselves.
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provide adequate information to inform the extent of implementation

28. Many challenges remain if we are to fully meet the aims of s.181. We are working with the Scottish Government, SCRA, local authorities and CELCIS to meet these challenges and ensure that the data from 2018-19 better supports the feedback loop.

**What is your view on the involvement of solicitors in the children’s hearings system?**

29. We welcome the involvement of solicitors in the children’s hearings system. Children’s hearings can make life-changing decisions for children and their families. Therefore it is essential that individual rights are protected and children and relevant persons are supported to participate as best they can in the proceedings. It is important to note that solicitor involvement in the children’s hearings system is not something new to the system since the enactment of the 2011 Act.

30. The recent research commissioned by the Scottish Legal Aid Board highlighted that most solicitors are helpful to children’s hearings. For example a solicitor can present an individual’s views clearly, calm individuals during difficult hearings, manage expectations and encourage others present to provide greater clarity in their views and assessments for hearings. However, the report also highlights a minority of solicitor behaviour which does not respect the ethos of a children’s hearing being distinct from that of a court, such as adopting “an adversarial, formal, intimidating or disrespectful style”. We will continue to work with the Scottish Legal Aid Board to report information from panel members about conduct by publically funded solicitors that may not be consistent with the Code of Practice for Children’s Legal Assistance.

**What is your view on the interaction between children’s hearings and the courts? Can improvements be made in how they work together?**

31. The children’s hearings system and the courts interact in two main ways – when an application is made to court to establish grounds of referral and when an appeal is made following the decision of a children’s hearing. In both circumstances we believe there is a need for proactive case management by the courts to avoid unnecessary delay and we welcome the current work to this effect through revisions to the Blueprint for Children’s Hearings led by CHIP.

32. We work closely with SCRA to learn lessons from successful appeals, such as the provision of adequate reasons for a decision from children’s hearings. It has been identified that there is an inconsistency in the provision of notes from Sheriffs to children’s hearings following an appeal decision and this is something that both we and SCRA have highlighted to the judiciary.

Children’s Hearings Scotland
13 March 2017

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CELCIS, “The Role of the Solicitor in the Children’s Hearings System: A study commissioned by the Scottish Legal Aid Board” (2016).